

# **Background Material on GST Acts and Rules**



**The Institute of Chartered Accountants of India**  
(Set up by an Act of Parliament)  
New Delhi

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## Foreword

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GST is a destination based consumption tax levied at multiple stages of production and distribution of goods and services. Once fully implemented the new system is expected to lead to a transparent and tax compliant structure in India resulting in generation of more revenue to the government as well as lower tax rates in total.

With the implementation of GST, a nationwide portal namely [www.ewaybillgst.gov.in](http://www.ewaybillgst.gov.in) has been formulated for the first time in India in case of inter-State as well as intra-State movement of goods across the country. It has already been implemented in case of inter-State movement of goods since 1st April, 2018 and total of 20 States/Union Territories have introduced this E-way bill system with the remaining expected to implement the same by 1st June, 2018.

The Institute has been continuously undertaking various initiatives to support the Government as well as the stakeholders for smooth implementation of GST. Thus, with the ongoing developments in the GST law, ICAI came up with the revised publication on "Background Material on GST Acts and Rules" containing clause by clause analysis of the GST laws along with the Flowcharts, diagrams and MCQ's & FAQ's on GST, etc. updated till April, 2018. Besides this, Institute has been proactively supporting the Government in creating awareness and disseminating knowledge of GST among various stakeholders.

I appreciate the efforts put in by CA. Madhukar N. Hiregange, Chairman, CA. Sushil Kumar Goyal, Vice-Chairman and other members of the Indirect Taxes Committee of ICAI for undertaking this tedious task and revising the material in such a short span of time.

Readers are welcome for a fruitful and knowledge enriching experience.

**CA. Naveen ND Gupta**  
President, ICAI

Date: 24.05.2018

Place: New Delhi



## Preface

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The GST roll-out on 1st July 2017 has paved the way for realization of the goal of One Nation - One Tax - One Market. GST is expected to benefit Indian economy overall with most tax compliant businesses getting favourably impacted. It should in time reduce the cost of goods & services, giving a boost to the export of products and services. It would also foster 'Make in India' initiative. GST promotes the concept of common market with common tax rates & procedures and removal of economic barriers thus improving ease of doing business.

We stand by the Government with our role as "Partner in GST Knowledge Dissemination" and have always been supporting Government with our intellectual resources, expertise and efforts to make the GST error-free and a successful venture across in India. To make the knowledge dissemination process smoother. We have updated the 4 editions of "Background Material on GST Acts and Rules". This Background Material is comprehensive containing clause by clause analysis of the GST Acts, rules, recent notifications, circulars or orders issued by the Government from time to time along with FAQ's, MCQ's, Flowcharts, Diagrams and Illustrations etc. to make the reading and understanding easier.

We thank CA. Naveen N. D. Gupta, President and CA. Prafulla Premsukh Chhajed, Vice-President, ICAI for giving us the space to deliver and support for this progressive law initiative. We would like to acknowledge the members of the Indirect Taxes Committee / Study Groups for their timely contribution and support in the basic as well as revised edition(s) of the publication. Special thanks to the untiring effort of CA S. Venkatramani, CA Jatin Christopher and CA. Yeshwanth G N in this revised edition. We also appreciate the Secretariat for their unstinted support and efforts.

We welcome the readers to an intellectual learning spree. Interested members may join the IDT update facility. We also welcome suggestions at [idt@icai.in](mailto:idt@icai.in) and may visit website of the Committee [www.idtc.icai.org](http://www.idtc.icai.org).

**CA. Madhukar Narayan Hiregange**  
Chairman  
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**CA. Sushil Kumar Goyal**  
Vice-Chairman  
Indirect Taxes Committee

Date: 24.05.2018  
Place: New Delhi



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### Statutory Provisions

#### **67. Power of inspection, search and seizure**

- (1) *Where the proper officer, not below the rank of Joint Commissioner, has reasons to believe that –*
- (a) *a taxable person has suppressed any transaction relating to supply of goods or services or both or the stock of goods in hand, or has claimed input tax credit in excess of his entitlement under the Act or has indulged in contravention of any of the provisions of this Act or rules made thereunder to evade tax under this Act; or*
- (b) *any person engaged in the business of transporting goods or an owner or operator of a warehouse or a godown or any other place is keeping goods which have escaped payment of tax or has kept his accounts or goods in such a manner as is likely to cause evasion of tax payable under this Act,*
- he may authorise in writing any other officer of central tax to inspect any places of business of the taxable person or the persons engaged in the business of transporting goods or the owner or the operator of warehouse or godown or any other place.*

- (2) *Where the proper officer, not below the rank of Joint Commissioner, either pursuant to an inspection carried out under sub-section (1) or otherwise, has reasons to believe that any goods liable to confiscation or any documents or books or things, which in his opinion shall be useful for or relevant to any proceedings under this Act, are secreted in any place, he may authorise in writing any other officer of central tax to search and seize or may himself search and seize such goods, documents, books or things:*
- Provided that where it is not practicable to seize any such goods, the proper officer, or any officer authorized by him, may serve on the owner or the custodian of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer:*
- Provided further that the documents or books or things so seized shall be retained by such officer only for so long as may be necessary for their examination and for any inquiry or proceedings under this Act.*
- (3) *The documents, books or things referred to in sub-section (2) or any other documents, books or things produced by a taxable person or any other person, which have not been relied upon for the issue of notice under this Act or the rules made thereunder, shall be returned to such person within a period not exceeding thirty days of the issue of the said notice.*
- (4) *The officer authorized under sub-section (2) shall have the power to seal or break open the door of any premises or to break open any almirah, electronic devices, box, receptacle in which any goods, accounts, registers or documents of the person are suspected to be concealed, where access to such premises, almirah, electronic devices, box or receptacle is denied.*
- (5) *The person from whose custody any documents are seized under sub-section (2) shall be entitled to make copies thereof or take extracts therefrom in the presence of an authorized officer at such place and time as such officer may indicate in this behalf except where making such copies or taking such extracts may, in the opinion of the proper officer, prejudicially affect the investigation.*
- (6) *The goods so seized under sub-section (2) shall be released, on a provisional basis, upon execution of a bond and furnishing of a security, in such manner and of such quantum, respectively, as may be prescribed or on payment of applicable tax, interest and penalty payable, as the case may be.*
- (7) *Where any goods are seized under sub-section (2) and no notice in respect thereof is given within six months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized:*
- Provided that the period of six months may, on sufficient cause being shown, be extended by the proper officer for a further period not exceeding six months*
- (8) *The Government may, having regard to the perishable or hazardous nature of any*

*goods, depreciation in the value of the goods with the passage of time, constraints of storage space for the goods or any other relevant considerations, by notification, specify the goods or class of goods which shall, as soon as may be after its seizure under sub-section (2), be disposed of by the proper officer in such manner as may be prescribed.*

- (9) Where any goods, being goods specified under sub-section (8), have been seized by a proper officer, or any officer authorized by him under sub-section (2), he shall prepare an inventory of such goods in such manner as may be prescribed.*
- (10) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to search and seizure, shall, so far as may be, apply to search and seizure under this section subject to the modification that sub-section (5) of section 165 of the said Code shall have effect as if for the word "Magistrate", wherever it occurs, the word "Commissioner" were substituted.*
- (11) Where the proper officer has reasons to believe that any person has evaded or is attempting to evade the payment of any tax, he may, for reasons to be recorded in writing, seize the accounts, registers or documents of such person produced before him and shall grant a receipt for the same, and shall retain the same for so long as may be necessary in connection with any proceedings under this Act or the rules made thereunder for prosecution.*
- (12) The Commissioner or an officer authorised by him may cause purchase of any goods or services or both by any person authorised by him from the business premises of any taxable person, to check the issue of tax invoices or bills of supply by such taxable person, and on return of goods so purchased by such officer, such taxable person or any person in charge of the business premises shall refund the amount so paid towards the goods after cancelling any tax invoice or bill of supply issued earlier.*

#### **Extract of the CGST Rules, 2017**

##### **139. Inspection, search and seizure**

- (1) Where the proper officer not below the rank of a Joint Commissioner has reasons to believe that a place of business or any other place is to be visited for the purposes of inspection or search or, as the case may be, seizure in accordance with the provisions of section 67, he shall issue an authorisation in FORM GST INS-01 authorising any other officer subordinate to him to conduct the inspection or search or, as the case may be, seizure of goods, documents, books or things liable to confiscation.*
- (2) Where any goods, documents, books or things are liable for seizure under sub-section (2) of section 67, the proper officer or an authorised officer shall make an order of seizure in FORM GST INS-02.*
- (3) The proper officer or an authorised officer may entrust upon the the owner or the*

custodian of goods, from whose custody such goods or things are seized, the custody of such goods or things for safe upkeep and the said person shall not remove, part with, or otherwise deal with the goods or things except with the previous permission of such officer.

- (4) Where it is not practicable to seize any such goods, the proper officer or the authorised officer may serve on the owner or the custodian of the goods, an order of prohibition in FORM GST INS-03 that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer.
- (5) The officer seizing the goods, documents, books or things shall prepare an inventory of such goods or documents or books or things containing, inter alia, description, quantity or unit, make, mark or model, where applicable, and get it signed by the person from whom such goods or documents or books or things are seized.

#### **140. Bond and security for release of seized goods**

- (1) The seized goods may be released on a provisional basis upon execution of a bond for the value of the goods in FORM GST INS-04 and furnishing of a security in the form of a bank guarantee equivalent to the amount of applicable tax, interest and penalty payable.

*Explanation.- For the purposes of the rules under the provisions of this Chapter, the –applicable tax shall include central tax and State tax or central tax and the Union territory tax, as the case may be and the cess, if any, payable under the Goods and Services Tax (Compensation to States) Act, 2017 (15 of 2017).*

- (2) In case the person to whom the goods were released provisionally fails to produce the goods at the appointed date and place indicated by the proper officer, the security shall be encashed and adjusted against the tax, interest and penalty and fine, if any, payable in respect of such goods.

#### **141. Procedure in respect of seized goods**

- (1) Where the goods or things seized are of perishable or hazardous nature, and if the taxable person pays an amount equivalent to the market price of such goods or things or the amount of tax, interest and penalty that is or may become payable by the taxable person, whichever is lower, such goods or, as the case may be, things shall be released forthwith, by an order in FORM GST INS-05, on proof of payment.
- (2) Where the taxable person fails to pay the amount referred to in sub-rule (1) in respect of the said goods or things, the Commissioner may dispose of such goods or things and the amount realized thereby shall be adjusted against the tax, interest, penalty, or any other amount payable in respect of such goods or things.

FORM	Rules	Description
GST INS-01	139(1)	Authorisation for inspection or search

GST INS-02	139(2)	Order of seizure
GST INS-03	139(4)	Order of prohibition
GST INS-04	140(1)	Bond for release of goods seized
GST INS-05	141(1)	Order of release of goods/ things of perishable or hazardous nature

**Related provisions of the Statute**

Section or Rule	Description
Section 2(107)	Definition of Taxable person
Section 16	Input Tax Credit
Section 74	Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful misstatement or suppression of facts.
Section 130	Confiscation of goods or conveyances and levy of penalty
Section 31	Tax invoice
Section 35	Accounts and records

**67.1 Analysis**

- (i) **Inspection:** A proper officer *not below* the rank of Joint Commissioner, may issue an authorisation to any other officer subordinate to him to carry out an inspection, if such proper officer 'has reasons to believe' that:
- (a) the taxable person:
    - (i) has suppressed any transaction of supply of goods or services or both; or
    - (ii) has suppressed information relating to stock in hand; or
    - (iii) has claimed input tax credit in excess of his entitlement; or
    - (iv) has contravened any of the provisions of the GST law, with an intent to evade taxes;
  - (b) any person engaged in the business of transporting goods or an owner or operator of a warehouse or a godown or any other place:
    - (i) Is keeping goods which have escaped payment of tax; or
    - (ii) has kept his accounts or goods in such a manner as is likely to cause evasion of tax payable under the GST law
- (ii) **Understanding of Reasons to Believe:** The phrase 'reasons to believe' has been interpreted by various courts distinguishing it from 'reason to suspect'.

In the case of *Crompton Greaves Ltd. vs. State of Gujarat*, 120 STC 510 the Court observed that, *“these words suggest that belief must be that of honest and reasonable person based upon reasonable grounds, and that the Commissioner may act under this section on direct or circumstantial evidence not on mere suspicion, gossip or rumor.*

*The powers under the present section are wide but not plenary; the words of the section are ‘reason to believe’ and not ‘reason to suspect’.*” The word “believe” is a much stronger word than “suspect”

- (iii) **Search and seizure:** A proper officer *not below* the rank of Joint Commissioner, may issue an authorisation to any other officer subordinate to him to (or may himself) search and seize any goods / documents / books / things which in his opinion would be useful for / relevant to proceedings under the GST Law, when he has reason to believe that:
  - (a) Any goods liable to confiscation are secreted in any place. In this regard, it may be noted that where it is not practicable to seize such goods, an order may be served on the person / custodian of the goods that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of the officer.
  - (b) Any documents or books or things are secreted in any place. In this regard, it may be noted that the seized documents / books / things are to be retained only for such period as is necessary for their examination / inquiry / proceedings, but shall be returned within 30 days of issue of notice if the same have not been relied upon for the issue of notice.
  - (c) the person has evaded or is attempting to evade the taxes – Please note that in such a case, the officer can even seize accounts, registers or documents of the said person on recording the reasons in writing and granting a receipt of such seizure to such person. In this regard, it may be noted that the seized accounts / registers / documents can be retained for any period in respect of any proceedings for prosecution.
- (iv) The following are important to note in respect of goods or documents or books or things which have been seized by the officer:
  - (a) **Retention:** The said officer
    - (a) shall retain the documents or books or things so seized (which he relied upon) so long as may be necessary for their examination and for any inquiry or proceedings under this Act
    - (b) shall return the documents, books or things seized or produced by a taxable or any other person on which no reliance has been placed for issuing notice, within a period of 30 days from the issue of notice.
  - (b) **Power to Seal / Break the Door of Premises (where access is denied):** Proper officer for the process of inspection, search and seizure shall have the power to:

- (a) To seal, break or open the door of any premises or
- (b) To break open any almirah, electronic devices, box, receptacle in which:
  - (i) any goods, accounts, registers or
  - (ii) documents of the person are suspected to be concealed.
- (c) **Copies of Documents Seized:**
  - (a) The person from whose custody documents are seized is entitled to take:
    - (i) photocopy or
    - (ii) extract of such documentsin the presence of an authorized GST officer at the place and time as indicated by the officer.
  - (b) Copies or extracts may be denied if the officer believes that such an act will prejudicially affect the investigation.
  - (c) **Provisional Release of Seized Goods:** The goods so seized can be released on a provisional basis, upon
  - (d) execution of Bond in Form GST INS -04 and
  - (e) furnishing of security in form of Bank Guarantee equal to amount of applicable tax (incl. SGST / UTGST / IGST / Cess) + interest + penalty.Once provisionally released, where the person fails to produce the goods at the appointed date and place indicated by the proper officer, the security shall be encashed and adjusted against the liabilities in respect of such goods.
- (d) **Return of Seized Goods:** If no notice has been issued within 6 months (or an extended period of another 6 months on the basis of sufficient grounds), the seized goods / exhibits ought to be returned to the person from whom the goods were seized.
- (e) **Perishable / Hazardous Goods:** The GST Law authorizes the proper officer to dispose of the goods and shall also maintain an inventory of the goods in the prescribed manner, as soon as the same have been seized where:
  - (a) the goods are of perishable nature; or
  - (b) the goods are of hazardous nature; or
  - (c) the goods would depreciate in value by passage of time or
  - (d) there are constraints of storage space or
  - (e) any other relevant considerations as may be prescribed.
- (f) **Applicability of Code of Criminal Procedure, 1973 :** The provisions of Code of Criminal Procedure, 1973 relating to search and seizure shall be applicable to the

GST Laws and in section 165(5) thereof, the word 'Magistrate' should be read as 'Commissioner'.

- (g) **Check-supplies:** The Commissioner or an officer authorized by him can authorize any person to purchase any goods and / or services to check issue of tax invoices / bills of supply.
- (a) The tax paid thereon shall be refundable by the taxable person when the goods so purchased are returned (no time limit prescribed in this regard) and
- (b) He shall cancel the tax invoice or any bills of supply.

Then the Proper Officer can:

**Inspect:** any place of business of the assessee who has evaded the tax or is attempting to evade the tax or of the transporter who transported such tax evading goods or godown/warehouse operator in which such tax evading goods or accounts relating thereto has been stored

**Search & seizure:** the goods or any documents or books or things which are liable for confiscation and which will be instrumental in the proceedings under this act during the enquiry period.

**Seal or Break:** open the door of any premises, storage, box or receptacle where goods, books of accounts etc. are suspected to be concealed and when access to the same is denied to the said officer.

Electronic device

Please consider the comparative understanding of seizure and confiscation (in terms of section 130) to appreciate the areas of similarity and difference:

Criteria	Seizure	Confiscation
Applicability	Any goods, documents, books or things	Only offending goods
Manner	Actual custody or constructive custody	Actual custody
Authority	Held in trust, no change of ownership	Held in trust, no change of ownership unless adjudication completed
Duration of holding	Until required for examination / inquiry / proceedings. If no notice issued, 6 months (and a further period of 6 months if extended by Commissioner)	Until issue of notice for adjudication and opportunity to pay penalty-in-lieu of confiscation



Conclusion	Return articles that are not 'offending articles'	Title to pass and vest with Central Government as per order of adjudication
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**67.2. Comparative review**

- (i) Similar powers relating to inspection, search and seizure is present in all the erstwhile indirect tax laws viz., Finance Act, 1994 (Service Tax), Central Excise Act, 1944 and in most of the State VAT laws.
- (ii) Interestingly, under the CE Act, provision has been made to safeguard the interest of the assessee against harassment by way of irregular search and seizure by the tax officers. Section 22 of the CE Act prescribes fine upto ₹ 2,000/- on an officer who conducts vexatious search, inspection etc. This provision is conspicuously absent in the CGST Act.

**67.3. Issues and concerns:**

1. While the law provides for seizure of goods liable to confiscation, documents, books and things where the officer has reason to believe that the same have been secreted in a place, the law does not impose the officer to explain to the person from whom the same are seized, as to why the proper officer believes so. This may cause undue hardship to the assesseees.
2. It may be noted that the provision for checking of issuance of tax invoice / bill of supply merely provides for return of goods, and the question of return of service does not arise. Therefore, the tax paid on any services received for test-checks cannot be refunded and shall be a cost to the Revenue.

**67.4. FAQs**

Q1. Under what circumstances there can be inspection, search or seizure operations?

Ans. Initiation of action under this section is when the proper officer not below rank of Joint Commissioner 'has reason to believe' that

- (a) the taxable person has suppressed any transaction of supply of goods or services or stock in hand or claimed excess input tax credit or has contravened any of the statutory provisions.
- (b) any person engaged in the business of transportation of goods or an owner or operator of a warehouse or godown or any other place where goods are stored, which have escaped tax payment or has kept his accounts or goods in a manner likely to cause tax evasion.

Q2. What is the meaning of the phrase 'reason to believe'?

Ans. The phrase 'reason to believe' has been interpreted by various courts distinguishing it from 'reason to suspect'. In the case of Crompton Greaves Ltd. vs. State of Gujarat, 120 STC 510 the Court observed that, *"these words suggest that belief must be that of*

*honest and reasonable person based upon reasonable grounds, and that the Commissioner may act under this section on direct or circumstantial evidence not on mere suspicion, gossip or rumor. The powers under the present section are wide but not plenary; the words of the section are 'reason to believe' and not 'reason to suspect'."*

Q3. Whether goods so seized can be released on provisional basis?

Ans. The goods so seized can be released on provisional basis if bond and security as may be prescribed is furnished or upon payment of applicable tax, interest and penalty.

#### 67.4. MCQs

Q1. Initiation of action under this section is by proper officer not below the rank of

- (a) Superintendent
- (b) Inspector
- (c) Joint Commissioner
- (d) Commissioner

Ans. (c) Joint Commissioner

Q2. In how many days, the officer shall return the seized goods / documents which are not relied upon while issuing notice?

- (a) 15 days
- (b) 30 days
- (c) 60 days
- (d) 90 days

Ans. (b) 30 days

#### Statutory provisions

##### **68. Inspection of goods in movement**

- (1) *The Government may require the person in charge of a conveyance carrying any consignment of goods of value exceeding such amount as may be specified to carry with him such documents and such devices as may be prescribed.*
- (2) *The details of documents required to be carried under sub-section (1) shall be validated in such manner as may be prescribed.*
- (3) *Where any conveyance referred to in sub-section (1) is intercepted by the proper officer at any place, he may require the person in charge of the said conveyance to produce the documents prescribed under the said sub-section and devices for verification, and the said person shall be liable to produce the documents and devices and also allow the inspection of goods.*

## Extracts of the CGST Rules, 2017

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

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

- (i) in relation to a supply; or
- (ii) for reasons other than supply; or
- (iii) due to inward supply from an unregistered person,

shall, before commencement of such movement, furnish information relating to the said goods as specified in Part A of FORM GST EWB-01, electronically, on the common portal along with such other information as may be required on the common portal and a unique number will be generated on the said portal:

Provided that the transporter, on an authorization received from the registered person, may furnish information in Part A of FORM GST EWB-01, electronically, on the common portal along with such other information as may be required on the common portal and a unique number will be generated on the said portal:

Provided further that where the goods to be transported are supplied through an e-commerce operator or a courier agency, on an authorization received from the consignor, the information in Part A of FORM GST EWB-01 may be furnished by such e-commerce operator or courier agency and a unique number will be generated on the said portal:

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

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

*Explanation 1.*— For the purposes of this rule, the expression —handicraft goods□ has the meaning as assigned to it in the Government of India, Ministry of Finance, notification No. 32/2017-Central Tax dated the 15th September, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1158 (E) dated the 15th September, 2017 as amended from time to time.

*Explanation 2.*— For the purposes of this rule, the consignment value of goods shall be the value, determined in accordance with the provisions of section 15, declared in

*an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment and also includes the central tax, State or Union territory tax, integrated tax and cess charged, if any, in the document and shall exclude the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.*

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

- (2A) *Where the goods are transported by railways or by air or vessel, the e-way bill shall be generated by the registered person, being the supplier or the recipient, who shall, either before or after the commencement of movement, furnish, on the common portal, the information in Part B of FORM GST EWB-01:*

*Provided that where the goods are transported by railways, the railways shall not deliver the goods unless the e-way bill required under these rules is produced at the time of delivery.*

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

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

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

*Provided also that where the goods are transported for a distance of upto fifty kilometers within the State or Union territory from the place of business of the consignor to the place of business of the transporter for further transportation, the supplier or the recipient, or as the case may be, the transporter may not furnish the details of conveyance in Part B of FORM GST EWB-01.*

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

*Explanation 2.- The e-way bill shall not be valid for movement of goods by road unless the information in Part-B of FORM GST EWB-01 has been furnished except in the case of movements covered under the third proviso to sub-rule (3) and the proviso to sub-rule (5).*

- (4) *Upon generation of the e-way bill on the common portal, a unique e-way bill number (EBN) shall be made available to the supplier, the recipient and the transporter on the common portal.*
- (5) *Where the goods are transferred from one conveyance to another, the consignor or the recipient, who has provided information in Part A of the FORM GST EWB-01, or the transporter shall, before such transfer and further movement of goods, update the details of conveyance in the e-way bill on the common portal in Part B of FORM GST EWB-01:*

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

- (5A) *The consignor or the recipient, who has furnished the information in Part A of FORM GST EWB-01, or the transporter, may assign the e-way bill number to another registered or enrolled transporter for updating the information in Part B of FORM GST EWB-01 for further movement of the consignment:*

*Provided that after the details of the conveyance have been updated by the transporter in Part B of FORM GST EWB-01, the consignor or recipient, as the case may be, who has furnished the information in Part A of FORM GST EWB-01 shall not be allowed to assign the e-way bill number to another transporter.*

- (6) *After e-way bill has been generated in accordance with the provisions of sub-rule (1), where multiple consignments are intended to be transported in one conveyance, the transporter may indicate the serial number of e-way bills generated in respect of each such consignment electronically on the common portal and a consolidated e-way bill in FORM GST EWB-02 maybe generated by him on the said common portal prior to the movement of goods.*
- (7) *Where the consignor or the consignee has not generated the e-way bill in FORM GST EWB-01 and the aggregate of the consignment value of goods carried in the conveyance is more than fifty thousand rupees, the transporter, except in case of transportation of goods by railways, air and vessel, shall, in respect of inter-State supply, generate the e-way bill in FORM GST EWB-01 on the basis of invoice or bill of supply or delivery challan, as the case may be, and may also generate a consolidated e-way bill in FORM GST EWB-02 on the common portal prior to the movement of goods:*

*Provided that where the goods to be transported are supplied through an e-*

commerce operator or a courier agency, the information in Part A of FORM GST EWB-01 may be furnished by such e-commerce operator or courier agency.

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

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

- (9) Where an e-way bill has been generated under this rule, but goods are either not transported or are not transported as per the details furnished in the e-way bill, the e-way bill may be cancelled electronically on the common portal within twenty four hours of generation of the e-way bill:

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

*Provided further that the unique number generated under sub-rule (1) shall be valid for a period of fifteen days for updation of Part B of FORM GST EWB-01.*

- (10) An e-way bill or a consolidated e-way bill generated under this rule shall be valid for the period as mentioned in column (3) of the Table below from the relevant date, for the distance, within the country, the goods have to be transported, as mentioned in column (2) of the said Table:-

**Table**

Sl. No.	Distance	Validity period
(1)	(2)	(3)
1.	Upto 100 km.	One day in cases other than Over Dimensional Cargo
2.	For every 100 km. or part thereof thereafter	One additional day in cases other than Over Dimensional Cargo
3.	Upto 20 km	One day in case of Over Dimensional Cargo
4.	For every 20 km. or part thereof thereafter	One additional day in case of Over Dimensional Cargo:

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

*Provided further that where, under circumstances of an exceptional nature, including trans-shipment, the goods cannot be transported within the validity period of the e-*

way bill, the transporter may extend the validity period after updating the details in Part B of FORM GST EWB-01, if required.

*Explanation 1.*—For the purposes of this rule, the —relevant date□ shall mean the date on which the e-way bill has been generated and the period of validity shall be counted from the time at which the e-way bill has been generated and each day shall be counted as the period expiring at midnight of the day immediately following the date of generation of e-way bill.

*Explanation 2.*— For the purposes of this rule, the expression —Over Dimensional Cargo shall mean a cargo carried as a single indivisible unit and which exceeds the dimensional limits prescribed in rule 93 of the Central Motor Vehicle Rules, 1989, made under the Motor Vehicles Act, 1988 (59 of 1988).

- (11) The details of the e-way bill generated under this rule shall be made available to the—
- (a) supplier, if registered, where the information in Part A of FORM GST EWB-01 has been furnished by the recipient or the transporter; or
  - (b) recipient, if registered, where the information in Part A of FORM GST EWB-01 has been furnished by the supplier or the transporter,
- on the common portal, and the supplier or the recipient, as the case may be, shall communicate his acceptance or rejection of the consignment covered by the e-way bill.
- (12) Where the person to whom the information specified in sub-rule (11) has been made available does not communicate his acceptance or rejection within seventy two hours of the details being made available to him on the common portal, or the time of delivery of goods whichever is earlier, it shall be deemed that he has accepted the said details.
- (13) The e-way bill generated under this rule or under rule 138 of the Goods and Services Tax Rules of any State or Union territory shall be valid in every State and Union territory.
- (14) Notwithstanding anything contained in this rule, no e-way bill is required to be generated—
- (a) where the goods being transported are specified in Annexure;
  - (b) where the goods are being transported by a non-motorised conveyance;
  - (c) where the goods are being transported from the customs port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs;
  - (d) in respect of movement of goods within such areas as are notified under clause (d) of sub-rule (14) of rule 138 of the State or Union territory Goods and Services Tax Rules in that particular State or Union territory;

- (e) where the goods, other than de-oiled cake, being transported, are specified in the Schedule appended to notification No. 2/2017- Central tax (Rate) dated the 28th June, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 674 (E) dated the 28th June, 2017 as amended from time to time;
- (f) where the goods being transported are alcoholic liquor for human consumption, petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas or aviation turbine fuel;
- (g) where the supply of goods being transported is treated as no supply under Schedule III of the Act;
- (h) where the goods are being transported—
  - (i) under customs bond from an inland container depot or a container freight station to a customs port, airport, air cargo complex and land customs station, or from one customs station or customs port to another customs station or customs port, or
  - (ii) under customs supervision or under customs seal;
- (i) where the goods being transported are transit cargo from or to Nepal or Bhutan;
- (j) where the goods being transported are exempt from tax under notification No. 7/2017-Central Tax (Rate), dated 28th June 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 679(E) dated the 28th June, 2017 as amended from time to time and notification No. 26/2017-Central Tax (Rate), dated the 21st September, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1181(E) dated the 21st September, 2017 as amended from time to time;
- (k) any movement of goods caused by defence formation under Ministry of defence as a consignor or consignee;
- (l) where the consignor of goods is the Central Government, Government of any State or a local authority for transport of goods by rail;
- (m) where empty cargo containers are being transported; and
- (n) where the goods are being transported upto a distance of twenty kilometers from the place of the business of the consignor to a weighbridge for weighment or from the weighbridge back to the place of the business of the said consignor subject to the condition that the movement of goods is accompanied by a delivery challan issued in accordance with rule 55.

*Explanation. - The facility of generation, cancellation, updation and assignment of e-*



way bill shall be made available through SMS to the supplier, recipient and the transporter, as the case may be.

ANNEXURE

[(See rule 138 (14)]

S. No.	Description of Goods
(1)	(2)
1.	Liquefied petroleum gas for supply to household and non domestic exempted category (NDEC) customers
2.	Kerosene oil sold under PDS
3.	Postal baggage transported by Department of Posts
4.	Natural or cultured pearls and precious or semi-precious stones; precious metals and metals clad with precious metal (Chapter 71)
5.	Jewellery, goldsmiths' and silversmiths' wares and other articles (Chapter 71)
6.	Currency
7.	Used personal and household effects
8.	Coral, unworked (0508) and worked coral (9601)

**138A. Documents and devices to be carried by a person-in-charge of a conveyance**

- (1) The person in charge of a conveyance shall carry—
  - (a) the invoice or bill of supply or delivery challan, as the case may be; and
  - (b) a copy of the e-way bill in physical form or the e-way bill number in electronic form or mapped to a Radio Frequency Identification Device embedded on to the conveyance in such manner as may be notified by the Commissioner:

Provided that nothing contained in clause (b) of this sub-rule shall apply in case of movement of goods by rail or by air or vessel.
- (2) A registered person may obtain an Invoice Reference Number from the common portal by uploading, on the said portal, a tax invoice issued by him in FORM GST INV-1 and produce the same for verification by the proper officer in lieu of the tax invoice and such number shall be valid for a period of thirty days from the date of uploading.
- (3) Where the registered person uploads the invoice under sub-rule (2), the information in Part A of FORM GST EWB-01 shall be auto-populated by the common portal on the basis of the information furnished in FORM GST INV-1.
- (4) The Commissioner may, by notification, require a class of transporters to obtain a unique Radio Frequency Identification Device and get the said device embedded on

to the conveyance and map the e-way bill to the Radio Frequency Identification Device prior to the movement of goods.

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

**138B. Verification of documents and conveyances**

- (1) The Commissioner or an officer empowered by him in this behalf may authorize the proper officer to intercept any conveyance to verify the e-way bill in physical or electronic form for all inter-State and intra-State movement of goods.
- (2) The Commissioner shall get Radio Frequency Identification Device readers installed at places where the verification of movement of goods is required to be carried out and verification of movement of vehicles shall be done through such device readers where the e-way bill has been mapped with the said device.
- (3) The physical verification of conveyances shall be carried out by the proper officer as authorised by the Commissioner or an officer empowered by him in this behalf:
- Provided that on receipt of specific information on evasion of tax, physical verification of a specific conveyance can also be carried out by any other officer after obtaining necessary approval of the Commissioner or an officer authorised by him in this behalf.*

**138C. Inspection and verification of goods**

- (1) A summary report of every inspection of goods in transit shall be recorded online by the proper officer in Part A of FORM GST EWB-03 within twenty four hours of inspection and the final report in Part B of FORM GST EWB-03 shall be recorded within three days of such inspection.
- (2) Where the physical verification of goods being transported on any conveyance has been done during transit at one place within the State or Union territory or in any other State or Union territory, no further physical verification of the said conveyance shall be carried out again in the State or Union territory, unless a specific information relating to evasion of tax is made available subsequently.

**138D. Facility for uploading information regarding detention of vehicle**

*Where a vehicle has been intercepted and detained for a period exceeding thirty minutes, the transporter may upload the said information in FORM GST EWB-04 on the common portal.*

**Relevant Circulars, Notifications and Clarifications**

1. Notification No. 02/2017-Central Tax, dated 19.06.2017 notifying the jurisdiction of Central Tax Officers;
2. Notification No. 14/2017-Central Tax, dated 01.07.2017 issued to assign the jurisdiction and powers of various directorates;
3. Notification No. 39/2017-Central Tax, dated 13.10.2017 read with Notification No. 10/2018-Central Tax, dated 23.01.2018 issued to cross-empower State Tax officers for processing and granting of refunds;
4. Circular No. 41/2018 dated 13.04.2018 clarifying the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances.
5. Circular No. 38/2017 dated 26.03.2018 issued for clarifications regarding job work
6. Circular No.22/2017 dated 22.11.2017 issued to clarify on Inter-state movement of rigs, tools and spares, and all goods on wheels [like cranes]
7. Circular No. 9/9/2017 dated 18.10.2017 issued regarding the officer authorized for enrollment of GST Practitioners.
8. Circular No. 3/3/2017 dated 05.07.2017 read with Circular No. 31/05/2018 dated 09.02.2018 issued to clarify the functions of the Proper officers;

**Related provisions of the Statute**

Section or Rule	Description
Section 31	Tax invoice
Rules 46 – 55A	Form and manner of documents prescribed in Section 31
Section 15	Value of supply
Section 2(68)	Definition of Jobworker
Section 2(52)	Definition of Goods
Section 2(67)	Definition of inward supply
Section 2(45)	Definition of e-commerce operator
Section 7	Supply
Section 10 (IGST)	Place of supply of goods other than goods imported into or exported from India

**68.1. Introduction**

Section 68 requires that the transporter produce information required by the authorities and Rule 138 prescribes the kind of information based on which movement of goods can be

smoothly effected which the authorities are bound to approve, if found to be in order. This section prescribes the mechanism of creating an audit trail on the common portal for movement of goods about a certain monetary value. The trail can be created by the supplier participated or even the transporter, in certain circumstances. That makes e-way bill remarkable, attracting a lot of doubt and even misinformation. Use of e-way bill is not a substitute for tax invoice. This note provides some information to clear the air and make way for better understanding on the **Procedural and Practical Aspects of E-Way Bill under GST** that provide a walk-through the steps on e-way bills.

### 68.2. Analysis

#### (i) Applicability

E-way Bill ("EWB") is not required for all transactions undertaken by a taxable person. EWB is required for all transactions involving movement of goods whether in the course of supply or not. Supply has been discussed extensively, but it must be noted that EWB is not only required whenever there is a 'supply' of goods, but also every time there is a 'movement' of goods. This in turn means that EWB is required for transactions involving movement of goods although the transactions are otherwise, deemed to be a supply of services, such as leasing of goods, or supply of food & beverages, etc.

#### (ii) Transport

Transport or movement of goods must be distinguished from 'delivery' of goods. Transport and delivery seem synonymous, but they are not. Movement is a part of transportation and it can be said that transportation has commenced as soon as the Consignor hands over the goods with clear and irrevocable instructions to a Carrier to put them on its journey to a specified destination and hand them over to a specified (or altered) Consignee (or his Order). At this point, the actual journey or movement has not even begun but transportation has already begun. After the journey commences, it can be interrupted or continuous, but transportation continues to remain in-progress. Likewise, journey may end but transportation would still be in progress. Now, transportation will conclude only when the instructions of the Consignor have been satisfactorily discharged by the Carrier on handing over the goods to the Consignee (or his Order). EWB is required 'before' commencement of transportation regardless of commencement of journey. Delivery is that legal responsibility where title is transferred, as section 10(1)(a) *inter alia* provides that, "*movement terminates for delivery.....*". Delivery assumes legal significance which must carefully be observed in each transaction.

#### (iii) Place of Delivery

Form GST EWB 01 requires 'place of delivery' to be specified. Please note that this term is not be misconstrued to be 'place of supply'. EWB is intended to create contemporaneous trail of physical movement of the goods. It is not meant to address the legalistic concept of 'place of supply' which can vastly differ from 'place of delivery'.

Though physical movement of the goods may be from one location to another, in the eyes of law, 'place of supply' could very well be the location of the recipient. So, it is not conceivable for EWB to require information about 'place of supply' but very simply, the 'place of delivery' or 'destination of journey'. In fact, it can be seen that, when GSTIN of Recipient is incorporated, the Place of Delivery will auto-populate.

The person who effects a supply is the 'Supplier' and whereas a 'Consignor' is one who causes movement of the goods. Very often, Supplier and Consignor may be the same person, but this is not a necessity. Supplier may be the mind behind the supply, while a warehouse keeper could be the Consignor. Similarly, recipient is defined in section 2(93) to be the one who pays consideration, while such person need not always be the Consignee.

(iv) **Consignment Value**

Transaction Value is understood from Section 15, whereas the value referred to in the EWB provisions happens to be 'Consignment Value' – i.e., where the consignment value exceeds Rs.50,000, an EWB becomes mandatory. This 'Consignment value' is computed so as to be the transaction value inclusive of applicable GST, but excluding the value of any exempt supplies (in case of a tax-invoice-cum-bill-of-supply). It must be noted that EWB itself requires both these values to be specified – transaction value as well as GST amount. In this regard, it is relevant to note that the Consignment value must answer the measure of value of section 15 in all cases. This means, supplies where the consideration is in non-monetary terms would also require the issuance of EWB. Please refer to the discussions in Chapter IV of this BGM to better understand the valuation principles in respect of supplies not having a consideration in wholly monetary terms. E.g. An equipment costing Rs.100 lacs moved inter-State under a monthly lease of Rs.5 lacs would require the EWB to be carried. Some experts believe that the value to be indicated in the e-way bill ought to be the monthly rental value of Rs.5 Lakhs whereas there are others who opine that the value to be declared would be the equipment value of Rs.100 Lakhs.

In the following cases, a EWB shall be required to be issued regardless of the consignment value:

- ✓ Where goods are sent by a principal located in one State / UT to a job worker located in any other State / UT – the e-way bill shall be generated either by the principal or the job worker [third proviso to Rule 138 (1) of the CGST Rules];
- ✓ Where handicraft goods are transported from one State / UT to another by a person who has been exempted from the requirement of obtaining registration under Section 24(i) and (ii) [fourth proviso to Rule 138 (1) of the CGST Rules].

(v) **Non-EWB Goods**

No E-way bill is required to be generated in respect of:

- ✓ Goods wherein the consignment value does not exceed Rs. 50,000;

- ✓ Wholly exempt goods except de-oiled cake pursuant to Rule 138(14)(e) of CGST Rules.
- ✓ Movement of goods listed in rule 138(14) of CGST as well as State/UT GST Rules;
- ✓ Supply without any movement of goods (see, section 10(1)(c) of the IGST Act, 2017).

State/UT GST Rules stand alone on the requirement of EWB in respect of intra-State movement and the CGST Rules are limited to inter-State movements.

(vi) **EWBs effect on Place of Supply**

Inter-State movement or inter-State supply are two distinct terms to be recognized. By the fiction in section 7 of IGST Act, several transactions are imputed to be inter-State supplies but, for the limited purposes of EWB, their actual movement alone determines whether it is inter-State movement (attracting Central EWB) or intra-State movement (attracting State/UT EWB). Here, we may notice that various States/UTs have synchronized their movement to ensure ease of movement whether inter-State or intra-State. EWB is required whether the movement of goods is pursuant to supply or not and pursuant to supply of goods or of services or inward supply from an unregistered person.

- ✓ **Illustration 1:** Goods imported from China arrive at Mumbai port. These goods are transported from Mumbai port to factory in Pune. This is an inter-State supply from China to Pune, but it is an intra-State movement from Mumbai to Pune – Requirement of EWB to be determined under the State GST Law.
- ✓ **Illustration 2:** Goods are sold from Lucknow by Supplier to Customer in Delhi with instructions for these goods to be delivered to job-worker in Noida. This is an inter-State supply from Lucknow to Delhi but an intra-State movement within UP – Requirement of EWB to be determined under the State GST Law.
- ✓ **Illustration 3:** Generator installed in basement of building being sold to Landlord on termination of lease agreement. EWB will NOT BE REQUIRED as there is 'no movement' in this supply.
- ✓ **Illustration 4:** Contractor carrying portable crane to customer site, both located in same State, is intra-State movement – Requirement of EWB to be determined under the State GST Law.
- ✓ **Illustration 5:** Laptop carried by an employee of a Company in Delhi, having no other branches, to client-location in Bangalore on business. This movement is not supply but is incidental to 'services of employee to employer' under schedule III. EWB will NOT BE REQUIRED for this movement. Contract-staff carrying company-laptop not excluded from EWB requirement.
- ✓ **Illustration 6:** LPG cylinders transported from dealership to bottling plant of Oil Company, is 'excluded' from requirement. EWB will NOT BE REQUIRED for this

movement. But EWB will be required for movement of cylinders supplied by fabricator to Oil Company.

(vii) **Portal Registration**

Registration on [www.ewaybillgst.gov.in](http://www.ewaybillgst.gov.in) (Notification No. 9/2018-CT dated 23.01.2018) is not to be understood as a registration under Section 22 of the CGST Act. It may also be noted that a registration under Section 22 does not automatically create a registration on this portal. Registration on the portal merely refers to creation of user login for use of the features on this portal.

Even a transporter who is not registered under section 22 is welcome to register on this portal for the limited purposes of updating information in Part B of EWB and is called 'enrolment'. Such transporters are issued TRANSIN registration. Considering that TRANSIN is required only for purposes of updating EWB information, a Consignor or Consignee are also permitted to obtain TRANSIN.

It is advisable for every GSTIN-holder to obtain an enrolment with a TRANSIN ID. This will help in modifying information in Part B of the EWB if and when required, to obtain extension of validity in case of *bona fide* delay, and most importantly, reporting detention.

(viii) **Reasons for Transportation**

Reasons for transportation must be one of the following:

Supply | Export or Import | Job Work | SKD or CKD | Recipient not known |

Line Sales | Sales Return | Exhibition or fairs | For own use | Others

One must exercise caution while selecting the appropriate reason, since this information is expected to be linked with the returns filed by the registered person in order to correctly differentiate a mere movement of goods from a supply thereof, as it creates a contemporaneous trail of the movement. Use of EWB limits any possibility of fictitious transactions being recorded or included after lapse of time.

(ix) **Person Responsible**

Person causing movement is required to prepare EWB. As a corollary, the person who has prepared the EWB could be implied to be the person who has caused movement of goods. Considering the ingredients applicable in each clause under Section 10 and 11 of the IGST Act to determine the 'place of supply', it is important that the EWB is not causally undertaken, and the person generating the EWB is required to be mindful of the effect it could have on the 'place of supply' declared and / or the nature of tax applicable on the supply.

(x) **'Bill-to-Ship-to' Transactions**

Although bill-to-ship-to transactions could sometimes result in twin-supply transactions, they require a single EWB since the movement is singular. In the e-way bill form, there

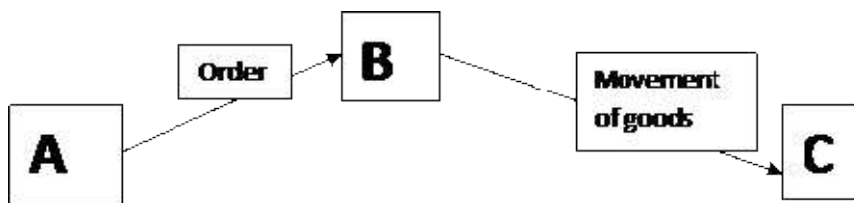
are two portions under the 'TO' section.

- ✓ In the left-hand-side: 'Billing To' GSTIN and trade name is entered; and
- ✓ In the right-hand-side: 'Ship to' address of the destination of the movement is entered.
- ✓ The other details are entered as per the invoice.

In case ship-to State is different from the Bill-to State, the tax components are entered as per the details of the bill-to person (Bill-to State). i.e., if the Bill-to location is inter-State for the supplier, IGST is entered and if the Bill-to person is located in the same State as the supplier, then SGST and CGST are entered irrespective of the place of delivery (whether within the State or outside the State).

In a typical "Bill To Ship To" model of supply, there are three persons involved in a transaction, namely:

- 'A' is the person who has ordered 'B' to send goods directly to 'C'.
- 'B' is the person who is sending goods directly to 'C' on behalf of 'A'.
- 'C' is the recipient of goods.



In this complete scenario two supplies are involved and accordingly two tax invoices are required to be issued:

- Invoice -1, which would be issued by 'B' to 'A'.
- Invoice -2 which would be issued by 'A' to 'C'.

It is clarified that as per the CGST Rules, 2017 either 'A' or 'B' can generate the e-Way Bill but it may be noted that only one e-Way Bill is required to be generated as per the following procedure:

Case -1: Where e-Way Bill is generated by 'B', the following fields shall be filled in Part A of GST FORM EWB-01:

1.	Bill From:	In this field details of 'B' are supposed to be filled.
2.	Dispatch From:	This is the place from where goods are actually dispatched. It may be the principal or additional place of business of 'B'.
3.	Bill To:	In this field details of 'A' are supposed to be filled.



4.	Ship to:	In this field address of 'C' is supposed to be filled.
5.	Invoice Details:	Details of Invoice-1 are supposed to be filled

Case -2: Where e-Way Bill is generated by 'A', the following fields shall be filled in Part A of GST FORM EWB-01:

1.	Bill From:	In this field details of 'A' are supposed to be filled.
2.	Dispatch From:	This is the place from where goods are actually dispatched. It may be the principal or additional place of business of 'B'.
3.	Bill To:	In this field details of 'C' are supposed to be filled.
4.	Ship to:	In this field address of 'C' is supposed to be filled.
5.	Invoice Details:	Details of Invoice-2 are supposed to be filled

(xi) **'Bill from-Ship from' Transactions**

Such a situation arises where the supplier prepares the bill from his business premises to the consignee, but moves the consignment from some other premises to the consignee, based on business requirements. In alignment with procedure specified in the preceding paragraph, the system provides a mechanism for this situation as well. In the e-way bill form, there are two portions under 'FROM' section:

- ✓ In the left-hand-side: 'Bill From' supplier's GSTIN and trade name are entered; and
- ✓ In the right-hand-side: 'Dispatch From', address of the dispatching place is entered.
- ✓ The other details are entered as per the invoice.

**Illustration 7:** Goods supplied from Baroda to intermediate in Chennai but directly delivered to Kolkata. EWB to be generated 'before' commencement of movement with 'bill to Chennai' and 'ship to Kolkata' and the GSTIN of original supplier (Baroda) and intermediate (Chennai).

**Illustration 9:** Car sold by Dealer in Bangalore to Bank in Mumbai but delivered to Lessee in Bangalore. EWB to be issued 'before' commencement of movement with 'bill to Mumbai' and 'ship to Bangalore'.

**Illustration 10:** Water cans supplied by Dealer in Road no.1 to Caterer registered in Road no.2 and delivered to central Kitchen in Road no.10 and then carried to marriage hall in Road no.12 along with other articles. EWB-1 to be issued 'before' commencement of movement with 'bill to Road no.2' and 'ship to Road no.10'. Since there is an interval of time after delivery of water cans from Dealer to central Kitchen, the subsequent movement of entire catering articles involves another EWB independent of the EWB-1.

**(xii) EWB Formula**

EWBs follow a time-distance-acceptance based formula. EWB has a validity period linked to the distance the goods have to travel and finally acceptance by the Recipient. Unless accepted / rejected by within 72 hours, the EWB is deemed to be accepted. An EWB can only be cancelled within 24 hours of generation (unless the carriage has been intercepted / the goods delivered, prior to such time). Thus, EWB introduces a sense of urgency in the process of movement and promptly recording the transactions.

This requires better preparation and organizing information required to be input in EWBs so that when it is time to carry out movement of goods, the information is correct, complete and free of errors. Booking sales in the last few days of the month may not be easy unless supported by a timely dispatch of goods along with EWB.

**(xiii) Watch 'portal' Continuously**

Watch portal continuously and 'accept' or 'reject'. If not, every EWB uploaded with said GSTIN, will be 'deemed as accepted'. Considering that EWBs become 'valid' from the time Part-B is entered, they will appear as soon as they EBN is generated with just Part-A information. Monitoring portal regularly is important. Creation of sub-users for this purpose maybe beneficial based on projects or SBUs where single GSTIN is used in a State. In order to monitor, POs issued must be available on-hand to be able to 'reject' any unknown or unrecognized EWBs. It is important to be bear in mind that Service-POs involving goods will also reflect on the portal against said GSTIN and must not be rejected as it would interrupt transportation. EWB process now assumes great significance, particularly service contracts involving goods.

**(xiv) Reporting Detention**

Detention of goods is required to be reported by TRANSIN-holder if detention exceeds thirty (30) minutes. In GST EWB 04. This will report the detention to the superior office who will need to resolve the reasons for detention. The consequences are provided in section 129 wherein:

- notice (followed by order) of detention
- opportunity to pay tax and penalty as prescribed in each case (section 129(1) limits)
- furnishing bond PLUS security is involved in case of detention (section 67(6) applies)

Payment of tax and penalty 'concludes' proceedings. As such, care should be taken not to pay tax and penalty in haste as it implies admission of wrong-doing. These sweeping penalty provisions takes away discretion and does not allow elaborate opportunity to prove *bona fide*. Absence of prescribed documents implies wrong-doing attracting full extent of prescribed penalty. Transporter need to be equipped with sufficient pre-checks about the documentation and availability of EWB or ability to furnish bond and security to stop detention and continue transportation.

Identifying transporter with this knowledge and understanding is key. Earlier suggestion for Supplier or Recipient with GSTIN to additionally obtain TRANSIN or transporter id will facilitate in meeting and addressing detention issues if the transporter is unable to explain the facts. Although the powers of detention show severity, Government assures that it will be used sparingly and in sectors where there is rampant violation. Care must be taken to make an overall sensitive assessment of products / sectors involved and suitable measures to be taken so as to be free from detention concerns.

(xv) **Effective Date – Central EWB**

CGST Rules addresses only inter-State movement (not necessarily inter-State supply) and has been implemented from 01.04.2018. It is to be noted that EWBs must be in harmony with the tax charged in respect of the supply involved. In case of an in-transit supply, although many representations have been made to the Government, the requirement remains that two (2) EWBs are required – one, for the first leg of supply and two, for the second leg of supply, though the goods may take a different (and direct) route to the final destination. Imports also require EWB but by the Consignee who causes the movement of goods from the port to the final location. Exports will require EWB but with Recipient as 'unregistered person'.

(xvi) **Effective Date – State EWB**

States/UTs that propose to notify EWBs for intra-State movement may implement this requirement from any date they choose, but not later than 01.06.2018 as per the recommendation of the GST Council. Intra-State movement will always be dependent upon the law notified by each State/UT. Movement of goods within the State to an SEZ unit or to a port located within the same State may all require State/UT EWB as the supply may be regarded as inter-State supply but the movement continues to be intra-State. Clarity in this regard is still awaited. States/UTs that do not propose to follow EWB system still require EWB compliance in respect of inter-State movement. Important question to ask – Do you have a copy of the State/UT notification applicable in a given State? For example, refer [www.gst.kar.nic.in/ewaybill](http://www.gst.kar.nic.in/ewaybill).

(xvii) **Conclusion**

EWBs contain information in two parts and Part B is required to render the EWB 'complete'. However, if the distance involved is upto 50 km within the State in case of movement to the location of the transporter for further transportation, or where the movement is from the location of the transporter to the location of the recipient, this information is exempted. It is to be appreciated that very limited information is required in EWB and once EWB is reported on the portal, an ERN is generated. Transporter is required to provide ERN to the authorities for inspection. Invoice or delivery challan generated need not be carried by the transporter in physical copy. Familiarity with this high-tech system takes some time. EWBs are expected to bring transparency and reliability to information reported for stakeholders to rely on.

- E-way bill user manual (updated upto 26.03.2018) has been issued by National Informatics Centre New Delhi, detailing out the manner in which e-way bill shall be generated and used for movement of goods (source: [https://docs.ewaybillgst.gov.in/Documents/usermanual\\_ewb.pdf](https://docs.ewaybillgst.gov.in/Documents/usermanual_ewb.pdf))
- Vide Circular No. 41/15/2018 – GST dated 13.04.2018, the Board has clarified and also prescribed the procedure to be followed for inspection and detention of goods during their movement. It is also to be noted that the circular also details out the forms and its formats to be used for the purpose of inspection and detention.

### 68.3. Issues and concerns:

1. There is no provision for amendment of particulars in the EWB. It is believed that such a facility has not been provided so as to ensure that EWBs are not mis-utilised. Where any incorrect details have been furnished in the EWB, only two options are available: (i) Request the consignee to reject the EWB (within 72 hours / before delivery); or (ii) Cancel the EWB within 24 hours / before delivery / before interception by an officer; and generate a new EWB with the correct details. However, if such EWB cannot be rejected / cancelled within the said timelines, nothing can be done. It is therefore suggested that the person generating the EWB keeps a record of all the discrepancies, in order to furnish the reconciliation if and when sought by the proper officer. Where such records are not maintained, it may be possible for the proper officer to treat the difference as a supply effected without issuance of invoice, or treat the difference as a non-compliance with Rule 138 wherein movement is not supported by an EWB where mandated.
2. A compilation of frequently asked questions (FAQs) is available in the following links <https://docs.ewaybillgst.gov.in/html/faq.html>, <http://cbec.gov.in/resources/htdocs-cbec/gst/FAQs-on-E-way%20Bill-System.pdf>.

### Statutory provisions

#### 69. Power to arrest

- (1) *Where the Commissioner has reasons to believe that a person has committed any offence specified in clause (a) or clause (b) or clause (c) or clause (d) of sub-section (1) of section 132 which is punishable under clause (i) or (ii) of sub-section (1), or under sub-section (2) of the said section, he may, by order, authorise any officer of the central tax to arrest such person.*
- (2) *Where a person is arrested under sub-section (1) for an offence specified under sub-section (5) of section 132, the officer authorised to arrest the person shall inform such person of the grounds of arrest and produce him before a magistrate within twenty-four hours.*
- (3) *Subject to the provisions of the Code of Criminal Procedure, 1973, —*
  - (a) *where a person is arrested under sub-section (1) for any offence specified under sub-section (4) of section 132, he shall be admitted to bail or in default of bail, forwarded to the custody of the Magistrate;*

(b) *in the case of a non-cognizable and bailable offence, the Deputy Commissioner or the Assistant Commissioner shall, for the purpose of releasing an arrested person on bail or otherwise, have the same powers and be subject to the same provisions as an officer-in-charge of a police station.*

#### Related provisions of the Statute

Section or Rule	Description
Section 132	Punishment for certain offences

#### 69.1. Introduction

This section deals with power of arrest when one commits any of the following offences which is punishable under clause (i) or (ii) of sub-section (1), or under sub-section (2) of sec 132 of CGST Act.

#### 69.2. Analysis

The Commissioner is vested with the power to authorise, by an order, any Officer to arrest a person, where there is a reason to believe that such person has committed the specified offences – in (1) and (2) below:

- (1) **Offences of the kind specified in Section 132(1) (a),(b),(c) and (d):**
  - (a) Supplies any goods or services or both without issue of any invoice, in violation of the provisions of this Act or the rules made thereunder, with the intention to evade tax;
  - (b) Issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of input tax credit or refund of tax;
  - (c) Avails input tax credit using such invoice or bill referred to in clause (b);
  - (d) Collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;

AND when such offences (specified above) are punishable under Section 132(1)(i) and (ii): In cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds Rs.250 Lakhs

  - a. If above Rs 500 Lakhs, punishable with imprisonment for a term upto 5 years and fine, or
  - b. If above Rs 250 Lakhs but does not exceed Rs 500 Lakhs, punishable with imprisonment for a term upto 3 years and fine, or
- (2) A second / subsequent conviction on account of any of the offences specified under Section 132 – punishable with imprisonment for a term upto 5 years and fine:

Such person is required to be informed about the grounds of arrest and be produced before the Magistrate within 24 hours in case of cognizable offences and in case of non-cognizable and bailable offences the Assistant/Deputy Commissioner can grant the bail and is conferred powers of an officer-in-charge of a police station subject to the provisions of Code of Criminal Procedure, 1973.

All arrests should be made as per the provisions of Code of Criminal Procedure, 1973.

### **69.3. Comparative review**

Similar power of arrest of tax evaders by officer is present in most of the indirect tax legislations.

However, under the Finance Act, 1994 the power to arrest can be exercised only in cases where taxes collected and not deposited for an amount exceeding ` 200 lakhs.

### **69.4. Issues and concerns**

1. While the law provides a threshold limit exceeding which the offence would be considered to be an offence by which a person may be arrested, the law does not specify any time-period in respect of the same. Therefore, consider a case where the Commissioner has reason to believe that a person has failed to issue tax invoices in respect of supplies effected during a period of 3 years, wherein the tax evaded exceeds Rs.250 lakhs. Even in such a case it appears that the Commissioner has the powers to arrest such person.
2. There is no indication as to whether the reference is made to a taxable person / registered person (GSTIN) / or any person (PAN) in the language employed in Section 132(1) that specifies the offences, being "Whoever commits any of the following offences, namely".

### **69.5. FAQs**

Q1. Power of arrest could be exercised by whom?

Ans. The Commissioner can authorise (by an order) any officer to arrest a person, who has committed specified offences. The Commissioner should have reason to believe that such person has committed the specified offences.

Q2. Who can be arrested?

Ans. The person committing an offence (tax evasion) as specified in –

Section 132(1) clause (i) tax evasion above Rs 500 Lakhs attracting imprisonment for a term upto 5 years and fine, or clause (ii) tax evasion above Rs 200 Lakhs attracting imprisonment upto 3 years and fine for an offence under Section 132(1) (a) to (d), or offence under section 132(2) [repeated offence – second and subsequent offence attracting imprisonment upto 5 years with fine] can be arrested by authorised officer.

Q3. What is the procedure to be followed for arrest?

- Ans. (i) The person arrested should be informed about the grounds of arrest and be produced before the Magistrate within 24 hours in case of cognizable offences
- (ii) In case of non-cognizable and bailable offences the Assistant/Deputy Commissioner can grant the bail and is conferred powers of an officer-in-charge of a police station subject to the provisions of Code of Criminal Procedure, 1973.
- (iii) All arrests should be made as per the provisions of Code of Criminal Procedure, 1973.

**69.6. MCQs**

- Q1. All arrests should be made as per the provisions of \_\_\_\_\_
- (a) Code of Criminal Procedure, 1973
- (b) Civil Procedure Code
- (c) Foreign Exchange Management Act
- (d) Indian Penal Code

Ans. (a) Code of Criminal Procedure, 1973

**Statutory provisions****70. Power to summon persons to give evidence and produce documents**

- (1) *The proper officer under this Act shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry in the same manner, as provided in the case of a civil court under the provisions of the Code of Civil Procedure, 1908.*
- (2) *Every such inquiry referred to in sub-section (1) shall be deemed to be a "judicial proceeding" within the meaning of section 193 and section 228 of the Indian Penal Code.*

**70.1. Introduction**

This provision deals with exercise of powers to issue summons for giving evidence and for production of documents

**70.2. Analysis**

In any inquiry which such officer is making for any of the purposes of this Act, the Proper officer shall have power to summon

- any person, whose attendance is considered necessary,
- either to give evidence or
- to produce a document or any other thing.
- in any inquiry in the same manner

- As provided in the case of a civil court under the provisions of the Code of Civil Procedure, 1908

Every such inquiry referred to in sub-section (1) shall be deemed to be a “judicial proceeding” within the meaning of section 193 and section 228 of the Indian Penal Code

It would be helpful to read and be familiar with the exact nature of responsibility of acceptance of service of summons and of making statements in response to a summons. Reference may be had to Chapter X and XI of Indian Penal Code. At the same time, Article 20(3) of our Constitution prohibits from a person being made to witness against himself. Therefore, avoidance of service of summons is unlawful but abstinence from making statements is not. Understanding the legality of these matters will assume significance in attending to such matters of inquiry before a judicial officer.

Scope of word “Summon” under Sec 70 is for “Any Inquiry”. Authorised Officer is not empowered under Sec 70 to retain the documents for which summon were issued. It has been held by in T.T.V Dinkaran v. Enforcement Officer 1995 (80) E.L.T. 745 that where summon did not mention the nature of investigation therein, it will be valid since mentioning the details about investigation may alter the person concerned to manipulate his record.

### 70.3. Comparative review

Name of Statute	Central Excise Act 1944	Finance Act 1994	Custom Act 1962	State Vat Laws
Section Reference	Sec 14	Sec 14 of Central Excise Act read with Sec 83 of Finance Act 1994	Sec 108	Similar powers are conferred under the State Vat laws.

### 70.4. FAQs

Q1. Who can issue summons and for what purpose?

Ans. Proper officer under this Act can summon to any person whose attendance is considered necessary either to give evidence or to produce a document or any other thing in any inquiry which such officer is making for any of the purposes of the GST Law.

### Statutory provisions

#### 71. Access to business premises

(1) Any officer under this Act, authorised by the proper officer not below the rank of Joint Commissioner, shall have access to any place of business of a registered person to inspect books of account, documents, computers, computer programs, computer software whether installed in a computer or otherwise and such other things as he may require and which may be available at such place, for the purposes of carrying



out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of revenue.

(2) Every person in charge of place referred to in sub-section (1) shall, on demand, make available to the officer authorised under sub-section (1) or the audit party deputed by the proper officer or a cost accountant or chartered accountant nominated under section 66—

- (i) such records as prepared or maintained by the registered person and declared to the proper officer in such manner as may be prescribed;
- (ii) trial balance or its equivalent;
- (iii) statements of annual financial accounts, duly audited, wherever required;
- (iv) cost audit report, if any, under section 148 of the Companies Act, 2013 (18 of 2013);
- (v) the income-tax audit report, if any, under section 44AB of the Income-tax Act, 1961 (43 of 1961); and
- (vi) any other relevant record,

for the scrutiny by the officer or audit party or the chartered accountant or cost accountant within a period not exceeding fifteen working days from the day when such demand is made, or such further period as may be allowed by the said officer or the audit party or the chartered accountant or cost accountant.

#### Related provisions of the Statute:

Section or Rule	Description
Section 67	Power of inspection, search and seizure
Rule 139	Inspection, search and seizure
Section 66	Special audit
Section 35	Accounts and records
Section 36	Period of retention of accounts
Section 144	Presumption as to documents in certain cases

#### 71.1. Introduction

This provision empowers any officer authorised by the officer not below the rank of Joint Commissioner to have access to any place of business of a registered person to inspect books of account, documents, computers, computer programmes, computer software and such other things as may be required and which may be available at such place, for the purposes of carrying out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of revenue.

### 71.2. Analysis

For this purpose, the officer should be authorized by the officer **not below** the rank of Joint Commissioner. Experts are apprehensive of far reaching consequences of this section which is potentially capable of misuse. Strong understanding of the legal remedies available will equip in attending to these inspections.

Such an authorized officer shall have access to any place of business of registered person to inspect

- books of account,
- documents,
- computers,
- computer programs,
- computer software (whether installed in a computer or otherwise)
- and such other things as he may require as available at such premises.

The object is to carry out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of revenue.

The person in charge of the premises should make available the following:

1. Records maintained by the registered person and declared to proper officer;
2. Trial balance or its equivalent;
3. Audited financial statements wherever required;
4. Cost audit report, if any;
5. Income Tax audit report, if any;
6. Other relevant records.

The documents/records should be made available within 15 working days or such extended period as may be allowed.

The documents/records can be called for by the Audit officer or Chartered Accountant or Cost Accountant nominated by the department.

### 71.3. Comparative review

In the erstwhile indirect tax laws, and even in various State VAT laws similar provisions exist.

### 71.4. FAQs

Q1. What are the documents or records that a person in charge of a place of business shall make available in terms of Provisions of section 71?

Ans. The person in charge of a place of business shall, on demand, make available:

- Records maintained by the registered person and declared to proper officer;

- Trial balance;
- Audited financial statements wherever required;
- Cost audit report, if any;
- Income Tax audit report, if any
- Other relevant records

Q2. Who are the persons empowered to call for documents/records for audit, verification, checks and scrutiny?

Ans. Audit Party deputed by the Proper Officer or a Chartered Accountant or a Cost Accountant nominated u/s 66 by the department for conducting the audit are the persons empowered to call for documents/records for audit, verification, checks and scrutiny.

### **71.5. MCQs**

Q1. The documents called for should be provided within \_\_\_\_\_

- (a) 20 working days
- (b) 15 working days
- (c) 60 days
- (d) 30 days

Ans. (b) 15 working days

Q2. Who is liable to furnish information to empowered officers?

- (a) Director
- (b) Accountant
- (c) CEO
- (d) Person in charge of Place of Business

Ans. (d) Person in charge of Place of Business

Q3. What empowered officers can do with the information furnished to them?

- (a) Audit
- (b) Scrutiny
- (c) Verification and Checks
- (d) All of the above

Ans. (d) All of the Above

**Statutory provisions****72. Officers to assist Proper Officers**

- (1) *All officers of Police, Railways, Customs, and those officers engaged in the collection of land revenue, including village officers, officers of State tax and officers of Union territory tax shall assist the proper officers in the implementation of this Act*
- (2) *The Government may, by notification, empower and require any other class of officers to assist the proper officers in the implementation of this Act when called upon to do so by the Commissioner.*

**72.1. Introduction**

The provision requires all officers of Police, Railways, Customs and those officers engaged in the collection of land revenue including village officers, officers of state and union territory tax to assist the proper officers in the implementation of this Act.

**72.2. Analysis**

Below officers are empowered and required when called upon, to assist the proper officer in execution of this act:

- All officers of
  - Police,
  - Railway Officer,
  - Customs Officer
- Officer of State & Union Territory tax.
- Officers engaged in the collection of land revenue including village officers,

Even the Government may issue notification empowering and requiring any other class of officer to assist the proper officers, if required by the Commissioner.

**72.3. Comparative review**

Name of Statue	Central Excise Act 1944	Finance Act 1944
Section Reference	Sec 15	Sec 14 of Central Excise Act read with Sec 83 of Finance Act 1944

**72.4. FAQs**

Q1. Which are the officers empowered under an obligation to assist the CGST officers in the implementation of the Act?

Ans. All officers of Police, Railway, Custom, State/Central officer engaged in collection of GST and Land Revenue, Village officers, are empowered and are required to assist the proper officers to carry out the provisions of the Act.

Q2. Can the Commissioner call upon any other officer for assistance?

Ans. In terms of section 72(2) of the Act, the Government may issue notification empowering or requiring any other class of officer to assist the proper officers under this act, if required by the Commissioner.

**72.5. MCQs**

Q1. The \_\_\_\_\_ officer is empowered to assist the proper officer.

- (a) Registrar of Companies
- (b) Health
- (c) CBI
- (d) Railway

Ans. (d) Railway

Q2. \_\_\_\_\_ Officer is not empowered to assist the proper officer u/s 72(1) of the Act.

- (a) Police
- (b) Custom
- (c) State Excise
- (d) Railway

Ans. (c) State Excise

## Chapter– XV

# Demands and Recovery

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Sections	Rules
73. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful misstatement or suppression of facts	142. Notice and order for demand of amounts payable under the Act
74. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful misstatement or suppression of facts	143. Recovery by deduction from any money owed
75. General provisions relating to determination of tax	144. Recovery by sale of goods under the control of proper officer
76. Tax collected but not paid to Government	145. Recovery from a third person
77. Tax wrongfully collected and paid to Central Government or State Government	146. Recovery through execution of a decree, etc.
78. Initiation of recovery proceedings	147. Recovery by sale of movable or immovable property
79. Recovery of tax	148. Prohibition against bidding or purchase by officer
80. Payment of tax and other amount in instalments	149. Prohibition against sale on holidays
81. Transfer of property to be void in certain cases	150. Assistance by police
82. Tax to be first charge on property	151. Attachment of debts and shares, etc.
83. Provisional attachment to protect revenue in certain cases	152. Attachment of property in custody of courts or Public Officer
84. Continuation and validation of certain recovery proceedings	153. Attachment of interest in partnership
	154. Disposal of proceeds of sale of goods and movable or immovable property
	155. Recovery through land revenue authority
	156. Recovery through court
	157. Recovery from surety
	158. Payment of tax and other amounts in instalments
	159. Provisional attachment of property
	160. Recovery from company in liquidation
	161. Continuation of certain recovery proceedings

**Statutory Provisions****73. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful misstatement or suppression of facts.**

- (1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder.
- (2) The proper officer shall issue the notice under sub-section (1) at least three months prior to the time limit specified in sub-section (10) for issuance of order.
- (3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.
- (4) The service of such statement shall be deemed to be service of notice on such person under sub-section (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.
- (5) The person chargeable with tax may, before service of notice under sub-section (1) or, as the case may be, the statement under sub-section (3), pay the amount of tax along with interest payable thereon under section 50 on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment.
- (6) The proper officer, on receipt of such information, shall not serve any notice under sub-section (1) or, as the case may be, the statement under sub-section (3), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.
- (7) Where the proper officer is of the opinion that the amount paid under sub-section (5) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.
- (8) Where any person chargeable with tax under sub-section (1) or sub-section (3) pays the said tax along with interest payable under section 50 within thirty days of issue of show cause notice, no penalty shall be payable and all proceedings in respect of the

said notice shall be deemed to be concluded.

- (9) *The proper officer shall, after considering the representation, if any, made by person chargeable with tax, determine the amount of tax, interest and a penalty equivalent to ten per cent. of tax or ten thousand rupees, whichever is higher, due from such person and issue an order.*
- (10) *The proper officer shall issue the order under sub-section (9) within three years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund.*
- (11) *Notwithstanding anything contained in sub-section (6) or sub-section (8), penalty under sub-section (9) shall be payable where any amount of self-assessed tax or any amount collected as tax has not been paid within a period of thirty days from the due date of payment of such tax.*

#### Extract of the CGST Rules, 2017

##### **Rule 142 Notice and order for demand of amounts payable under the Act.**

- 1) *The proper officer shall serve, along with the*
  - a) *notice under sub-section (1) of section 73 or sub-section (1) of section 74 or subsection (2) of section 76, a summary thereof electronically in FORM GST DRC-01,*
  - b) *statement under sub-section (3) of section 73 or sub-section (3) of section 74, a summary thereof electronically in FORM GST DRC-02,**specifying therein the details of the amount payable.*
- 2) *Where, before the service of notice or statement, the person chargeable with tax makes payment of the tax and interest in accordance with the provisions of sub-section (5) of section 73 or, as the case may be, tax, interest and penalty in accordance with the provisions of sub-section (5) of section 74, he shall inform the proper officer of such payment in FORM GST DRC-03 and the proper officer shall issue an acknowledgement, accepting the payment made by the said person in FORM GST DRC-04.*
- 3) *Where the person chargeable with tax makes payment of tax and interest under subsection (8) of section 73 or, as the case may be, tax, interest and penalty under sub-section (8) of section 74 within thirty days of the service of a notice under sub-rule (1), he shall intimate the proper officer of such payment in FORM GST DRC-03 and the proper officer shall issue an order in FORM GST DRC-05 concluding the proceedings in respect of the said notice.*
- 4) *The representation referred to in sub-section (9) of section 73 or sub-section (9) of section 74 or sub-section (3) of section 76 shall be in FORM GST DRC-06.*



- 5) A summary of the order issued under sub-section (9) of section 73 or sub-section (9) of section 74 or sub-section (3) of section 76 shall be uploaded electronically in FORM GST DRC-07, specifying therein the amount of tax, interest and penalty payable by the person chargeable with tax.
- 6) The order referred to in sub-rule (5) shall be treated as the notice for recovery.
- 7) Any rectification of the order, in accordance with the provisions of section 161, shall be made by the proper officer in FORM GST DRC-08.

**Relevant circulars, notifications, clarifications issued by Government:**

- 1) Circular No. 3/2017 dated 05.07.2017 issued by CBIC regarding Proper officer under sections 73 and 74 of the CGST Act and IGST Act
- 2) Circular No. 31/2018 dated 09.02.2018 issued by CBIC regarding Proper officer under sections 73 and 74 of the CGST Act and IGST Act.
- 3) Chapter Fifty One of the compilation of the GST Flyers as issued by the CBIC on 'Recovery of Tax'

**Related Provisions of the Statute**

Section or Rule	Description
Section 75	General provisions relating to determination of tax
Section 50	Interest on delayed payment of tax

**73.1. Introduction**

1. Section 73 deals with determination of tax and its demand & recovery under certain circumstances such as:
  - Tax not paid; or
  - Tax short paid; or
  - Tax erroneously refunded; or
  - Input tax credit wrongly availed or utilised.

This section specifically covers determination of such taxes under circumstances of cases **not involving fraud, wilful misstatement or suppression of facts;**

2. Section 73 also applies for recovery of interest payable which is not paid or partly paid or interest erroneously refunded.

**73.2. Analysis**

The provisions of section 73 can be invoked where it appears to the Proper Officer that a situation involving payment of tax (stated in para 1(b) *infra*) has arisen in cases other than fraud, wilful misstatement or suppression of facts.

1. The provision provides for –
  - (a) Service of notice by proper officer;
  - (b) Notice shall be served on the person who is chargeable with tax, who has –
    - Not paid or short paid the tax;
    - Received the erroneous refund;
    - Wrongly availed or utilized input tax credit;
  - (c) Such amounts as mentioned above shall be required to be determined along with the applicable interest as per Section 50 and penalty leviable under the provisions of this Act or the rules made thereunder.
  - (d) The notice has to be issued at least three months prior to the time limit of three years for issuance of order
  - (e) The proper office shall along with Notice provide a summary in **Form GST DRC-01** specifying therein the details of the amount payable
2. **Where no notice is required to be issued for demand:** Subsequent to issue of a notice under Section 73(1) to a person, where the proper officer finds similar issues for any subsequent period, the proper officer may, instead of issuing a detailed notice for such subsequent period, serve a statement containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such subsequent period not covered in the earlier notice so issued under section 73(1). Service of such statement shall be deemed to be service of notice as per Section 73(1) on the condition that the grounds relied upon are the same as those mentioned in the earlier notice issued for previous period. The proper office shall along with the statement, provide a summary in **Form GST DRC-02**, specifying therein the details of amount payable.
3. **Voluntary payment of tax and interest before issue of notice/statement:** Voluntary payment of tax and interest as per Section 50 before issue of notice/statement can be done either
  - As per own ascertainment of such tax & interest or;
  - As per the ascertainment of tax and interest by the proper officer;and the same shall be intimated to the proper officer in **Form GST DRC-03** and the proper officer shall issue an acknowledgement, accepting the payment made, in **FORM GST DRC-04**. Thereafter, the proper officer shall not serve any notice / statement to the extent of such payment. In such situations, there can be no further proceedings with regard to tax and penalty so paid.
4. When the amount paid as per the ascertainment of the assessee falls short, the proper officer shall issue a notice for the amount of shortfall.

5. In situations where the assessee makes the payment of tax along with interest within 30 days of issuance of Notice / Statement and intimates the proper officer of such payment in **FORM GST DRC-03** the proper officer shall issue an order in **FORM GST DRC-05** concluding the proceedings in respect of the said notice and subsequently no penalty shall be payable.
6. In situations where the person files a reply or representation, the proper officer after considering the representation, the proper officer shall issue an order in **FORM GST DRC-06**, consisting of the amount of tax, interest and penalty (i.e. tax + interest + penalty). The amount of penalty shall be higher of 10% of tax or ₹ 10,000/-, whichever is higher. A summary of such order shall be uploaded electronically in **FORM GST DRC-07**, specifying therein the amount of tax, interest and penalty payable by the person chargeable with tax. Such summary of order in **Form GST DRC-07** shall be treated as a notice for recovery.
7. It must be noted that the proper officer is required to pass an order within a period of 3 years from the
  - due date for filing of Annual return for the year to which the short payment or non-payment or input tax credit wrongly availed or utilised relates
  - date of erroneous refund

The following table summarises the time limit for issuance of Notice and Order:

Particulars	Time limit for issuing show cause notice.	Time limit for issuing order (Sec 73(10))
Cases <b>not</b> involving fraud, wilful misstatement or suppression of facts	At least 3 months prior to the time limit specified under Section 73(10) for issuance of an order.	3 years from the due date for furnishing annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or 3 years from the date of erroneous refund.

8. Proper officer: As per Circular No. 3/3/2017-GST dated 05.07.2017, the Superintendent of Central Tax is assigned to discharge powers under sub-sections (1), (2), (3), (5), (6), (7), (9) and (10) of section 73 of the CGST Act. In other words, all officers up to the rank of Additional/Joint Commissioner of Central Tax are assigned as the proper officer for issuance of show cause notices and orders under this Section. Further, they are also assigned under the IGST Act as well, as per section 3 read with section 20 of the IGST Act.
9. Monetary limits have been prescribed vide Circular No. 31/2018 dated 09.02.2018 for officers of different designations to function as the proper officers in relation to issue of show cause notices and orders under Sections 73 and 74:

Designation of Officer	Monetary limit of the amount of CGST (including cess) for issuance of show cause notices & orders u/s 73 & 74 of CGST	Monetary limit of the amount of IGST (including cess) for issuance of show cause notices & orders u/s 73 and 74 of CGST Act made applicable to IGST	Monetary limit of the amount of CGST and IGST (including cess) for issuance of show cause notices & orders u/s 73 and 74 of CGST Act made applicable to IGST
Superintendent	Up to Rs.10 lakhs	Up to Rs.20 lakhs	Up to Rs.20 lakhs
Deputy or Assistant Commissioner	Above Rs.10 lakhs up to Rs.1 crore	Above Rs.20 lakhs up to Rs.2 crore	Above Rs.20 lakhs up to Rs.2 crore
Additional or Joint Commissioner	Above Rs.1 Crore	Above Rs.2 Crore	Above Rs.2 Crore

**73.3. MCQs**

- The officer can issue the order under Sec 73 with a maximum demand up to?
  - Amount of tax + interest + penalty 10% of tax
  - Amount of tax + interest + penalty equal to 10% of tax or `10,000/- whichever is higher
  - ₹ 10,000/-
  - Tax + interest+ 25% penalty

Ans. (b) amount of tax + interest + penalty equal to 10% of tax or `10,000/- whichever is higher

**Summary of Penalty implications**

If tax, interest and penalty (as indicated in the table below) is paid, then all the proceedings in that respect shall stand concluded:

Pay tax plus interest	Amount of penalty
Before issuance of show cause notice	No penalty
Within 30 days after the issuance of show cause notice	No penalty
In any other case	10% of the tax or ₹ 10,000 whichever is higher.

**Statutory Provisions****74. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful misstatement or suppression of facts.**

- (1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty equivalent to the tax specified in the notice.
- (2) The proper officer shall issue the notice under sub-section (1) at least six months prior to the time limit specified in sub-section (10) for issuance of order.
- (3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.
- (4) The service of statement under sub-section (3) shall be deemed to be service of notice under sub-section (1) of section 73, subject to the condition that the grounds relied upon in the said statement, except the ground of fraud, or any wilful-misstatement or suppression of facts to evade tax, for periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.
- (5) The person chargeable with tax may, before service of notice under sub-section (1), pay the amount of tax along with interest payable under section 50 and a penalty equivalent to fifteen per cent. of such tax on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment.
- (6) The proper officer, on receipt of such information, shall not serve any notice under sub-section (1), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.
- (7) Where the proper officer is of the opinion that the amount paid under sub-section (5) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.
- (8) Where any person chargeable with tax under sub-section (1) pays the said tax along with interest payable under section 50 and a penalty equivalent to twenty-five per cent. of such tax within thirty days of issue of the notice, all proceedings in respect of the said notice shall be deemed to be concluded.

- (9) The proper officer shall, after considering the representation, if any, made by the person chargeable with tax, determine the amount of tax, interest and penalty due from such person and issue an order.
- (10) The proper officer shall issue the order under sub-section (9) within a period of five years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous refund.
- (11) Where any person served with an order issued under sub-section (9) pays the tax along with interest payable thereon under section 50 and a penalty equivalent to fifty per cent. of such tax within thirty days of communication of the order, all proceedings in respect of the said notice shall be deemed to be concluded.

Explanation 1. — For the purposes of section 73 and this section, —

- (i) the expression “all proceedings in respect of the said notice” shall not include proceedings under section 132;
- (ii) where the notice under the same proceedings is issued to the main person liable to pay tax and some other persons, and such proceedings against the main person have been concluded under section 73 or section 74, the proceedings against all the persons liable to pay penalty under sections 122, 125, 129 and 130 are deemed to be concluded.

Explanation 2. — For the purposes of this Act, the expression “suppression” shall mean non-declaration of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under this Act or the rules made thereunder, or failure to furnish any information on being asked for, in writing, by the proper officer.

#### Extract of the CGST Rules, 2017

##### **Rule 142 Notice and order for demand of amounts payable under the Act.**

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

acknowledgement, accepting the payment made by the said person in FORM GST DRC-04.

- 3) Where the person chargeable with tax makes payment of tax and interest under subsection (8) of section 73 or, as the case may be, tax, interest and penalty under sub-section (8) of section 74 within thirty days of the service of a notice under sub-rule (1), he shall intimate the proper officer of such payment in FORM GST DRC-03 and the proper officer shall issue an order in FORM GST DRC-05 concluding the proceedings in respect of the said notice.
- 4) The representation referred to in sub-section (9) of section 73 or sub-section (9) of section 74 or sub-section (3) of section 76 shall be in FORM GST DRC-06.
- 5) A summary of the order issued under sub-section (9) of section 73 or sub-section (9) of section 74 or sub-section (3) of section 76 shall be uploaded electronically in FORM GST DRC-07, specifying therein the amount of tax, interest and penalty payable by the person chargeable with tax.
- 6) The order referred to in sub-rule (5) shall be treated as the notice for recovery.
- 7) Any rectification of the order, in accordance with the provisions of section 161, shall be made by the proper officer in FORM GST DRC-08.

**Relevant circulars, notifications, clarifications issued by Government:**

- 1) Circular No. 3/2017 dated 05.07.2017 issued by CBIC regarding Proper officer under sections 73 and 74 of the CGST Act and IGST Act
- 2) Circular No. 31/2018 dated 09.02.2018 issued by CBIC regarding Proper officer under sections 73 and 74 of the CGST Act and IGST Act.
- 3) Chapter Fifty One of the compilation of the GST Flyers as issued by the CBIC on 'Recovery of Tax'

**Related Provisions of the Statute**

Section or Rule	Description
Section 73	Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful misstatement or suppression of facts
Section 75	General provisions relating to determination of tax
Section 50	Interest on delayed payment of tax
Section 122	Penalty for certain offences
Section 125	General penalty

Section 129	Detention, seizure and release of goods and conveyances in transit
Section 130	Confiscation of goods or conveyances and levy of penalty
Section 132	Punishment for certain offences

#### 74.1. Introduction

The section covers certain situations for demand and recovery of taxes in cases of fraud, or any kind of wilful mis-statement or suppression of facts with an intent to evade payment of tax.

1. Whenever the tax is
  - not paid or
  - short paid or
  - credit wrongly availed or utilized or
  - erroneously refunded
 with an intent to evade tax by way of
  - Fraud;
  - Willful misstatement;
  - Suppression of facts;
 the Proper Officer shall issue a notice for such amount along with interest as per Section 50 and penalty equivalent to the amount of tax specified in notice. The Proper Officer shall along with the Notice provide a summary in **Form GST DRC-01** specifying therein the details of the amount payable.
2. This section covers the time limit within which the proper officer shall issue the Notice and Order for the determination/ recovery of tax payment defaulted by the taxable person.  
 Section 74 also applies for recovery of interest payable which is not paid or partly paid or interest erroneously refunded.
3. Fraud is normally understood as deceit with an intent to obtain an unjust advantage, while suppression has been defined by way of explanation 2 to section 74. Wilful misstatement generally covers a case of deceit but generally with the connivance of another. The situations cited supra normally comes to light only on an inquiry. A fraud generally comes to light on its detection. Thus, this section broadly covers detection and response while no provisions are traceable to prevention mechanism.

#### 74.2. Analysis

1. **Where no notice is required to be issued:** Similar to the provisions of Section 73 explained earlier, this section also provides that a statement containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or



utilised be issued, for such periods other than those covered in the Notice under section 74(1) on the person chargeable with tax, along with a summary in **FORM GST DRC-02**. This is issued in place of a detailed notice for the period other than the ones covered in the notice issued as per Sec 74(1). Further, service of such statement shall be deemed to be service of notice under section 73(1), subject to the condition that the grounds relied upon in the said statement, except the ground of fraud, or any wilful-misstatement or suppression of facts to evade tax, for periods other than those covered under section 74(1) are the same as those mentioned in the earlier notice.

2. The proper officer shall not serve any notice on the assessee in case of voluntary payment of tax and interest along with penalty @ 15% of tax either
  - As per the own ascertainment of the tax or;
  - As per the ascertainment of the proper officer;

In both the above situations the person charged with tax shall intimate the same to the proper officer in **FORM GST DRC-03** and proper officer will provide acknowledgment in **FORM GST DRC-04** and no notice shall be served in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.

3. In case there exists some shortfall between the amount paid by assessee on his own ascertainment and the actual amount liable to be paid, the Proper Office shall issue a notice for the tax that remains unpaid.
4. Where the person makes the payment of tax and interest along with penalty @ 25 % of tax within 30 days of issuance of Notice / Statement and intimates the proper officer of such payment in **FORM GST DRC-03**, the proper officer shall issue an order in **FORM GST DRC-05** concluding the proceedings in respect of the said notice.
5. If the person makes any representation or files a reply, the proper officer shall issue an order after considering the representation / reply in **FORM GST DRC-06**, and the amount determined shall comprise of tax along with interest and penalty as stated above. A summary of such order shall be uploaded electronically in **FORM GST DRC-07**, specifying therein the amount of tax, interest and penalty payable by the person chargeable with tax. Such summary of order in Form GST DRC-07 shall be treated as a notice for recovery.
6. The proper officer shall pass an order within a period of 5 years from the due date for filing of annual return for the financial year to which the short payment or non-payment or input tax credit wrongly availed or utilised relates or date of erroneous refund.
7. Where the assessee makes the payment of tax and interest along with penalty @ 50 % of tax within 30 days of communication of the order, then in such cases it shall be deemed that all the proceedings have been concluded.
8. The proper officer shall pass an order within a period of 5 years from the
  - due date for filing of annual return for the year to which the short payment or non-payment or input tax credit wrongly availed or utilised relates

- date of erroneous refund

The time limit for issuance of Notice and Order is summarized in the following table:

Particulars	Time limit for issuing show cause notice	Time limit for issuing order. (Sec 74(10))
Cases involving fraud, wilful mis-statement or suppression of facts to evade tax	At least 6 months prior to the time limit specified under Section 74(10) for issuance of order.	5 years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or 5 years from the date of erroneous refund.

9. The term “suppression” is specifically explained to mean:
  - non-declaration of facts or information which a taxable person is statutorily required to declare in the return, statement, report or any other document furnished under the Act or the rules made thereunder, or
  - failure to furnish any information on being asked for, in writing, by the proper officer
10. Proper officer: As per Circular No. 31/2018 dated 09.02.2018, the Superintendent of Central Tax is assigned to discharge powers under sub-sections (1), (2), (3), (5), (6), (7), (9) and (10) of section 74 of the CGST Act. In other words, all officers up to the rank of Additional/Joint Commissioner of Central Tax are assigned as the proper officer for issuance of show cause notices and orders under this Section. Further, they are also assigned under the IGST Act as well, as per section 3 read with section 20 of the IGST Act.
11. Monetary limits have been prescribed vide Circular No. 31/2018 dated 09.02.2018 for officers of different designations to function as the proper officers in relation to issue of show cause notices and orders under Section 74. Refer Para 9 of our analysis of Section 73.

#### Summary of Penalty implications:

If tax, interest and penalty as indicated in the table below, is paid, it is provided that further proceedings should not be continued to that extent.

Payment of Tax, Interest & Penalty	Amount of Penalty
Before issuance of show cause notice	15% of the tax amount
Within 30 days after the issuance of SCN	25% of the tax amount
Within 30 days from the communication of order	50% of the tax amount
In any other case	100% of the amount equal to tax

**74.3. Issues and Concerns under Section 73 and 74**

- i. Should the statement in FORM GST DRC-02 be issued only in respect of a period subsequent to the original notice or could it be deemed to be a notice even for a prior period in respect of which assessment is already completed?
- ii. Where a Statement is issued by the proper officer against which the assessee remits applicable taxes along with interest and penalty at 25%. Subsequently, it is held that the statement cannot be deemed to be a notice as it does not have the same grounds as the previous notice. Can the assessee apply for refund of the additional 10% penalty that was paid on grounds that payment prior to issue of notice attracts only 15% penalty?
- iii. On comparison of Section 73(11) with Section 122(1)(iii)&(iv) one finds that while penalty under Section 73(9) is applicable if self-assessed tax or any amount collected as tax is not paid within 30 days from the due date for payment of such tax, Section 122 penalty will be applicable if such tax or amount is not paid within 3 months from the due date for payment.

**Statutory Provisions****75. General provisions relating to determination of tax**

- (1) *Where the service of notice or issuance of order is stayed by an order of a court or Appellate Tribunal, the period of such stay shall be excluded in computing the period specified in sub-sections (2) and (10) of section 73 or sub-sections (2) and (10) of section 74, as the case may be.*
- (2) *Where any Appellate Authority or Appellate Tribunal or court concludes that the notice issued under sub-section (1) of section 74 is not sustainable for the reason that the charges of fraud or any wilful-misstatement or suppression of facts to evade tax has not been established against the person to whom the notice was issued, the proper officer shall determine the tax payable by such person, deeming as if the notice were issued under sub-section (1) of section 73.*
- (3) *Where any order is required to be issued in pursuance of the direction of the Appellate Authority or Appellate Tribunal or a court, such order shall be issued within two years from the date of communication of the said direction.*
- (4) *An opportunity of hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person.*
- (5) *The proper officer shall, if sufficient cause is shown by the person chargeable with tax, grant time to the said person and adjourn the hearing for reasons to be recorded in writing:*  
*Provided that no such adjournment shall be granted for more than three times to a person during the proceedings.*

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

**Relevant circulars, notifications, clarifications issued by Government:**

- 1) Circular No. 3/2017 dated 05.07.2017 issued by CBIC regarding Proper officer under sections 73 and 74 of the CGST Act and IGST Act
- 2) Circular No. 31/2018 dated 09.02.2018 issued by CBIC regarding Proper officer under sections 73 and 74 of the CGST Act and IGST Act.
- 3) Chapter Fifty One of the compilation of the GST Flyers as issued by the CBIC on 'Recovery of Tax'

**Related Provisions of the Statute**

Section or Rule	Description
Section 73	Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful misstatement or suppression of facts
Section 74	Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful misstatement or suppression of facts
Section 79	Recovery of tax
Section 21	Manner of recovery of credit distributed in excess
Section 61	Scrutiny of returns
Section 62	Assessment of non-filers of returns
Section 83	Provisional attachment to protect revenue in certain cases

**75.1. Analysis**

These provisions are general provisions for determination of tax and are applicable irrespective of whether the notice invokes the extended period or not

1. If an order of court or Appellate Tribunal stays the service of notice or issuance of order then, the period of such stay will get excluded from the period of issuance of order i.e. 3 years or 5 years as the case may be.
2. When a notice has been issued considering the case to be for fraud or for willful representation or for suppression of facts, and whereas the charges of fraud, suppression and misstatement of facts were not sustainable or not established by an order of Appellate Authority or Appellate Tribunal, then in such case the officer shall determine the tax as if the notice is issued for the normal period of 3 years.
3. An order required to be issued in pursuance of the direction of the Tribunal or a Court shall be issued within two years from the date of communication of the said direction.
4. Opportunity of personal hearing has to be granted when requested for in writing by the person chargeable with tax or where any adverse decision is proposed to be taken against the person.
5. Personal hearing can be adjourned when sufficient cause is shown in writing. However, such adjournment can be granted for a maximum of 3 times. It should be noted that a departmental show cause notice which specifies three consecutive dates for personal hearing (failing which an ex-parte order is passed) will not be held to be valid as this is against the principles of natural justice.
6. The relevant facts and basis of the decision shall be set out in the order, which means a speaking order needs to be placed.

7. The amount of tax along with interest and penalty should not exceed the amount mentioned in the notice and the grounds shall not go beyond what is mentioned in the notice.
8. When the decision of Tribunal/ Court/ Appellate authority modifies the amount of tax, correspondingly interest and penalty shall also be modified to that extent by the proper officer.
9. Interest shall be payable in all cases whether specifically mentioned or not.  
While this sub-section specifically mandates payment of interest even if the same is not mentioned in the order, would it over-ride the provision of sub-section 75(7) in a case where no interest has been specified even in the original notice is a point to be considered.  
Further, this sub-section makes special mention for payment of interest even if it is not specified in the Order while payment of penalty finds no such special mention. Could it be safely interpreted to mean that no penalty need be paid on account of it not being specified in the Order? It would be important to draw your attention to Section 126(6) which specifies that a proper officer is obligated to levy penalties in all cases where the penalty specified under the GST law is either a fixed sum or expressed as a fixed percentage. Considering the above, would it be possible for the proper officer to issue an additional order specifically for levy of penalty? This could be possible since Section 75(13) will come into force only when a penalty has been levied under Sections 73 or 74. Thus, non-levy of penalty in an order issued under Sections 73 or 74 could still attract penalty under our provisions of the Act, viz. Sections 122, 125, 129 and 130.
10. If the order is not issued within the time limits as prescribed in sub-section (10) of section 73 or (10) of section 74, i.e., 5 years in case of fraud, misstatement or suppression and 3 years in any other case, the adjudication proceedings shall be deemed to be concluded.
11. An issue on which a first appellate authority or Tribunal or High Court has given its decision which is prejudicial to the interest of the revenue and an appeal to the Appellate Tribunal or High Court or Supreme Court against such decision is pending, then the period spent between the two dates of decision shall be excluded in computing the period of 3 years or 5 years respectively, for issue of order.
12. Any amount of self-assessed tax or intent payable, whether wholly or in part in accordance with a return furnished under section 39 shall be recovered under the provisions of section 79.
13. It is also provided that when the penalty is imposed under Section 73 & 74 that no penalties shall be imposed under any other provisions of this Act for the same act or omission.

### 75.2. Comparative Review

These provisions of Section 73, 74, and 75 are much broader than the provisions contained in erstwhile Central Indirect Tax laws.

Earlier in Central Excise and Service Tax laws, the demand of tax can be made up to a maximum of 5 years. The normal period for which the notice could be issued is 2 years in Central Excise Law and 30 months in Service Tax Law. The VAT law seems to be quite different from the central excise and service tax provisions.

However, the conditions for such extended period are the same as in the erstwhile Indirect Tax Laws. The meanings of fraud, misstatement or suppression are still to be understood in the same way as in the erstwhile law i.e., deliberate intent to avoid tax requires to be established and sustained.

Unlike the erstwhile law, the time limit of 3 years and 5 years from the issue of orders and not for serving of show cause notice.

### **75.3. FAQ's**

Q1. Who has the power to issue a notice/ order?

Ans. "Proper officer" as defined under Sec 2(91) of the Act and assigned vide Circular No. 31/2018 dated 09.02.2018 to exercise powers under Sections 73 and 74 can issue notices and orders under the said Sections.

Q2. When can proceedings be initiated under Section 73/74/75?

Ans. The proceedings can be initiated when there is

- Short payment of tax
- Non-payment of tax
- Wrong input credit availed
- Wrong input credit utilized
- Erroneous refund

Q3. Is notice for a period of 5 years valid even if charge of suppression, fraud and misstatement are not sustained?

Ans. No, when the allegations of fraud, suppression or misstatement are not established, the notice issued under section 74 would get covered under section 73 and 3 years' time would be applicable for date of issue of order.

Q4. What is the condition for giving a repeat notice under Section 73(3) for a different period?

Ans. The condition is that the grounds relied upon should be exactly the same thing as in the notice issued previously. In such cases, it is not essential to issue a detailed notice. It would suffice, if a statement giving the statement of alleged amounts is issued.

Q5. Whether there is any time limit to issue notice?

Ans. The time limit to issue notice is at least 3 months/ 6 months (in case of extended period) prior to the last day to pass the order i.e. 3 years or 5 years from the due date for furnishing annual return for the financial year, as the case may be.

Q6. Is interest applicable in all cases, even if not specifically mentioned?

Ans. Yes, interest is applicable whenever the tax is payable whether or not it is specifically mentioned..

Q7. Can the assessee pay tax after the issue of notice and before an order? What is the benefit from such voluntary payments under different cases?

Ans. Yes. The assessee is given the benefit to pay the tax before issue of notice/order as follows:

<b>In cases other than fraud, misstatement and suppression</b>	
When the assessee pays the amount payable after the issue of notice but within 30 days from the issue of SCN	Tax+ interest to be paid in full and complete waiver of penalty
<b>In cases of fraud, misstatement and suppression</b>	
When the assessee pays the amount payable after the issue of notice but within 30 days from the issue of SCN	Tax and+ interest to be paid in full+ along with penalty @ 25% of tax

### 75.5 MCQs

Q1. What is the time limit for issue of order in case of fraud, misstatement or suppression?

- (a) 30 months
- (b) 18 months
- (c) 5 years
- (d) 3 years

Ans. (c) 5 years

Q2. What is the time limit for issue of order in case of other than fraud, misstatement or suppression?

- (a) 30 months
- (b) 18 months
- (c) 5 years
- (d) 3 years

Ans. (d) 3 years

Q3. The maximum number of times the hearing can be adjourned?

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



(d) None

Ans. (b) 3

### Statutory provisions

#### **76. Tax collected but not paid to the Government**

- (1) *Notwithstanding anything to the contrary contained in any order or direction of any Appellate Authority or Appellate Tribunal or court or in any other provisions of this Act or the rules made thereunder or any other law for the time being in force, every person who has collected from any other person any amount as representing the tax under this Act, and has not paid the said amount to the Government, shall forthwith pay the said amount to the Government, irrespective of whether the supplies in respect of which such amount was collected are taxable or not.*
- (2) *Where any amount is required to be paid to the Government under sub-section (1), and which has not been so paid, the proper officer may serve on the person liable to pay such amount a notice requiring him to show cause as to why the said amount as specified in the notice, should not be paid by him to the Government and why a penalty equivalent to the amount specified in the notice should not be imposed on him under the provisions of this Act.*
- (3) *The proper officer shall, after considering the representation, if any, made by the person on whom the notice is served under sub-section (2), determine the amount due from such person and thereupon such person shall pay the amount so determined.*
- (4) *The person referred to in sub-section (1) shall in addition to paying the amount referred to in sub-section (1) or sub-section (3) also be liable to pay interest thereon at the rate specified under section 50 from the date such amount was collected by him to the date such amount is paid by him to the Government.*
- (5) *An opportunity of hearing shall be granted where a request is received in writing from the person to whom the notice was issued to show cause.*
- (6) *The proper officer shall issue an order within one year from the date of issue of the notice.*
- (7) *Where the issuance of order is stayed by an order of the court or Appellate Tribunal, the period of such stay shall be excluded in computing the period of one year.*
- (8) *The proper officer, in his order, shall set out the relevant facts and the basis of his decision.*
- (9) *The amount paid to the Government under sub-section (1) or sub-section (3) shall be adjusted against the tax payable, if any, by the person in relation to the supplies referred to in sub-section (1).*
- (10) *Where any surplus is left after the adjustment under sub-section (9), the amount of such surplus shall either be credited to the Fund or refunded to the person who has borne the incidence of such amount.*

- (11) *The person who has borne the incidence of the amount, may apply for the refund of the same in accordance with the provisions of section 54.*

**Relevant circulars, notifications, clarifications issued by Government:**

- 1) Circular No. 3/2017 dated 05.07.2017 issued by CBIC regarding Proper officer under sections 73 and 74 of the CGST Act and IGST Act
- 2) Circular No. 31/2018 dated 09.02.2018 issued by CBIC regarding Proper officer under sections 73 and 74 of the CGST Act and IGST Act.
- 3) Chapter Fifty One of the compilation of the GST Flyers as issued by the CBIC on 'Recovery of Tax'

**Statutory Provisions of the Statute:**

Section or Rule	Description
Section 50	Interest on delayed payment of tax
Section 54	Refund of tax.
Section 33	Amount of tax to be indicated in tax invoice and other documents
Rule 142	Notice and order for demand of amounts payable under the Act

**76.1 Introduction**

This provision deals with payment of any amount collected as tax but not remitted to the Central/State Government or Union Territory. This section requires him to make the payment forthwith regardless of whether the related supplies are taxable or not.

**76.2 Analysis**

- (i) This section makes it obligatory on every person who has collected from any other person any amount representing "tax under this Act", to pay the said amount to the credit of the Central or State Government regardless of whether the supplies in respect of which the amount was collected are taxable or not.
- (ii) Before effecting recovery the Proper Officer has to serve a notice along with a summary in **FORM GST DRC-01**, on to any person who has collected any amount representing as tax requiring to show cause as to why –
  - the said amount should not be paid by him to the Government;
  - penalty equivalent to such amount specified in the notice should not be imposed on him.
- (iii) The person is permitted to make representation in **FORM GST DRC-06**, against the notice served on to him. The person ought to be given an opportunity of being heard where a request is made by such person in writing.

- (iv) After considering such representation made by the person, the Proper Officer shall determine the amount due from the person and pass an order within one year from the date of issue of notice. Where the service of notice is stayed by order of the Court or Tribunal, the period covered by the stay shall stand excluded for the purpose of computing the time limit.

Further, a summary of such order shall be uploaded electronically in **FORM GST DRC-07**, specifying therein the amount of tax, interest and penalty payable by the person chargeable with tax.

- (v) The Proper Officer must pass a speaking order.
- (vi) Upon such determination, the Person has to pay such amount determined.
- (vii) Interest at the rate specified under section 50 shall be paid on the amount collected as representing tax (either paid voluntarily or on determination by the Proper Officer). Interest shall be calculated from the date of collection of amount till the date of deposit of amount.
- (viii) The amount paid by such person to the credit of the Central Government or a State Government shall be adjusted against the tax payable by the person.
- (ix) If any surplus is left after adjustment against the tax liability, it will be
- Credited to consumer welfare fund; or
  - Refunded to the person who has borne the incidence of such amount.
- (x) The person claiming such refund shall follow the conditions and procedure contained in section 54 of CGST Act.
- (xi) There appears to be no time limit to commence proceedings under this section.

It is important to note that in the context of Central Excise, where input credit was to be reversed on account of Customer being entitled to exemption from payment of duties, the Larger Bench of the Tribunal held in *Unison Metals v. CCE*, Ahd 204 ELT 323 that recovery of 'Cenvat Loss' would not attract the mischief of section 11D as it was not 'duty of excise' collected liable to be paid to the Government. GST too denies credit under section 17(2) of CGST Act where supplies made are exempt.

### 76.3 Comparative analysis

Under the erstwhile tax laws, similar provision exists in Central Excise Law<sup>1</sup>, Customs Law<sup>2</sup> as well as Service Tax Law<sup>3</sup>.

Also, similar provision also exists in all most all the State VAT laws as well.

<sup>1</sup> Section 11D of Central Excise Act, 1944

<sup>2</sup> Section 28B of Customs Act, 1962

**76.4 FAQs**

Q1. What is the interest rate applicable on delayed payment of amount collected representing it as tax?

Ans. According to Section 50, the rate of interest cannot exceed 18%. The rate of interest has been specified @ 18% per annum by Notification No. 13/2017 – Central Tax dated 28<sup>th</sup> June, 2017.

Q2. How is the amount of surplus left after adjustment with tax payable dealt with?

Ans. Where any surplus is left after the adjustment against the tax payable, the amount of such surplus shall either be credited to the Consumer Welfare Fund or, as the case may be, refunded to the person who has borne the incidence of such amount.

Q3. What is the procedure to be followed by the person on receipt of determination of demand of tax collected but not deposited with the Central or a State Government from the proper officer?

Ans. The person will be given an opportunity of being heard and after that if any demand arises, then tax, interest and penalty has to be paid accordingly.

**76.5 MCQs**

1 Any amount of tax collected shall be deposited to the credit of the Central or a State Government,

- (a) Only when the supplies are taxable
- (b) Regardless of whether the supplies in respect of which such amount was collected are taxable or not.
- (c) Only when the supplies are not taxable
- (d) None of the above.

Ans. (b) Regardless of whether the supplies in respect of which such amount was collected are taxable or not.

2 Within how many years should the proper office issue an order from the date of notice?

- (a) 1 year
- (b) 2 years
- (c) 3 years
- (d) 4 years

Ans. (a) 1 year

**Statutory Provisions****77. Tax wrongfully collected and paid to Central or State Government**

- (1) A registered person who has paid the Central tax and State tax or, as the case may be, the Central tax and the Union territory tax on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, shall be refunded the amount of taxes so paid in such manner and subject to such conditions as may be prescribed.
- (2) A registered person who has paid integrated tax on a transaction considered by him to be an inter-State supply, but which is subsequently held to be an intra-State supply, shall not be required to pay any interest on the amount of central tax and State tax or, as the case may be, the Central tax and the Union territory tax payable.

**Relevant circulars, notifications, clarifications issued by Government:**

- 1) Chapter Fifty One of the compilation of the GST Flyers as issued by the CBIC on 'Recovery of Tax'

**Related Provisions of the Statute**

Section or Rule	Description
Section 54	Refund of tax.

**77.1 Introduction**

This provision deals with a situation when CGST/SGST or CGST/UTGST is paid on any inter-state supply. Further also it covers interest implication a situation where IGST is paid on transaction of intra-state supply.

**77.2 Analysis**

- (i) This provision deals with a situation where a taxable person wrongly pays CGST/SGST or CGST/UTGST on the transaction treating it as intra-state supply, but which is subsequently held to be inter-state supply. Upon payment of IGST on such transaction, the CGST/SGST or CGST/UTGST will to be refunded in such manner and subject to prescribed conditions.
- (ii) The refund of such CGST/SGST or CGST/UTGST would be granted subject to such conditions as may be prescribed in this regard.
- (iii) If a taxable person wrongly pays IGST by treating a supply as inter-state supply, which is subsequently held to be intra-state supply, interest is not required to be paid on the CGST/SGST or CGST/UTGST payable. The law in such situations does not require any further payment of tax which implies that the Government will make suitable tax settlements at their end.

**77.3 FAQs**

Q1. What is the remedy available when tax is paid wrongly as CGST/SGST when subsequently the supply is considered as inter-state supply attracting IGST?

Ans. Refund can be claimed by the taxable person who has paid CGST/SGST or CGST/UTGST on payment of IGST subject to such conditions as may be prescribed.

Q2. Is interest payable on CGST/SGST or CGST/UTGST, when IGST was wrongly paid on the transaction of intra-state supply?

Ans. When IGST was wrongly paid on intra-state supply, it is not required to pay any interest on the amount so paid when CGST/SGST or CGST/UTGST becomes payable.

**77.4 MCQ**

Q1. Which section deals with tax wrongly collected and deposited with Central or State Government?

- (a) Section 57
- (b) Section 58
- (c) Section 77
- (d) Section 79

Ans. (c) Section 77

Q2. If CGST/SGST is wrongly remitted instead of IGST, the tax payer can\_\_\_\_\_

- (a) seek refund
- (b) adjust against future liability
- (c) take re-credit
- (d) file a civil suit for recovery

Ans. (a) Seek refund

**Statutory provisions****78. Initiation of recovery proceedings**

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

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

**Relevant circulars, notifications, clarifications issued by Government:**

- 1) Chapter Fifty One of the compilation of the GST Flyers as issued by the CBIC on 'Recovery of Tax'

**Related Provisions of the Statute**

Section or Rule	Description
Section 79	Recovery of tax
Section 84	Continuation and validation of certain recovery proceedings

**78.1. Introduction**

This provision empowers the proper officer to collect any amount which is payable by a taxable person in pursuance of an order passed under the Act.

**78.2 Analysis**

- (a) This section enables initiation of proceedings for recovery of the amount from a taxable person.
- (b) The amount shall be paid by taxable person within a period of 3 months of the service of order, failing which the Proper Officer shall initiate the recovery proceedings.
- (c) If it is in the interest of revenue, the proper officer after recording the reasons in writing, may initiate the recovery proceedings even before the completion of the said period of 3 months. However, this section empowers the Proper Officer in the interest of revenue (after recording the reasons) to initiate recovery proceedings even before the said completion of 3 months.

**78.3 Comparative review**

There is no similar provision under erstwhile Central Indirect Tax laws.

**78.4 FAQs**

1. When is the amount payable by a taxable person in pursuance of order passed under this Act?  
Ans. In the normal course, any amount payable by a taxable person in pursuance of an order passed under the Act shall be paid by such person within 3 months from the date of service of such order.
2. When can the proper officer require a taxable person to make payment of the amount specified in the order, within such shorter period as may be specified by him?  
Ans. When the proper officer considers it necessary in the interest of revenue, he may, after recording reasons in writing, ask the said taxable person, to make the payment within such shorter period as may be specified by him.

**78.5 MCQs**

Q1. When can recovery proceedings be initiated?

- (a) To recover any amount payable by a taxable person in pursuance of an order passed under the Act
- (b) To recover any input tax credit availed by taxable person
- (c) None of the above
- (d) All of the above

Ans. (a) To recover any amount payable by a taxable person in pursuance of an order passed under the Act.

Q2. What is the time limit for payment of any amount payable by a taxable person in pursuance of an order passed under the Act?

- (a) 6 months
- (b) 3 months
- (c) 1 year
- (d) 2 years

Ans. (b) 3 months.

Q3. When can the proper officer require a taxable person to make payment within such shorter period as may be specified?

- (a) It is necessary in the interest of revenue
- (b) When amount payable exceeds ₹ 10 Lakhs
- (c) Both of the above
- (d) None of the above

Ans. (a) It is necessary in the interest of revenue

**Statutory Provisions****79. Recovery of Tax**

(1) *Where any amount payable by a person to the Government under any of the provisions of this Act or the rules made thereunder is not paid, the proper officer shall proceed to recover the amount by one or more of the following modes, namely: —*

- (a) *the proper officer may deduct or may require any other specified officer to deduct the amount so payable from any money owing to such person which may be under the control of the proper officer or such other specified officer;*
- (b) *the proper officer may recover or may require any other specified officer to recover the amount so payable by detaining and selling any goods belonging to*



*such person which are under the control of the proper officer or such other specified officer;*

*(c)*

- (i) the proper officer may, by a notice in writing, require any other person from whom money is due or may become due to such person or who holds or may subsequently hold money for or on account of such person, to pay to the Government either forthwith upon the money becoming due or being held, or within the time specified in the notice not being before the money becomes due or is held, so much of the money as is sufficient to pay the amount due from such person or the whole of the money when it is equal to or less than that amount;*
- (ii) every person to whom the notice is issued under sub-clause (i) shall be bound to comply with such notice, and in particular, where any such notice is issued to a post office, banking company or an insurer, it shall not be necessary to produce any pass book, deposit receipt, policy or any other document for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary;*
- (iii) in case the person to whom a notice under sub-clause (i) has been issued, fails to make the payment in pursuance thereof to the Government, he shall be deemed to be a defaulter in respect of the amount specified in the notice and all the consequences of this Act or the rules made thereunder shall follow;*
- (iv) the officer issuing a notice under sub-clause (i) may, at any time, amend or revoke such notice or extend the time for making any payment in pursuance of the notice;*
- (v) any person making any payment in compliance with a notice issued under sub-clause (i) shall be deemed to have made the payment under the authority of the person in default and such payment being credited to the Government shall be deemed to constitute a good and sufficient discharge of the liability of such person to the person in default to the extent of the amount specified in the receipt;*
- (vi) any person discharging any liability to the person in default after service on him of the notice issued under sub-clause (i) shall be personally liable to the Government to the extent of the liability discharged or to the extent of the liability of the person in default for tax, interest and penalty, whichever is less;*
- (vii) where a person on whom a notice is served under sub-clause (i) proves to the satisfaction of the officer issuing the notice that the money demanded or any part thereof was not due to the person in default or that he did not hold*

any money for or on account of the person in default, at the time the notice was served on him, nor is the money demanded or any part thereof, likely to become due to the said person or be held for or on account of such person, nothing contained in this section shall be deemed to require the person on whom the notice has been served to pay to the Government any such money or part thereof;

- (d) *the proper officer may, in accordance with the rules to be made in this behalf, distrain any movable or immovable property belonging to or under the control of such person, and detain the same until the amount payable is paid; and in case, any part of the said amount payable or of the cost of the distress or keeping of the property, remains unpaid for a period of thirty days next after any such distress, may cause the said property to be sold and with the proceeds of such sale, may satisfy the amount payable and the costs including cost of sale remaining unpaid and shall render the surplus amount, if any, to such person;*
- (e) *the proper officer may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business or to any officer authorised by the Government and the said Collector or the said officer, on receipt of such certificate, shall proceed to recover from such person the amount specified thereunder as if it were an arrear of land revenue;*
- (f) *Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the proper officer may file an application to the appropriate Magistrate and such Magistrate shall proceed to recover from such person the amount specified thereunder as if it were a fine imposed by him.*
- (2) *Where the terms of any bond or other instrument executed under this Act or any rules or regulations made thereunder provide that any amount due under such instrument may be recovered in the manner laid down in sub-section (1), the amount may, without prejudice to any other mode of recovery, be recovered in accordance with the provisions of that sub-section.*
- (3) *Where any amount of tax, interest or penalty is payable by a person to the Government under any of the provisions of this Act or the rules made thereunder and which remains unpaid, the proper officer of State tax or Union territory tax, during the course of recovery of said tax arrears, may recover the amount from the said person as if it were an arrear of State tax or Union territory tax and credit the amount so recovered to the account of the Government.*
- (4) *Where the amount recovered under sub-section (3) is less than the amount due to the Central Government and State Government, the amount to be credited to the account of the respective Governments shall be in proportion to the amount due to each such Government.*

**Extract of the CGST Rules, 2017****143. Recovery by deduction from any money owed.**

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

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

**144. Recovery by sale of goods under the control of proper officer.**

- 1) Where any amount due from a defaulter is to be recovered by selling goods belonging to such person in accordance with the provisions of clause (b) of sub-section (1) of section 79, the proper officer shall prepare an inventory and estimate the market value of such goods and proceed to sell only so much of the goods as may be required for recovering the amount payable along with the administrative expenditure incurred on the recovery process.*
- 2) The said goods shall be sold through a process of auction, including e-auction, for which a notice shall be issued in FORM GST DRC-10 clearly indicating the goods to be sold and the purpose of sale.*
- 3) The last day for submission of bid or the date of auction shall not be earlier than fifteen days from the date of issue of the notice referred to in sub-rule (2):*  
*Provided that where the goods are of perishable or hazardous nature or where the expenses of keeping them in custody are likely to exceed their value, the proper officer may sell them forthwith.*
- 4) The proper officer may specify the amount of pre-bid deposit to be furnished in the manner specified by such officer, to make the bidders eligible to participate in the auction, which may be returned to the unsuccessful bidders, forfeited in case the successful bidder fails to make the payment of the full amount, as the case may be.*
- 5) The proper officer shall issue a notice to the successful bidder in FORM GST DRC-11 requiring him to make the payment within a period of fifteen days from the date of auction. On payment of the full bid amount, the proper officer shall transfer the possession of the said goods to the successful bidder and issue a certificate in FORM GST DRC-12.*
- 6) Where the defaulter pays the amount under recovery, including any expenses incurred*

on the process of recovery, before the issue of the notice under sub-rule (2), the proper officer shall cancel the process of auction and release the goods.

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

#### **145. Recovery from a third person.**

- 1) The proper officer may serve upon a person referred to in clause (c) of sub-section (1) of section 79 (hereafter referred to in this rule as –the third person□), a notice in FORM GST DRC-13 directing him to deposit the amount specified in the notice.
- 2) Where the third person makes the payment of the amount specified in the notice issued under sub-rule (1), the proper officer shall issue a certificate in FORM GST DRC-14 to the third person clearly indicating the details of the liability so discharged.

#### **146. Recovery through execution of a decree, etc.**

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

#### **147. Recovery by sale of movable or immovable property.**

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

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

- 2) The proper officer shall send a copy of the order of attachment or distraint to the concerned Revenue Authority or Transport Authority or any such Authority to place encumbrance on the said movable or immovable property, which shall be removed only on the written instructions from the proper officer to that effect.
- 3) Where the property subject to the attachment or distraint under sub-rule (1) is-
  - a) an immovable property, the order of attachment or distraint shall be affixed on the said property and shall remain affixed till the confirmation of sale;
  - b) a movable property, the proper officer shall seize the said property in accordance with the provisions of chapter XIV of the Act and the custody of the said property

*shall either be taken by the proper officer himself or an officer authorised by him.*

- 4) *The property attached or distrained shall be sold through auction, including e-auction, for which a notice shall be issued in FORM GST DRC- 17 clearly indicating the property to be sold and the purpose of sale.*
- 5) *Notwithstanding anything contained in the provision of this Chapter, where the property to be sold is a negotiable instrument or a share in a corporation, the proper officer may, instead of selling it by public auction, sell such instrument or a share through a broker and the said broker shall deposit to the Government so much of the proceeds of such sale, reduced by his commission, as may be required for the discharge of the amount under recovery and pay the amount remaining, if any, to the owner of such instrument or a share.*
- 6) *The proper officer may specify the amount of pre-bid deposit to be furnished in the manner specified by such officer, to make the bidders eligible to participate in the auction, which may be returned to the unsuccessful bidders or, forfeited in case the successful bidder fails to make the payment of the full amount, as the case may be.*
- 7) *The last day for the submission of the bid or the date of the auction shall not be earlier than fifteen days from the date of issue of the notice referred to in sub-rule (4):*  
*Provided that where the goods are of perishable or hazardous nature or where the expenses of keeping them in custody are likely to exceed their value, the proper officer may sell them forthwith.*
- 8) *Where any claim is preferred or any objection is raised with regard to the attachment or distraint of any property on the ground that such property is not liable to such attachment or distraint, the proper officer shall investigate the claim or objection and may postpone the sale for such time as he may deem fit.*
- 9) *(9) The person making the claim or objection must adduce evidence to show that on the date of the order issued under sub-rule (1) he had some interest in, or was in possession of, the property in question under attachment or distraint.*
- 10) *(10) Where, upon investigation, the proper officer is satisfied that, for the reason stated in the claim or objection, such property was not, on the said date, in the possession of the defaulter or of any other person on his behalf or that, being in the possession of the defaulter on the said date, it was in his possession, not on his own account or as his own property, but on account of or in trust for any other person, or partly on his own account and partly on account of some other person, the proper officer shall make an order releasing the property, wholly or to such extent as he thinks fit, from attachment or distraint.*
- 11) *Where the proper officer is satisfied that the property was, on the said date, in the possession of the defaulter as his own property and not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of a*

*tenant or other person paying rent to him, the proper officer shall reject the claim and proceed with the process of sale through auction.*

- 12) *The proper officer shall issue a notice to the successful bidder in FORM GST DRC-11 requiring him to make the payment within a period of fifteen days from the date of such notice and after the said payment is made, he shall issue a certificate in FORM GST DRC12 specifying the details of the property, date of transfer, the details of the bidder and the amount paid and upon issuance of such certificate, the rights, title and interest in the property shall be deemed to be transferred to such bidder:*

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

- 13) *Any amount, including stamp duty, tax or fee payable in respect of the transfer of the property specified in sub-rule (12), shall be paid to the Government by the person to whom the title in such property is transferred.*
- 14) *Where the defaulter pays the amount under recovery, including any expenses incurred on the process of recovery, before the issue of the notice under sub-rule (4), the proper officer shall cancel the process of auction and release the goods.*
- 15) *The proper officer shall cancel the process and proceed for re-auction where no bid is received or the auction is considered to be non-competitive due to lack of adequate participation or due to low bids.*

**148. Prohibition against bidding or purchase by officer.**

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

**149. Prohibition against sale on holidays.**

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

**150. Assistance by police.**

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

**150. Assistance by police.**

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

**151. Attachment of debts and shares, etc.**

- 1) *A debt not secured by a negotiable instrument, a share in a corporation, or other*

*movable property not in the possession of the defaulter except for property deposited in, or in the custody of any court shall be attached by a written order in FORM GST DRC-16 prohibiting.-*

- a) *in the case of a debt, the creditor from recovering the debt and the debtor from making payment thereof until the receipt of a further order from the proper officer;*
  - b) *in the case of a share, the person in whose name the share may be standing from transferring the same or receiving any dividend thereon;*
  - c) *in the case of any other movable property, the person in possession of the same from giving it to the defaulter.*
- 2) *A copy of such order shall be affixed on some conspicuous part of the office of the proper officer, and another copy shall be sent, in the case of debt, to the debtor, and in the case of shares, to the registered address of the corporation and in the case of other movable property, to the person in possession of the same.*
  - 3) *A debtor, prohibited under clause (a) of sub-rule (1), may pay the amount of his debt to the proper officer, and such payment shall be deemed as paid to the defaulter.*

#### **152. Attachment of property in custody of courts or Public Officer.**

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

#### **153. Attachment of interest in partnership**

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

#### **154. Disposal of proceeds of sale of goods and movable or immovable property**

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

- a) *first, be appropriated against the administrative cost of the recovery process;*
- b) *next, be appropriated against the amount to be recovered;*

- c) *next, be appropriated against any other amount due from the defaulter under the Act or the Integrated Goods and Services Tax Act, 2017 or the Union Territory Goods and Services Tax Act, 2017 or any of the State Goods and Services Tax Act, 2017 and the rules made thereunder; and*
- d) *any balance, be paid to the defaulter.*

**155. Recovery through land revenue authority.**

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

**156. Recovery through court.**

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

**157. Recovery from surety.**

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

**160. Recovery from company in liquidation.**

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

**Relevant circulars, notifications, clarifications issued by Government:**

- 1) Chapter Fifty One of the compilation of the GST Flyers as issued by the CBIC on 'Recovery of Tax'

**79.1 Introduction**

The section empowers the departmental officers to collect/recover any amount which is payable under GST Act. Section 79 provides for the manner in which the recovery proceedings can be carried out.

**79.2 Analysis**

- (i) When **any amount** that is payable by any person (*hereinafter referred to as **defaulter***) to Government is not paid, the officer can adopt one or more of the methods set out in section 79 for recovery of amounts payable. The methods are :



**(a) Deduction out of any money owing to defaulter:**

- There should be some money which is being owed by the Government to defaulter;
- The amount payable can be deducted out of the said amount due to defaulter;
- The deduction can be done by the proper officer himself or he may ask any other specified officer to do so.
- The proper officer shall specify the amount so deducted in form **GST DRC-09** as prescribed in Rule 143

**(b) By detaining and selling the goods belonging to defaulter:**

- There should be goods which are under the control of the proper officer or other specified officer;
- Such goods should belong to the person who is liable to pay any amount.
- The goods may be detained and sold by the proper officer or such other specified officer on request by the proper officer;
- Out of the realisation, the amount payable by defaulter shall be recovered.
- As per Rule 144 of CGST Rules, the goods shall be sold through a process of auction including e-auction, for which a notice shall be issued in **FORM GST DRC-10** clearly indicating the goods to be sold and the purpose of sale. The last day for submission of bid or the date of auction shall not be earlier than fifteen days from the date of issue of the above notice. If the goods are perishable or hazardous in nature or the expenses of storing them is likely to exceed the value of such goods, then proper officer may sell them before 15 days.
- The proper officer shall issue a notice to the successful bidder in **FORM GST DRC-11** requiring him to make the payment within a period of fifteen days from the date of auction. On payment of the full bid amount the possession of the said goods shall be transferred to the successful bidder and issue a certificate in **FORM GST DRC-12**.
- Where the defaulter pays the amount under recovery, including any expenses incurred on process of recovery, before the issue of notice issued in **FORM GST DRC-10** (Notice of Auction) then the proper officer shall cancel the process of auction and release the goods.

**(c) Recovery from any other person who owes money to defaulter.**

- This applies when any other person -
  - has become due to pay money to the defaulter;

- is likely to become due to pay money to the defaulter;
  - holds money for or on account of the defaulter;
  - may subsequently hold money for or on account of the defaulter.
- In such cases the proper officer may issue notice in writing in **Form GST DRC-13** to such other person to pay to the credit of the Government –
  - forthwith
    - upon the money becoming due or
    - being held, or
  - at or within the time specified in the notice not being before the money becomes due or is held.
- The amount directed to be paid in the notice shall be –
  - Where the amount due/held by such other person is more than amount due by the defaulter – to the extent of amount due by the defaulter;
  - Where the amount due/held by such other person is equal to or less than amount due by defaulter - whole of money due/held.
- Such other person to whom such notice is issued is bound to comply with the same.
- In cases where such notice is issued to a post office, banking company or an insurer, they are required to comply with the same without insisting on production of any passbook, deposit receipt, policy or any other document for the purpose of any entry, endorsement or the like, though that might be the normal practice.
- If such person to whom such notice is issued, fails to comply, he shall be treated as defaulter to the extent of the amount mentioned in the notice and all other consequences under the law shall follow;
- Where the third person makes the payment of the amount specified in the notice in **FORM GST DRC-13**, then the proper officer shall issue a certificate in **FORM GST DRC-14** to the third person clearly indicating the details of the liability so discharged.
- The notice so issued may be amended or revoked or time may be extended for making any payment;
- The payment made by such other person in accordance with the notice issued, shall be deemed to have made the payment on behalf of such defaulter and the amount credited to the government shall be deemed to constitute the discharge of liability of such defaulter to the extent of the

payment made. Consequently no civil suit or other proceedings could be filed or initiated by the defaulter on the notice, who has complied with this provision.

- Instead of crediting the amount to the government, if such person makes the payment to defaulter, then such other person shall be personally liable to the Government to the extent of the amount due by the defaulter or amount discharged to the defaulter whichever is lower.
- However such person shall not be personally liable, if he proves to the officer issuing the notice that
  - the money demanded or any part thereof was not due to the person in default or
  - at the time of service of the notice he did not hold any money for or on account of the person in default,
  - the money was not demanded from him; or
  - any part of the money demanded is not likely to become due to such other person or
  - any part of the money will not likely be held for or on account of such person.

**(d) Collection by detention of any movable or immovable property.**

- On authorisation by competent authority, a proper officer in accordance with the Rule 147 of the CGST Rules framed for this purpose, may *interalia*
  - prepare a list of movable and immovable property belonging to the defaulter,
  - estimate their value as per the prevalent market price and
  - issue an order of attachment or distraint and a notice for sale in **FORM GST DRC-16** prohibiting any transaction with regard to such movable and immovable property as may be required for the recovery of the amount due
  - The property attached or distrained shall be sold through auction, including e-auction, for which a notice shall be issued in **FORM GST DRC- 17** clearly indicating the property to be sold and the purpose of sale.
- Such detention of any movable or immovable property belonging to defaulter will be done till the amount payable is paid.
- If any part of the amount payable or cost of distress or keeping the property is not paid within 30 days from such distress, the proper officer may sell the property and with the proceeds he may adjust towards:

- amount payable;
  - costs including the cost of sale remaining unpaid;
  - After such adjustment, the remaining surplus shall be returned to the defaulter.
- (e) **Recovery through District Collector:**
- Proper officer may prepare a certificate signed by him specifying the amount due from the defaulter.
  - Such certificate will be sent to the Collector of the District in **FORM GST DRC-18** in which the defaulter.
    - owns any property; or
    - resides; or
    - carries on his business.
  - The DC on receipt of such certificate shall proceed to recover from such defaulter the amount specified in the certificate as if such amount is arrears of land revenue.
- (f) **Recovery through Magistrate:**
- This provision has overriding effect over Code of Criminal Procedure;
  - In this case the proper officer may file an application to the appropriate Magistrate;
  - The Magistrate to whom application (in **FORM GST DRC- 19**) is made shall proceed to recover from the defaulter the amount specified in the application as if it is fine imposed by such Magistrate.
- (ii) Under the GST Act, rules or regulations there would be requirement to execute bond or other instruments. If such bond/instrument provides that the amount becoming due shall be recovered in terms of Section 79(1), then the recovery shall be effected as discussed above irrespective of whether other mode of recovery exists or not.
- (iii) Further it is also provided that, if either SGST Officer/ UTGST Officer while recovering SGST/UTGST arrears may also recover any amount due from the defaulter the amount due by him under CGST Act as if it is SGST/UTGST and later pass it on to the Central Government.
- (iv) Similar provision also exists in SGST/UTGST Act for recovery of any amount due under SGST Act/UTGST Act to be recovered by CGST officers while recovering arrears of CGST as though the amount due was CGST and later pass it on to the concerned State Government/Union Territory.
- (v) It is also provided that in case where the SGST officer/UTGST officer also collects

CGST in the course of collection of SGST/UTGST or *vice versa*, where the amount recovered is not fully covering both the liabilities, the amount collected has to be apportioned between Centre and State/Union Territory in the same proportion of the amounts due.

- (vi) Recovery through execution of a decree, etc.- Where any amount is payable to the defaulter in the execution of a decree of a civil court for the payment of money or for sale in the enforcement of a mortgage or charge, the proper officer shall send a request in **FORM GST DRC- 15** to the said court and the court shall, subject to the provisions of the Code of Civil Procedure, 1908, execute the attached decree, and credit the net proceeds for settlement of the amount recoverable.
- (vii) Recovery from Company under liquidation- Where the company is under liquidation, the Commissioner shall notify the liquidator for the recovery of any amount representing tax, interest, penalty or any other amount due under the Act in **FORM GST DRC-24**.

### 79.3 Comparative Review

Under the erstwhile tax laws, similar provision exists in Central Excise Law<sup>4</sup>, Customs Law<sup>5</sup> as well as Service Tax Law<sup>6</sup>. In the context of section 87 of the Finance Act, 1994, the Karnataka High Court in UOI Vs Prashanthi [2016-TIOL-1127-HC-KAR-ST] held that such recovery cannot be effected before determination of liability under section 73.

Also, similar provision also exists in all most all the State VAT laws as well.

### 79.4 FAQs

Q1. What are the methods of recovery as prescribed in Section 79?

- Ans. — Deduction out of any money owing to defaulter.
- By detaining and selling the goods belonging to defaulter.
  - Recovery from any other person who owes money to defaulter.
  - Collection by detention of any movable or immovable property.
  - Recovery through District Collector.
  - Recovery through Magistrate.

Q2. Can the authorities use more than one of the methods for the recovery proceedings?

Ans. Yes, they can use one or more methods at the option and choice of the proper officer.

Q3. In case of recovery of SGST/UTGST by CGST officer in the course of recovery of CGST, where the total amount recovered is ₹ 2 Crore whereas the amounts due were ₹

<sup>4</sup>Section 11D of Central Excise Act, 1944

<sup>5</sup>Section 28B of Customs Act, 1962

2 Crores of CGST and ₹ 3 Crore of SGST/UTGST, to which account, the amount recovered would be allocated?

Ans. 2 Crores recovered will be allocated between Centre and State/Union Territory in the proportion of 2:3.

### 79.5 MCQs

Q1. Recovery of amount payable by a defaulter can be made from \_\_\_\_\_

- (a) customer
- (b) bank
- (c) post office
- (d) all the above.

Ans. (d) all the above.

Q2. Recovery of amount payable by a defaulter can be made \_\_\_\_\_

- (a) after determination of liability under section 73 or 74
- (b) even before issue of notice under section 73 or 74
- (c) any time
- (d) at the discretion of the proper officer.

Ans. (a) after determination of liability under section 73 or 74

Q3. After how many days, the proper officer may cause the sale of distressed property?

- (a) 30 days
- (b) 60 days
- (c) 90 days
- (d) 120 days

Ans. (a) 30 days

### Statutory Provisions

#### **80. Payment of tax and other amount in installments**

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

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

**Extract of the CGST Rules, 2017****158. Payment of tax and other amounts in instalments.**

- 1) *On an application filed electronically by a taxable person, in FORM GST DRC- 20, seeking extension of time for the payment of taxes or any amount due under the Act or for allowing payment of such taxes or amount in instalments in accordance with the provisions of section 80, the Commissioner shall call for a report from the jurisdictional officer about the financial ability of the taxable person to pay the said amount.*
- 2) *Upon consideration of the request of the taxable person and the report of the jurisdictional officer, the Commissioner may issue an order in FORM GST DRC- 21 allowing the taxable person further time to make payment and/or to pay the amount in such monthly instalments, not exceeding twenty-four, as he may deem fit.*
- 3) *The facility referred to in sub-rule (2) shall not be allowed where-*
  - a) *the taxable person has already defaulted on the payment of any amount under the Act or the Integrated Goods and Services Tax Act, 2017 or the Union Territory Goods and Services Tax Act, 2017 or any of the State Goods and Services Tax Act, 2017, for which the recovery process is on;*
  - b) *the taxable person has not been allowed to make payment in instalments in the preceding financial year under the Act or the Integrated Goods and Services Tax Act, 2017 or the Union Territory Goods and Services Tax Act, 2017 or any of the State Goods and Services Tax Act, 2017;*
  - c) *the amount for which instalment facility is sought is less than twenty-five thousand rupees.*

**Relevant circulars, notifications, clarifications issued by Government:**

- 1) Chapter Fifty One of the compilation of the GST Flyers as issued by the CBIC on 'Recovery of Tax'

**Related Provisions of the Statute**

Section or Rule	Description
Section 50	Interest on delayed payment of tax

**80.1 Introduction**

This section permits a taxable person to make payment of an amount due on installment basis, other than the amount due as per self-assessed return. The term 'installments' in general parlance would mean equated periodical payments (money due) spread over an agreed period of time. This provision happens to be a beneficial piece of law to the tax payers to pay the demand in installments along with interest.

### 80.2 Analysis

- (i) This section empowers the Commissioner to grant permission only to the taxable person to make payment of any amount due on instalment basis, on an application filed electronically in **FORM GST DRC-20**, (refer Rule 158) .

The Commissioner after considering the request by the taxable person (in **FORM GST DRC-20**) and report of the jurisdictional office, may issue an order in **FORM GST DRC-21**, allowing the taxable person either extend the time or allow payment of any amount due under the Act on instalment basis.

- (ii) This section applies to amounts due other than the self-assessed liability shown in any return.
- (iii) The instalment period shall not exceed 24 months.
- (iv) The taxable person shall also be liable to pay prescribed interest on the amount due from the first day such tax was due to be payable till the date tax is paid.
- (v) If default occurs in payment of any one instalment the taxable person would be required to pay the whole outstanding balance payable on such date of default itself without further notice.

### 80.3 Comparative review

These provisions are broadly similar to the provisions contained in erstwhile Karnataka VAT Rules (Rule 53 of the KVAT rules, 2005). However, KVAT law specifies the time frame for interest payments to be the period upto the month the last instalment is due. Further, the above provision is replicated in the GST Act, from the KVAT law. In Central Indirect Taxes, it was allowed by the Department in exceptional cases although express provisions were not there.

### 80.4 FAQs

Q1. Whether application is to be made to pay the amount due in installments?

Ans. Yes, an application should be made by a taxable person to the commissioner stating the reasons for his/her request to make payment through installments. (in **FORM GST DRC-20**)

Q2. Can an unregistered person be covered under the said provisions?

Ans. A taxable person is covered by the provision, While Section 2(107) defines taxable person as "a person who is registered or liable to be registered under Section 22 or Section 24". Hence unregistered person cannot opt the benefit of this provision.

Q3. From which date does the interest liability arise?

Ans. The interest is liable to be paid from the date on which the said amount of tax became due to be paid till the actual payment of tax i.e., last instalment.

Q4. 'A' requested the Commissioner to provide the benefit to pay ₹ 5, 00,000/- under



installments. Commissioner directs 'A' to make the payment in five monthly installments. How to pay the interest?

Ans. It is assumed that the actual date on which the tax was required to be paid as 06.06.2015. Benefit of instalment was granted by Commissioner on 25.06.2016 to be paid w.e.f 02.06.2016 onwards over 5 installments.

Payment date	Interest to be paid as per section 45 – No of days	Amount on which interest to be paid
1st Instalment – 02.06.2016	06.06.2015 to 01.06.2016 = 361 days	₹ 1,00,000/-
2nd Instalment – 02.07.2016	06.06.2015 to 01.07.2016 = 391 days	₹ 1,00,000/-
3rd Instalment – 02.08.2016	06.06.2015 to 01.08.2016 = 422 days	₹ 1,00,000/-
4th Instalment – 02.09.2016	06.06.2015 to 01.09.2016 = 453 days	₹ 1,00,000/-
5th Instalment – 02.10.2016	06.06.2015 to 01.10.2016 = 483 days	₹ 1,00,000/-

Q5. What will happen if the taxable person fails to pay any one instalment on its due date?

Ans. In such a case, the entire outstanding balance payable as on the said due date shall forthwith become due and payable without any further notice and be liable for recovery.

### 80.5 MCQs

Q1. The following amounts due cannot be paid through installments,

- (a) Self-assessed tax shown in return
- (b) Arrears of tax
- (c) Short paid tax for which notice has been issued
- (d) Concealed liability

Ans. (a) Self-assessed tax shown in return

Q2. Maximum number of installments permissible under section 80

- (a) 36
- (b) 12
- (c) 48
- (d) 24

Ans. (d) 24

Q3. Which officer/s has the power to grant permission for payment of tax through instalment?

- (a) Commissioner
- (b) Assistant Commissioner
- (c) Chief Commissioner
- (d) both (a) and (b)

Ans. (a) Commissioner

### Statutory Provisions

#### **81. Transfer of property to be void in certain cases**

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

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

#### **Relevant circulars, notifications, clarifications issued by Government:**

- 1) Chapter Fifty One of the compilation of the GST Flyers as issued by the CBIC on 'Recovery of Tax'

### **81.1 Introduction**

This provision protects the Government revenue by avoiding transfer of property by a taxable person to another person. This would prevent any attempt to defraud the revenue by alienating the properties.

### **81.2 Analysis**

- (i) The said provision would be applicable only when any tax has become due.
- (ii) The following acts done by a person, in favour of any another person, after the tax becomes due, would be void

Situations / cases – Void	Situations / cases – valid
<ul style="list-style-type: none"> <li>• Creates a charge on; or</li> <li>• Parts with the property</li> <li>• Belonging to him; or</li> <li>• In his possession</li> </ul>	<p>Made for adequate consideration <b>and</b></p> <ul style="list-style-type: none"> <li>• without notice of the pendency of proceeding</li> <li>• Without notice of such tax or other sum payable by the said person,</li> </ul>

By way of sale, mortgage, exchange, or any other mode of transfer whatsoever of any of his properties.	<ul style="list-style-type: none"> <li>• With previous permission of the proper officer.</li> </ul>
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- (iii) The transfer will be void, when it is or was with an intention of defrauding the Government revenue.

#### Illustrations:

1. Mr. Defrauder was served with a notice of demand for ₹ 20 Lakhs on 10<sup>th</sup> June 2018. He filed a reply for the said notice on 20<sup>th</sup> June 2018, stating that he was unable to deposit tax dues as he was financially stressed. On 15<sup>th</sup> June 2018, Mr. Defrauder transferred all the property worth ₹35 Lakhs under his name to the name of his wife for a consideration of ₹10,000/-. Is this act of Mr. Defrauder valid?  
 Ans. As per section 81, the said transfer would be void and the property worth ₹35 Lakhs would be considered still to be in the hands of Mr. Defrauder.
2. In the above illustration, if transfer of property was for a consideration of ₹ 42 Lakhs to Mr. X who is unaware of the pending proceedings of Mr. Defrauder. The transfer took place on 15<sup>th</sup> June 2018. Is the act of Mr. Defrauder valid?  
 Ans. In this case the transaction would be a valid act, since the transfer was made for adequate consideration and also without notice of the pendency of proceeding.
3. On Mr. Perfect, notice was issued on 10<sup>th</sup> June 2018. However, the same was received by Mr. Perfect on 20<sup>th</sup> June, 2018. Meanwhile the property of Mr. Perfect was sold to Mr. Perfectionist for ₹ 35 Crore. Is the sale void or valid?  
 Ans. The sale is valid since on the date of sale there was no pending proceeding on Mr. Perfect.

#### 81.3 Comparative review

This provision is new to Indirect Tax law. It is a concept borrowed from the Income-Tax law to safeguard the revenue. According to the Income Tax (IT) Act, certain transfers can be considered void without a tax-clearance certificate (Section 281B). "This can be transfer of immovable property, that is, sale or mortgage of housing property, any gift, or exchange,"

#### 81.4 FAQs

- Q1. When the transaction in property is void as per section 81?  
 Ans. During the pendency of proceeding under GST Act, if the taxable person transfers the property of his to another person with an intent of defrauding the Government revenue, then such transfer would be considered as void.

#### 81.5 MCQ

- Q1. What all modes of transfers are covered under section 81?  
 (a) Sale

- (b) Exchange
- (c) Mortgage
- (d) All of the above

Ans. (d) All of the above

Q2. When the transfer of property would be considered as void .....

- (a) Transaction is done to defraud the Govt. revenue
- (b) Transaction is done without intention to defraud the Govt. revenue
- (c) Any of the above

Ans. (a) Transaction is done to defraud the Govt. revenue

### Statutory Provisions

#### **82. Tax to be first charge on property**

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

#### **82.1 Introduction**

Other than as provided under Insolvency and Bankruptcy Code, 2016, this provision shall have an overriding effect over the other provisions contained in any law for the time being in force. This provision provides that if any dues are payable by a taxable person or any other person to the government, then it would have first charge on the property of such taxable or other person.

#### **82.2 Analysis**

- (i) The provisions of this section would apply to a taxable person or any other person who is liable to pay tax, interest or penalty to Government.
- (ii) Any liability to be paid to the Government would be given priority in the matter of effecting recovery by placing a first charge on the property of the taxable person or any other person.
- (iii) This provision also covers any other person since there are other provisions in the Act, which provide for creating a liability or recovery from a person other than the taxable person like a legal representative, member of partitioned HUF etc.

#### **82.3 Comparative review**

These provisions are broadly similar to the provisions contained,

1. Section 142A – Customs Act, 1962
2. Section 11E – Central Excise Act, 1944

3. Section 48 – Karnataka VAT Act, 2003

4. Section 88 – Finance Act, 1994

#### 82.4 FAQs

Q1. When can the charge on property of taxable person be created?

Ans. The charge can be created only when taxable person or any other person is liable to pay tax or interest or penalty to Government.

Q2. Are unregistered persons covered under the said provision?

Ans. The section refers to both taxable person and any other person, on whose property first charge could be created. Hence, all persons as defined under Section 2(84) of the CGST Act would be covered, whether he is a taxable person or not.

#### 82.5 MCQs

Q1. What liabilities can be recovered under this section?

- (a) Interest
- (b) Tax
- (c) Penalty
- (d) All of the above

Ans. (d) All of the above

Q2. Mr. Richie Poor, has the following properties, which of the below would be treated as attracting first charge.

- (a) Richie Nilaya, a mansion in the name of Mr. Richie
- (b) Mrs. Richie's fixed deposit
- (c) Richie's neighbour, Mrs. Y's Jewellery
- (d) None of the above

Ans. (a) Richie Nilaya, a mansion in the name of Mr. Richie

#### Statutory Provisions

##### **83. Provisional attachment to protect revenue in certain cases**

- (1) *Where during the pendency of any proceedings under section 62 or section 63 or section 64 or section 67 or section 73 or section 74, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary so to do, he may, by order in writing attach provisionally any property, including bank account, belonging to the taxable person in such manner as may be prescribed.*
- (2) *Every such provisional attachment shall cease to have effect after the expiry of a period of one year from the date of the order made under sub-section (1).*

**Extract of the CGST Rules, 2017****159. Provisional attachment of property.**

- 1) *Where the Commissioner decides to attach any property, including bank account in accordance with the provisions of section 83, he shall pass an order in FORM GST DRC-22 to that effect mentioning therein, the details of property which is attached.*
- 2) *The Commissioner shall send a copy of the order of attachment to the concerned Revenue Authority or Transport Authority or any such Authority to place encumbrance on the said movable or immovable property, which shall be removed only on the written instructions from the Commissioner to that effect.*
- 3) *Where the property attached is of perishable or hazardous nature, and if the taxable person pays an amount equivalent to the market price of such property or the amount that is or may become payable by the taxable person, whichever is lower, then such property shall be released forthwith, by an order in FORM GST DRC-23, on proof of payment.*
- 4) *Where the taxable person fails to pay the amount referred to in sub-rule (3) in respect of the said property of perishable or hazardous nature, the Commissioner may dispose of such property and the amount realized thereby shall be adjusted against the tax, interest, penalty, fee or any other amount payable by the taxable person.*
- 5) *Any person whose property is attached may, within seven days of the attachment under sub-rule (1), file an objection to the effect that the property attached was or is not liable to attachment, and the Commissioner may, after affording an opportunity of being heard to the person filing the objection, release the said property by an order in FORM GST DRC- 23.*
- 6) *The Commissioner may, upon being satisfied that the property was, or is no longer liable for attachment, release such property by issuing an order in FORM GST DRC- 23*

**Relevant circulars, notifications, clarifications issued by Government:**

- 1) Chapter Fifty One of the compilation of the GST Flyers as issued by the CBIC on 'Recovery of Tax'

**83.1 Introduction**

This section confers power to provisionally attach the property of the taxable person in certain situations to protect the interest of the Government.

**83.2 Analysis**

- (i) This section applies only during the pendency of any proceedings under:
  - (a) Section 62 – Assessment of non-filers of returns.
  - (b) Section 63 – Assessment of unregistered persons.

- (c) Section 64 – Summary assessment in certain special cases.
  - (d) Section 67 – Power of inspection, search and seizure.
  - (e) Section 73 - Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized by reason of other than fraud or any wilful misstatement or suppression of facts.
  - (f) Section 74 - Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized by reason of fraud or any wilful misstatement or suppression of facts.
- (ii) The provisional attachment of property of taxable person shall be executed by the Commissioner.
  - (iii) The only condition is that the Commissioner should be of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary to provisionally attach the property. The Commissioner may also seize bank accounts of such persons, if it is in the interest of revenue.
  - (iv) Such provisional attachment would be valid for one year from the date of the order made by the Commissioner in **FORM GST DRC-22**.
  - (v) Where the property attached is of perishable or hazardous nature, and if the taxable person pays an amount equivalent to the market price of such property or the amount that is or may become payable by the taxable person, whichever is lower, then such property shall be released forthwith, by an order in **FORM GST DRC-23**, on proof of payment. Further, where the taxable person fails to pay the aforesaid amount, the Commissioner may dispose of such property and the amount realized thereby shall be adjusted against the tax, interest, penalty, fee or any other amount payable by the taxable person.
  - (vi) Any person whose property is attached may, within 7 days of the attachment may file an objection to the effect that the property attached was or is not liable to attachment, and the Commissioner may, after affording an opportunity of being heard to the person filing the objection, release the said property by an order in **FORM GST DRC- 23**.

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

### 83.3 Comparative review

These provisions are broadly similar to the provisions contained in erstwhile

- Finance Act, 1994 (Section 73C)
- Central Excise Act, 1944 (Section 11DDA)
- Customs Act, 1962 (Section 28BA)
- Delhi VAT Act, 2004 (Section 46A)

**83.4 FAQs**

Q1. Provisional attachment shall be applicable to which proceedings?

Ans. Provisional attachment shall be applicable for the following pending proceedings of a taxable person,

1. Assessment of non-filers of returns.
2. Assessment of unregistered persons.
3. Summary assessment in certain special cases.
4. Inspection, search and seizure.
5. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized for any reason other than fraud or any wilful misstatement or suppression of facts.
6. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized by reason of fraud or any wilful-misstatement or suppression of facts.

Q2. What is the condition for provisionally attaching the property of a taxable person?

Ans. The Commissioner should be of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary to do so.

Q3. Why attachment to be done before conclusion of proceedings?

Ans. Attachment to be done before conclusion of proceedings, if Commissioner is of the opinion that there is risk of recovery and to protect interest of revenue.

**83.5 MCQs**

1. Till what period does the order passed for provisional attachment is valid?

- (a) Infinite period
- (b) One year
- (c) Ten years
- (d) till the end of the such proceedings

Ans. (b) One year

2. Who is the competent authority for passing an order for provisional attachment?

- (a) The Deputy Commissioner
- (b) The GST Council
- (c) The Commissioner
- (d) The Assistant Commissioner

Ans. (c) The Commissioner



3. Attachment can be done under section 83:
- (a) Before completion of proceedings.
  - (b) After completion of proceedings.
  - (c) After 3 attempts to recover dues.
  - (d) Only if there is risk of delinquency in payment of dues.

Ans. (a) Before completion of proceedings.

#### Statutory Provision

##### **84. Continuation and validation of certain recovery proceedings**

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

- (a) *where such Government dues are enhanced in such appeal, revision or other proceedings, the Commissioner shall serve upon the taxable person or any other person another notice of demand in respect of the amount by which such Government dues are enhanced and any recovery proceedings in relation to such Government dues as are covered by the notice of demand served upon him before the disposal of such appeal, revision or other proceedings may, without the service of any fresh notice of demand, be continued from the stage at which such proceedings stood immediately before such disposal;*
- (b) *where such Government dues are reduced in such appeal, revision or in other proceedings—*
  - (i) *it shall not be necessary for the Commissioner to serve upon the taxable person a fresh notice of demand;*
  - (ii) *the Commissioner shall give intimation of such reduction to him and to the appropriate authority with whom recovery proceedings is pending;*
  - (iii) *any recovery proceedings initiated on the basis of the demand served upon him prior to the disposal of such appeal, revision or other proceedings may be continued in relation to the amount so reduced from the stage at which such proceedings stood immediately before such disposal.*

#### Extract of the CGST Rules, 2017

##### **161. Continuation of certain recovery proceedings.**

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

**Relevant circulars, notifications, clarifications issued by Government:**

- 1) Chapter Fifty One of the compilation of the GST Flyers as issued by the CBIC on 'Recovery of Tax'

**Related Provisions of the Statute:**

Section or Rule	Description
Section 79	Recovery of tax

**84.1 Introduction**

This section deals with continuation of proceedings, where a notice is already served for recovery of government dues upon a taxable person or any other person and upon any appeal, revision application or other proceeding there is reduction or enhancement of such Government dues.

**84.2 Analysis**

- (i) The section refers to –
  - any notice of demand in respect of Government dues (tax, interest or any other amount payable ) served on taxable person or any other person; and
  - any appeal, revision application is filed or other proceedings are initiated in respect of such Government dues.

Further–

- (a) such Government dues may be enhanced; or
- (b) reduced in such appeal, revision or in other proceedings

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

- (ii) In such cases, the Commissioner shall –
  - Serve another notice on the taxable person or any other person, in respect of the enhanced amount.
  - If notice of demand is already served on taxable person or any other person before such appeal, revision or any other proceedings, then recovery of enhanced amount would be continued from the stage at which the initial proceedings stood. There is no need to issue a fresh notice of demand to the extent already covered by earlier notice.
  - In case the Government dues are reduced in such appeal, revision or in other proceedings – the Commissioner
    - Is not required to serve fresh notice of demand upon the taxable person;

- Shall intimate such reduction to taxable person and also to appropriate authority with whom recovery proceedings are pending;

Any recovery proceedings initiated prior to the disposal of such appeal, revision application or other proceeding may be continued in relation to the amount so reduced from the stage at which such proceedings stood immediately before such disposal.

### 84.3 Comparative review

The provisions under this section of GST are in line with the provisions of section 45 of Delhi Value Added Tax Act, 2004.

### 84.4 FAQs

Q1. How should the recovery proceedings of enhanced demand under an appeal, revision of application or other proceedings to be continued?

Ans. In case of enhanced demand consequent to appeal, revision of application or other proceedings, then

— the Commissioner is required to issue fresh notice of demand only for enhance demand.

— If already recovery proceedings of Govt. dues is served on taxable person before disposal of appeal, revision of application or other proceedings, then the enhanced demand would be merged with the first recovery proceedings.

Q2. Under what circumstances issue of fresh notice is not necessary ?

Ans. When a notice is already served for recovery on taxable person or any other person, before disposal of appeal, revision application or other proceedings, then issue of fresh notice is not required to the extent of amount covered in the notice in case of increase in demand and when there is reduction also there is no need to issue fresh notice.

Q3. What will the fate of the recovery proceedings initiated prior to disposal of such appeal, revision or other proceedings, where Government dues are reduced?

Ans. *Where such Government dues are enhanced :*

Any recovery proceedings initiated prior to disposal of such appeal, revision or other proceedings may be continued in respect of the Government dues covered by the notice of demand served to him earlier from the stage at which it stood immediately prior to such disposal.

*Where such Government dues are reduced:*

Any recovery proceedings initiated prior to disposal of such appeal, revision or other proceedings may be continued in relation to the reduced amount from the stage at which it stood immediately prior to such disposal.

**84.5 MCQs**

Q1. When Commissioner can issue a fresh notice to recover the Government dues?

- (a) Demand amount is enhanced
- (b) Demand amount is reduced
- (c) both (a) and (b)

Ans. (a) Demand amount is enhanced

Q2. When Commissioner is not required to serve fresh notice to recover the Government dues:

- (a) Demand amount is reduced
- (b) Already proceedings of recovery of Government dues is served before disposal of appeal, revision of application or other proceedings
- (c) Demand amount is enhanced
- (d) Both (a) and (b)

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

Q3. Who can issue notice for enhanced demand by appeal, revision of application or other proceedings:

- (a) Commissioner
- (b) Assistant Commissioner
- (c) Joint Commissioner
- (d) Any of above

Ans. (a) Commissioner

## Chapter-XVI

# Liability to Pay in Certain Cases

Sections	Rules
85. Liability in case of transfer of business	19. Amendment of registration
86. Liability of agent and principal	20. Application for cancellation of registration
87. Liability in case of amalgamation or merger of Companies	22. Cancellation of registration
88. Liability in case of Company in liquidation	41. Transfer of credit on sale, merger, amalgamation, lease or transfer of business
89. Liability of directors of private Company	160. Recovery from company in liquidation
90. Liability of partners of a firm to pay tax	
91. Liability of guardians, trustees, etc.,	
92. Liability of Court of Wards etc.,	
93. Special provisions regarding liability to pay tax, interest or penalty in certain cases	
94. Liability in other cases	

### Statutory Provisions

#### **85. Liability in case of Transfer of Business**

- (1) *Where a taxable person, liable to pay tax under this Act, transfers his business in whole or in part, by sale, gift, lease, leave and license, hire or in any other manner whatsoever, the taxable person and the person to whom the business is so transferred shall, jointly and severally, be liable wholly or to the extent of such transfer, to pay the tax, interest or any penalty due from the taxable person up to the time of such transfer, whether such tax, interest or penalty has been determined before such transfer, but has remained unpaid or is determined thereafter.*
- (2) *Where the transferee of a business referred to in subsection (1) carries on such business either in his own name or in some other name, he shall be liable to pay tax on the supply of goods or services or both effected by him with effect from the date of such transfer and shall, if he is a registered person under this Act, apply within the prescribed time for amendment of his certificate of registration.*

## Extract of the CGST Rules, 2017

**19 Amendment of registration**

- (1) Where there is any change in any of the particulars furnished in the application for registration in FORM GST REG-01 or FORM GST REG-07 or FORM GST REG-09 or FORM GST REG-10 or for Unique Identity Number in FORM GST-REG-13, either at the time of obtaining registration or Unique Identity Number or as amended from time to time, the registered person shall, within a period of fifteen days of such change, submit an application, duly signed or verified through electronic verification code, electronically in FORM GST REG-14, along with the documents relating to such change at the common portal, either directly or through a Facilitation Centre notified by the Commissioner:

*Provided that –*

- (a) where the change relates to,-
- (i) legal name of business;
  - (ii) address of the principal place of business or any additional place(s) of business; or
  - (iii) addition, deletion or retirement of partners or directors, Karta, Managing Committee, Board of Trustees, Chief Executive Officer or equivalent, responsible for the day to day affairs of the business,-

*which does not warrant cancellation of registration under section 29, the proper officer shall, after due verification, approve the amendment within a period of fifteen working days from the date of the receipt of the application in FORM GST REG-14 and issue an order in FORM GST REG-15 electronically and such amendment shall take effect from the date of the occurrence of the event warranting such amendment;*

- (b) the change relating to sub-clause (i) and sub-clause (iii) of clause (a) in any State or Union territory shall be applicable for all registrations of the registered person obtained under the provisions of this Chapter on the same Permanent Account Number;
- (c) where the change relates to any particulars other than those specified in clause (a), the certificate of registration shall stand amended upon submission of the application in FORM GST REG- 14 on the common portal;
- (d) where a change in the constitution of any business results in the change of the Permanent Account Number of a registered person, the said person shall apply for fresh registration in FORM GST REG-01:

*Provided further that any change in the mobile number or e-mail address of the authorised signatory submitted under this rule, as amended from time to time, shall be carried out only after online verification through the common portal in the manner provided under [sub-rule (2) of rule 8*

- (1A) Notwithstanding anything contained in sub-rule (1), any particular of the application for registration shall not stand amended with effect from a date earlier than the date of submission of the application in FORM GST REG-14 on the common portal except with the order of the Commissioner for reasons to be recorded in writing and subject to such conditions as the Commissioner may, in the said order, specify.
- (2) Where the proper officer is of the opinion that the amendment sought under sub-rule (1) is either not warranted or the documents furnished therewith are incomplete or incorrect, he may, within a period of fifteen working days from the date of the receipt of the application in FORM GST REG-14, serve a notice in FORM GST REG-03, requiring the registered person to show cause, within a period of seven working days of the service of the said notice, as to why the application submitted under sub-rule (1) shall not be rejected.
- (3) The registered person shall furnish a reply to the notice to show cause, issued under sub-rule (2), in FORM GST REG-04, within a period of seven working days from the date of the service of the said notice.
- (4) Where the reply furnished under sub-rule (3) is found to be not satisfactory or where no reply is furnished in response to the notice issued under sub-rule (2) within the period prescribed in sub-rule (3), the proper officer shall reject the application submitted under sub-rule (1) and pass an order in FORM GST REG -05.
- (5) If the proper officer fails to take any action,-
- within a period of fifteen working days from the date of submission of the application, or
  - within a period of seven working days from the date of the receipt of the reply to the notice to show cause under sub-rule (3),
- the certificate of registration shall stand amended to the extent applied for and the amended certificate shall be made available to the registered person on the common portal.

**41 Transfer of credit on sale, merger, amalgamation, lease, or transfer of a business.-**

- (1) A registered person shall, in the event of sale, merger, de-merger, amalgamation, lease or transfer or change in the ownership of business for any reason, furnish the details of sale, merger, de-merger, amalgamation, lease or transfer of business, in FORM GST ITC-02, electronically on the common portal along with a request for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee:
- Provided that in the case of demerger, the input tax credit shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme.*
- (2) The transferor shall also submit a copy of a certificate issued by a practicing chartered accountant or cost accountant certifying that the sale, merger, de-merger,

*amalgamation lease or transfer of business has been done with a specific provision for the transfer of liabilities.*

- (3) *The transferee shall, on the common portal, accept the details so furnished by the transferor and, upon such acceptance, the un-utilized credit specified in FORM GST ITC- 02 shall be credited to his electronic credit ledger.*
- (4) *The inputs and capital goods so transferred shall be duly accounted for by the transferee in his books of account.*

**Relevant circulars, notifications, clarifications issued by Government:**

1. Notification No. 12/2017 – Central Tax dated 28.06.2017 – exemption from payment of tax, in case business is transferred as a going concern (transfer of business as a going concern is service for the purpose of GST law).

**Related provisions of the Statute**

Section or Rule	Description
Section 2(17)	Definition of Business
Section 2(43)	Definition of Taxable Person
Section 7	Meaning and scope of supply
Section 9	Levy and collection
Schedule II	Clause 4(c) of Schedule II (i) the business is transferred as a going concern to another person; or (ii) the business is carried on by a personal representative who is deemed to be a taxable person
Section 18	Availability of credit in certain circumstances
Section 28	Amendment of registration

**85.1 Introduction**

This section deals with tax liability that may arise in case of transfer of business under certain circumstances. It deals with the following situations:

- Liability arising before the transfer of business as a whole or in part; and
- Liability arising post transfer of business as a whole or in part.
- Such liability may arise on account of sale, gift, lease, leave and license, hire or in any other manner.



## 85.2 Analysis

### (i) Liability arising prior to transfer:

- The provision applies when a taxable person who is liable to pay tax transfers his business either wholly or in part, which could be by way of:
  - Sale
  - Gift
  - Lease
  - Leave and license
  - Hire or
  - In any other manner

**Tax liability:** Both transferor and transferee will be jointly and severally liable for payment of taxes, interest or penalty due upto the time of transfer of business (wholly or partly).

The joint and several liability will remain fastened even if such amounts were determined and become due after the transfer of business.

*Interestingly even penal liability, which is quasi-criminal in nature, is sought to be fastened on the transferee, although he would not have been responsible for the non-payment of tax, interest or penalty liability by the transferor prior to transfer of such business.*

### (ii) Liability arising post transfer

The tax, interest and / or penalty which is determined and which relates to the period, post transfer of business will clearly be the liability of the transferee of business.

It will remain the liability of the transferee, whether or not the business is continued in the same name or otherwise.

As a process, in case the transferee is already an existing taxable person, he needs to apply for amendment of his registration certificate within the prescribed time incorporating the changes as to the acquisition of the business (whole or part).

### (iii) Going concern transfer

Sale of business as a 'going concern' [on a lock, stock and barrel basis] is not taxable as per paragraph 4(c), schedule II of the CGST Act read with exemption notification no. 12/2017-Central Tax (Rate) dated 28<sup>th</sup> June, 2017. One may refer to rule 41 that permits the transferor to upload GST ITC 02 on the common portal for effecting a smooth transfer of all unutilised credits pursuant to a transfer as a 'going concern'.

## 85.3 Comparative analysis

The liability in respect of transactions, post the date of transfer of business, viz., where the liability is fastened on the transferee is comparable to the erstwhile indirect tax provisions. However, in respect of joint and several liability of both, the transferor and transferee, for liabilities upto the date of transfer is comparable to certain State level VAT laws.

**85.4 Issues and Concerns:**

- (i) In case of transfer of business by whatever method i.e., sale, lease, gift, license etc., the law does not indicate as to what should be the life of capital goods that is to be reckoned in the hands of transferee, for the purpose of GST laws, would it be five years, as reduced by number of years for which such asset was put to use by the transferor or would it be an additional five years from the date of transfer or would it be as per the actual remaining life of the asset on the basis of actuarial valuation as on the date of such transfer. The GST law is silent on this issue.
- (ii) The person taking over the business of another person should, in the normal course as a matter of due diligence, make sure that all the tax liabilities due under GST (CGST & SGST / IGST) laws in relation to transactions made before the date of transfer is fully discharged with applicable interest due, if any. Further such transferee shall also ensure that there is no pending proceeding(s) against him under the said Act, to ensure that the transition process is smooth. It must be noted that the GST law casts the burden of paying tax, interest, penalty or any other amount on the transferee jointly with the transferor of business, though such amounts could relate to a period, prior to the date of transfer.

**85.5 FAQs**

Q1. In case of transfer of business, who is liable to pay tax in respect of business transactions prior to such transfer?

Ans. Both the transferor and transferee of business (either wholly or partly) are jointly and severally liable to pay tax.

Q2. Whether such liability as mentioned above is applicable only for tax?

Ans. Such liability is applicable to interest and penalty also in addition to tax.

Q3. What are the types of business transfers covered in Section 85?

Ans. Following types of business transfers are covered in the subject provision:

- (a) Sale;
- (b) Gift;
- (c) Lease;
- (d) Leave and license;
- (e) Hire; or
- (f) In any other manner

Q4. To what extent the transferor of business is liable to pay tax / interest / penalties?

Ans. The transferor of business is jointly and severally liable to pay tax / interest / penalties arisen along with the transferee (whether determined prior to transfer or post transfer) upto the date of transfer of business.

Q5. Who is liable to pay tax in respect of supplies made after the date of transfer of business?

Ans. The transferee of business is liable to pay tax after the date of transfer of business.

Q6. If the transferee carries on an existing business, what are the actions to be taken on transfer?

Ans. The transferee is required to make amendments in his registration certificate to give effect to the business transfer.

### 85.6 MCQs

Q1. Transfer of business includes .....

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

Ans: (d) All of the above

Q2. Who is liable to pay the tax in case of transactions prior to the date of transfer of business?

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

Ans: (c) Both jointly and severally

### Statutory Provision

#### **86. Liability of Agent and Principal**

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

### Related provisions of the Statute

Section or Rule	Description
Section 2(5)	Definition of agent
Section 7	Meaning and scope of supply
Section 9	Levy and collection
Schedule I	Activities to be treated as supply even if made without consideration – Clause 3 of the said schedule

### 86.1 Introduction

This section directly casts the liability on a principal, in addition to the liability of the agent who effects the supply of taxable goods on behalf of principal or procures taxable goods on behalf of his principal.

### 86.2 Analysis

Under the GST law, in cases where –

- Taxable Goods are supplied by agent on behalf of principal; or
- Taxable Goods are procured by agent on behalf of principal;

the agent is primarily liable for tax. However, by virtue of this provision, both agent and principal, will be jointly and severally made liable to pay for tax payable on such supplies.

It is important to note that transactions between a Principal and Agent involving 'handling' of goods is regarded as a supply *inter se* vide paragraph 3 of schedule I of CGST Act, 2017. But, in terms of this section, 'joint and several' liability is being fastened on the person, who is not covered by the said fiction (as regards supply). This section is meant to provide a recourse to the Government against either of them and not necessarily only upon default by the principal obligor. The Government is free to recover dues from either of them or both (upto the total dues only) without having to exhaust its remedies against the one who was principally liable (principal obligor) and then only proceed against the other.

### 86.3 Issues and Concerns

Liability of the principal who effects supplies through an agent or a principal who receives supplies through an agent, does not end as soon as he (principal) pays tax on the supply made by him to agent for further supply; instead the liability in the hands of the principal continues till the time a further supply is made by agent - say to the final customer (B2B or B2C) and tax is duly discharged by agent on the said supply. This in effect means, that the principal needs to keep a track of compliance by an agent apart from the compliance requirements to be followed by him under the said law, which is an added burden in the hands of principal.

### 86.4 FAQs

Q1. Whether the principal is also liable for tax payable on the goods supplied by the Agent?

Ans. Yes, the principal will also be jointly and severally liable to pay tax on such supplies, along with the agent.

### 86.5 MCQs

- Q1. Agent and Principal, both are liable to pay tax on supply or receipt of .....
- (a) Taxable Goods only
  - (b) Services only

- (c) Goods along with service
- (d) None of the above

Ans: (a) Taxable Goods only

Q2. Agent and Principal are liable to pay tax.....

- (a) Jointly
- (b) Separately
- (c) Both jointly and severally
- (d) Jointly or Separately

Ans: (c) Both jointly and severally

### Statutory Provisions

#### **87. Liability in case of Amalgamation or Merger of companies**

- (1) *When two or more companies are amalgamated or merged in pursuance of an order of court or of Tribunal or otherwise and the order is to take effect from a date earlier to the date of the order and any two or more of such companies have supplied or received any goods or services or both to or from each other during the period commencing on the date from which the order takes effect till the date of the order, then such transactions of supply and receipt shall be included in the turnover of supply or receipt of the respective companies and they shall be liable to tax accordingly.*
- (2) *Notwithstanding anything contained in the said order, for all purposes of this Act, the said two or more companies shall be treated as distinct companies for the period up to the date of the said order and the registration certificates of the said companies shall be cancelled, with effect from the date of the said order.*

### Extract of the CGST Rules, 2017

#### **19 Amendment of registration**

- (1) *Where there is any change in any of the particulars furnished in the application for registration in FORM GST REG-01 or FORM GST REG-07 or FORM GST REG-09 or FORM GST REG-10 or for Unique Identity Number in FORM GST-REG-13, either at the time of obtaining registration or Unique Identity Number or as amended from time to time, the registered person shall, within a period of fifteen days of such change, submit an application, duly signed or verified through electronic verification code, electronically in FORM GST REG-14, along with the documents relating to such change at the common portal, either directly or through a Facilitation Centre notified by the Commissioner:*  
  
*Provided that –*

- (a) where the change relates to,-
- (i) legal name of business;
  - (ii) address of the principal place of business or any additional place(s) of business; or
  - (iii) addition, deletion or retirement of partners or directors, Karta, Managing Committee, Board of Trustees, Chief Executive Officer or equivalent, responsible for the day to day affairs of the business,-

which does not warrant cancellation of registration under section 29, the proper officer shall, after due verification, approve the amendment within a period of fifteen working days from the date of the receipt of the application in FORM GST REG-14 and issue an order in FORM GST REG-15 electronically and such amendment shall take effect from the date of the occurrence of the event warranting such amendment;

- (b) the change relating to sub-clause (i) and sub-clause (iii) of clause (a) in any State or Union territory shall be applicable for all registrations of the registered person obtained under the provisions of this Chapter on the same Permanent Account Number;
- (c) where the change relates to any particulars other than those specified in clause (a), the certificate of registration shall stand amended upon submission of the application in FORM GST REG- 14 on the common portal;
- (d) where a change in the constitution of any business results in the change of the Permanent Account Number of a registered person, the said person shall apply for fresh registration in FORM GST REG-01:

Provided further that any change in the mobile number or e-mail address of the authorised signatory submitted under this rule, as amended from time to time, shall be carried out only after online verification through the common portal in the manner provided under [sub-rule (2) of rule 8

- (1A) Notwithstanding anything contained in sub-rule (1), any particular of the application for registration shall not stand amended with effect from a date earlier than the date of submission of the application in FORM GST REG-14 on the common portal except with the order of the Commissioner for reasons to be recorded in writing and subject to such conditions as the Commissioner may, in the said order, specify.
- (2) Where the proper officer is of the opinion that the amendment sought under sub-rule (1) is either not warranted or the documents furnished therewith are incomplete or incorrect, he may, within a period of fifteen working days from the date of the receipt of the application in FORM GST REG-14, serve a notice in FORM GST REG-03, requiring the registered person to show cause, within a period of seven working days of the service of the said notice, as to why the application submitted under sub-rule (1) shall not be rejected.

- (3) *The registered person shall furnish a reply to the notice to show cause, issued under sub-rule (2), in FORM GST REG-04, within a period of seven working days from the date of the service of the said notice.*
- (4) *Where the reply furnished under sub-rule (3) is found to be not satisfactory or where no reply is furnished in response to the notice issued under sub-rule (2) within the period prescribed in sub-rule (3), the proper officer shall reject the application submitted under sub-rule (1) and pass an order in FORM GST REG -05.*
- (5) *If the proper officer fails to take any action,-*
- (a) *within a period of fifteen working days from the date of submission of the application, or*
  - (b) *within a period of seven working days from the date of the receipt of the reply to the notice to show cause under sub-rule (3),*

*the certificate of registration shall stand amended to the extent applied for and the amended certificate shall be made available to the registered person on the common portal.*

## **20 Application for cancellation of registration.**

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

## **22 Cancellation of registration.**

- (1) *Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled under section 29, he shall issue a notice to such person in FORM GST REG-17, requiring him to show cause, within a period of seven working days from the date of the service of such notice, as to why his registration shall not be cancelled.*
- (2) *The reply to the show cause notice issued under sub-rule (1) shall be furnished in FORM REG-18 within the period specified in the said sub-rule.*
- (3) *Where a person who has submitted an application for cancellation of his registration is no longer liable to be registered or his registration is liable to be cancelled, the proper officer shall issue an order in FORM GST REG-19, within a period of thirty*

days from the date of application submitted under rule 20 or, as the case may be, the date of the reply to the show cause issued under sub-rule (1), cancel the registration, with effect from a date to be determined by him and notify the taxable person, directing him to pay arrears of any tax, interest or penalty including the amount liable to be paid under sub-section (5) of section 29.

- (4) Where the reply furnished under sub-rule (2) is found to be satisfactory, the proper officer shall drop the proceedings and pass an order in FORM GST REG –20.
- (5) The provisions of sub-rule (3) shall, *mutatis mutandis*, apply to the legal heirs of a deceased proprietor, as if the application had been submitted by the proprietor himself.

**41 Transfer of credit on sale, merger, amalgamation, lease or transfer of a business.**

- (1) A registered person shall, in the event of sale, merger, de-merger, amalgamation, lease or transfer or change in the ownership of business for any reason, furnish the details of sale, merger, de-merger, amalgamation, lease or transfer of business, in FORM GST ITC-02, electronically on the common portal along with a request for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee:

*Provided that in the case of demerger, the input tax credit shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme.*

- (2) The transferor shall also submit a copy of a certificate issued by a practicing chartered accountant or cost accountant certifying that the sale, merger, de-merger, amalgamation lease or transfer of business has been done with a specific provision for the transfer of liabilities.
- (3) The transferee shall, on the common portal, accept the details so furnished by the transferor and, upon such acceptance, the un-utilized credit specified in FORM GST ITC- 02 shall be credited to his electronic credit ledger.
- (4) The inputs and capital goods so transferred shall be duly accounted for by the transferee in his books of account.

**Related provisions of the Statute:**

Section or Rule	Description
Section 2(17)	Definition of Business
Section 2(43)	Definition of Taxable Person
Section 7	Meaning and scope of supply
Section 9	Levy and collection
Section 18	Availability of credit in certain circumstances



Section 28	Amendment of registration
Section 29	Cancellation of registration

### 87.1 Introduction

This section deals with the tax liability on certain transactions between the effective date and date of order of Tribunal / Court in case of amalgamation or merger of companies.

### 87.2 Analysis

- (i) In cases of amalgamation or merger of two or more companies by virtue of an order passed by Tribunal / Court / otherwise, the following two crucial dates are relevant, -
  - Date from / on which the amalgamation / merger is effective;
  - Date of the order pursuant to which the amalgamation / merger takes place;
- (ii) Normally, by virtue of the said order the transactions of supply of goods and/or services inter-se between the companies merged / amalgamated, between two dates, would get nullified as they would become one entity from the effective date (and not from the date of the order).
- (iii) However, for the purposes of GST, by virtue of this provision, such transactions would continue to be treated as supply by one entity and receipt by the other, viz., all the provisions of this law would equally apply as if the amalgamation or merger had not taken place and both the entities continue as two different taxable persons. Till the date of order of amalgamation / merger, those companies shall be treated as distinct companies and should discharge their respective tax liabilities.
- (iv) Thus, this provision would eclipse the order and legal effect of the Court / Tribunal for the limited purposes of GST law.
- (v) It provides that wherever necessary, the registration certificates of the said companies would stand cancelled with effect from the date of the said order.

Please refer to the facility provided by rule 41 for transfer of unutilized input tax credit lying in electronic credit ledger of the transferor.

### 87.3 Comparative analysis with the erstwhile regime

This is comparable to most of the State level VAT laws, wherein the sale of goods between such entities (between the effective date of merger / amalgamation and the date of the order) will be treated as sale by one entity and purchase by the other. Such transactions will continue to be liable to tax as if the merger or amalgamation had not taken place and both the entities continue as two different entities.

### 87.4 Issues and Concerns

As the treatment under the Companies Act, 2013 read with relevant rules thereto and GST law are different for a period commencing from effective date of order of merger till the date of

issue of order, both the merged company and the resultant company will have to keep track of transactions effected between each other during the above said period and maintain relevant reconciliations for the purpose of both the laws, if the same is not done, it would lead to unnecessary complications and avoidable litigations.

### 87.5 MCQs

Q1. When two or more companies are amalgamated, the liability to pay tax on supplies between them during the period of effective date of amalgamation order and date of issue of amalgamation order would be on -

- (a) Transferee;
- (b) Respective companies;
- (c) Any one of the companies;
- (d) None of the above.

Ans: (b) Respective Companies.

### Statutory Provisions

#### **88. Liability in case of company in liquidation**

- (1) *When any company is being wound up whether under the orders of a court or Tribunal or otherwise, every person appointed as receiver of any assets of a company (hereinafter referred to as the "liquidator"), shall, within thirty days after his appointment, give intimation of his appointment to the Commissioner.*
- (2) *The Commissioner shall, after making such inquiry or calling for such information as he may deem fit, notify the liquidator within three months from the date on which he receives intimation of the appointment of the liquidator, the amount which in the opinion of the Commissioner would be sufficient to provide for any tax, interest or penalty which is then, or is likely thereafter to become, payable by the company.*
- (3) *When any private company is wound up and any tax, interest or penalty determined under this Act on the company for any period, whether before or in the course of or after its liquidation, cannot be recovered, then every person who was a director of such company at any time during the period for which the tax was due shall, jointly and severally, be liable for the payment of such tax, interest or penalty, unless he proves to the satisfaction of the Commissioner that such non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.*

**Extract of the CGST Rules, 2017****160 Recovery from Company in liquidation. –**

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

**Related provisions of the Statute:**

Section or Rule	Description
Section 2(17)	Definition of Business
Section 2(43)	Definition of Taxable Person
Section 2(84)	Definition of person
Section 7	Meaning and scope of supply
Section 9	Levy and collection
Section 82	Tax to be first charge on property
Section 137	Offences by Companies

**88.1 Introduction**

This section deals with the tax and other dues of a company in case it is wound up or liquidated. This section has to be read with Rule 160 of CGST Rules, 2017.

**88.2 Analysis**

- (i) Every person appointed as receiver / liquidator needs to give intimation of his appointment to the Commissioner within 30 days of his appointment.
- (ii) Within 3 months from the date of such intimation, the Commissioner, after making necessary enquiry or calling of information, will notify the liquidator to set apart a sum of money that would be sufficient to discharge, in his opinion, the amount of tax, interest and penalty payable by the company.
- (iii) When a private company is not able to clear its dues, then every person who was the director at any time during the period, for which tax is due, would be liable jointly and severally to pay the dues.
- (iv) However, if any director proves to the satisfaction of the Commissioner that such non-recovery is not due to his gross neglect, misfeasance or breach of duty, the liability would not arise in the hands of such director.
- (v) Rule 160 of CGST Rules, 2017 states that where a company is under liquidation, as specified u/s 88 of the CGST Act, then the Commissioner shall notify the liquidator for recovery of any amount representing tax, interest, penalty or any amount due under the Act.

- (vi) While section 88 provides that the provision must be made by liquidator for GST dues 'then' or 'likely thereafter to become payable', Rule 68 provides only for 'amount due' [i.e. crystallised liabilities] existing on the date of the letter and not for likely liabilities to become payable thereafter.
- (vii) As per Rule 160, the intimation must be sent in Form GST DRC – 24 to the Liquidator. This intimation must contain the following details:
  - (a) Name of the company being liquidated
  - (b) The GSTIN of the company being liquidated
  - (c) Date of the letter
  - (d) Period for which demand is being made
  - (e) Demand Order No.
  - (f) Reference to Liquidator's letter intimating liquidation of the company
  - (g) The actual amount or likely amount, the company owes to State / Central Government in terms of tax, interest, penalty, other dues and total arrears thereof
- (viii) Rule 160 employs the term 'notify' the liquidator, while Form GST DRC – 24 'directs' the liquidator to make sufficient provision for discharge of current and anticipated liabilities before final winding up of the company.

### 88.3 Issues and Concerns

- i. It appears that the GST law is directing the liquidator to set aside / make sufficient provision for the tax which is 'due or is likely to be due' under the Act, recoverable from company under liquidation. However, section 326 of The Companies Act, 2013 provides for preferential payments to be made first towards workmen's dues and debts due to secured creditors and only thereafter, follow the sequence as prescribed in section 327 of The Companies Act, 2013 which covers dues to Government in form of taxes, cesses and rates etc.,. Therefore, directing a liquidator to make provision for the amount of tax, interest, penalty and any other amount due / is liable to become due, would be ultra vires the Companies Act, 2013 read with Insolvency Bankruptcy Code, 2016. However, had a reference to section 82 of CGST Act, 2017 been made in this section, it would have been clear that dues are recoverable and a first charge on property of the person can be made, to recover the dues under this Act, only after fulfilling the preferential provisions as per the Companies Act, 2013 read with the Insolvency and Bankruptcy Code, 2016.

### 88.4 MCQs

- Q1. Intimation regarding appointment of liquidator should be given to the Commissioner within 30 days of
  - (a) Liquidation

- (b) Cancellation of registration
- (c) Appointment of Liquidator
- (d) Order of Court

Ans: (c) Appointment of Liquidator

Q2. Commissioner will notify the amount of liability within how many days of intimation

- (a) 3 months
- (b) 30 days
- (c) 60 days
- (d) 6 months

Ans: (a) 3 months

Q3. When would a director not be liable to pay the tax dues,

- (a) Liquidator refuses to pay
- (b) Auditor refuses to pay
- (c) If the non-recovery is not due to gross neglect of the director
- (d) None of the above

Ans: (c) If the non-recovery is not due to gross neglect of the director

### Statutory Provisions

#### **89 Liability of directors of Private Company**

- (1) *Notwithstanding anything contained in the Companies Act, 2013 (18 of 2013), where any tax, interest or penalty due from a private company in respect of any supply of goods or services or both for any period cannot be recovered, then, every person who was a director of the private company during such period shall, jointly and severally, be liable for the payment of such tax, interest or penalty unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.*
- (2) *Where a private company is converted into a public company and the tax, interest or penalty in respect of any supply of goods or services or both for any period during which such company was a private company cannot be recovered before such conversion, then, nothing contained in sub-section (1) shall apply to any person who was a director of such private company in relation to any tax, interest or penalty in respect of such supply of goods or services or both of such private company.*
- Provided that nothing contained in this sub-section shall apply to any personal penalty imposed on such director.*

**Related provisions of the Statute**

Section or Rule	Description
Section 2(43)	Definition of Taxable Person
Section 2(84)	Definition of person
Section 7	Meaning and scope of supply
Section 9	Levy and collection
Section 82	Tax to be first charge on property
Section 137	Offences by Companies

**89.1 Introduction**

This section deals with recovery of tax dues, interest or penalty from the directors of a private company, where the private company has not discharged its tax, penalty or interest liability towards the supply of goods or services.

**89.2 Analysis**

- (i) If the tax, interest or penalty were not paid by a private company in relation to any supply of goods and / or services for any period, then every Director of such private company during such period will be liable to pay such dues. The liability of the Director will be relaxed only when, he proves that such non-recovery of dues is not because of his gross negligence, misfeasance or breach of duty in relation to the affairs of the company.
- (ii) However, when a private company is converted to public company, then no such recovery of old dues can be made from the person(s) who were directors of the private limited company before such conversion.
- (iii) However, an exception has been carved out for the above provision i.e., (ii) above – viz., this is not applicable to personal penalty which can be imposed on such director.

**89.3 MCQs**

- Q1. When a private company is converted into public company, the liability of director of private company before conversion is.....
- (a) Tax only
  - (b) Tax and Interest
  - (c) Tax, Interest or Penalties
  - (d) None of the above

Ans. (d) None of the above

- Q2. Who is liable to pay the tax in case tax, interest or penalty can't be recovered from the private company?
- (a) Additional director
  - (b) Whole time Director
  - (c) Managing Director
  - (d) All of the above

Ans. (d) All of the above

### Statutory Provisions

#### **90. Liability of Partners of firm to pay tax**

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

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

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

### Related provisions of the Statute

Section or Rule	Description
Section 94	Liability in other cases

#### **90.1 Introduction**

This section deals with the liability of a partner of a firm to pay any tax, interest or penalty that was otherwise payable by the firm.

#### **90.2 Analysis**

- (i) Where a partnership firm is liable to pay any tax, interest or penalty, all the partners of such firm will be jointly and severally liable to pay such amounts.
- (ii) If any of the partners retire, then such partner or the firm shall intimate the Commissioner by a notice in writing within one month from the date of retirement. In such cases, the retiring partner shall be liable to pay tax, interest and penalty, if any upto the date of his retirement (whether determined or not prior to retirement).
- (iii) However, where no such intimation is given by the partner to the Commissioner within 1 month from retirement date, the liability of such retired partner will continue till the date on which the intimation is received by the Commissioner.

- (iv) The provision will be equally applicable for LLPs.

Every partner who retires from a partnership firm should file an intimation to the jurisdictional Commissioner giving the details of his retirement – viz., the name of the firm, registration number of the firm and the date of his / her retirement. If the firm is operating in more than one States, such intimation should be filed in all such States.

### 90.3 FAQs

- Q1. Whether the retiring partner is liable to pay tax?

Ans. Retiring partner shall be liable to pay tax, interest and penalty, if any upto the date of his retirement (whether determined or not prior to retirement).

- Q2. What are the precautions to be taken by the retiring partner?

Ans. Retiring partner shall intimate the Commissioner by a notice in writing of his retirement within one month from the date of his retirement.

- Q3. Whether partner or firm is liable to intimate to the Commissioner regarding his retirement?

Ans. Either the retiring partner or the firm shall intimate the Commissioner by a notice in writing of retirement of a partner.

- Q4. What is the time limit for the firm or partner to give intimation of retirement of partner?

Ans. The time limit to intimate retirement is within one month from the date of retirement to ensure that the liability is not fastened post retirement date.

- Q5. What are the consequences of non-intimation?

Ans. The liability of the retiring partner continues till the date of receipt of intimation by the Commissioner.

### 90.4 MCQs

1. Retiring partner should intimate the retirement to

- (a) Department
- (b) Government
- (c) Commissioner
- (d) All of the above

Ans. (c) Commissioner

2. Intimation of retirement as partner, has to be given to the Commissioner within.....

- (a) 1 month from date of retirement



- (b) 60 days from date of retirement
- (c) 90 days from date of retirement
- (d) 45 days from date of retirement

Ans. (a) 1 month from date of retirement

3. If the intimation is delayed to the Commissioner then the retiring partner is liable to pay tax dues till:
- (a) the date of intimation received by the Commissioner
  - (b) the date of acceptance of intimation by the Department
  - (c) the date of retirement
  - (d) the date of show cause notice

Ans. (a) the date of intimation received by the Commissioner

### Statutory Provisions

#### **91. Liability of guardians, trustees etc.**

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

#### **91.1 Introduction**

This section enables collection of tax, interest or penalty from the guardians, trustees or agents of a minor or any other incapacitated person in respect of the business carried on for them.

#### **91.2 Analysis**

- (a) In respect of business carried on, on behalf of, or for the benefit of a minor or incapacitated person (by the following persons who carry on such business), then such person will be liable to pay tax, interest or penalty:
  - Guardian; or
  - Trustee; or
  - Agent;
- (b) The tax, interest, penalty or any other dues which such minor or incompetent person will be liable to, are the amounts which are recoverable from the minor or any such

incapacitated person and which are levied, assessed in the hands of guardian, trustee or agent.

- (c) The dues are recoverable from the guardian, trustee or agent in respect of business of the minor or other incapacitated person by treating them as major or capacitated person, who is conducting the business for himself.
- (d) The deeming fiction is required to overcome the general principle of law, which operates in favour of a minor or incapacitated person to plead minority or incapacity in respect of dues or claims, particularly penal liability.
- (e) Interestingly the expression 'incapacitated person' is not defined in the Act. It should refer only to a person who is a person of unsound mind or one who is terminally ill.

**91.3 FAQs**

Q1. Who is liable for tax dues etc., in case of a business of minor or incapacitated person?

Ans. The Guardian, or the Trustee; or the Agent as the case may be who is conducting the business on behalf and for the benefit of minor or incapacitated person.

Q2. Whether the minor for whom the business is carried out by Guardian can escape liability on the ground of minority of the beneficiary?

Ans. The minor is deemed to be a major for the purposes of collection of any tax/interest/penalties arising out of the business carried out for him. Hence the general principle of law has no application and the Guardian, Trustee or Agent cannot escape each liability.

**91.4 MCQs**

Q1. In case of business carried on by minor or other incapacitated person through Guardian / Agent who is liable to pay tax?

- (a) Guardian/Agent
- (b) Friend
- (c) Business Partner
- (d) None

Ans. (a) Guardian/Agent

Q2. The dues recoverable under this section includes

- (a) Only Interest
- (b) Any dues which are recoverable under this Act
- (c) Only tax
- (d) Only Penalty

Ans. (b) Any dues which are recoverable under this Act

**Statutory Provisions****92. Liability of Courts of Wards etc.**

*Where the estate or any portion of the estate of a taxable person owning a business in respect of which any tax, interest or penalty is payable under this Act is under the control of the Court of Wards, the Administrator General, the Official Trustee or any receiver or manager (including any person, whatever be his designation, who in fact manages the business) appointed by or under any order of a court, the tax, interest or penalty shall be levied upon and be recoverable from such Court of Wards, Administrator General, Official Trustee, receiver or manager, in like manner and to the same extent as it would be determined and be recoverable from the taxable person as if he were conducting the business himself, and all the provisions of this Act or the rules made thereunder shall apply accordingly.*

**92.1 Introduction**

This section empowers collection of tax, interest or penalty from Administrator General, Official Trustee or any receiver or manager, who controls the estate or any portion thereof in respect of the taxable person who owns a business and whose estate is being controlled.

**92.2 Analysis**

In respect of any tax, interest or penalty relating to a business of the taxable person whose estate or part thereof is under the control of the following persons, the said persons will be liable to pay dues under this Act, as if they were themselves conducting the business as taxable person/s:

- (i) Administrator general or
- (ii) Official trustee or
- (iii) Any receiver or manager or
- (iv) Including any person, whatever be his designation, who in fact actually manages the business.

**Illustration.** Mr. ABC is appointed as manager of Mr. X, to manage the estate of Mr. X, who owns a garment business. Mr. X is liable to pay Rs. 20,00,000/- of CGST, interest and penalty to the Government. The department can recover such dues from Mr. ABC who is managing the estates of Mr. X., by invoking this provision.

**92.3 Issues and Concerns**

- (i) The provisions relating to registration or any other provisions of this Act, does not provide for reference of court of wards by whatever name called such as, Administrative General, The Official Trustee, or any receiver or manager who is controlling the estate of part of the estate of a registered person. It is not clear, whether the assessee himself

has to intimate in writing to the jurisdictional officer about court of wards who is conducting business in his behalf and get such court of ward registered in the records of jurisdictional officer.

**92.4 FAQs**

Q1. Who is liable to pay tax dues if the estate of a taxable person is controlled by Court of Wards?

Ans. The dues are recoverable from the Court of Wards, as if he is conducting the business for himself.

**92.5 MCQs**

Q1. If the estate or any portion of the estate of a taxable person is under the control of the Court of Wards, Administrative General etc., the tax due from such taxable person is liable to be paid by -

- (a) Court of Wards.
- (b) Taxable Person
- (c) Legal representative of taxable person
- (d) None of the above

Ans. (a) Court of Wards

Q2. The Court of Wards, Administrative General, etc., must be appointed by-

- (a) Supreme Court
- (b) High Court
- (c) Any court
- (d) None of the above

Ans: (c) Any Court

Q3. The dues recoverable under this section includes

- (a) Only Interest
- (b) Any dues which are recoverable under this Act
- (c) Only tax
- (d) Only Penalty

Ans. (b) Any dues which are recoverable under this Act

**Statutory Provisions****93. Special Provisions regarding liability to pay tax, interest or penalty in certain cases**

- (1) *Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a person, liable to pay tax, interest or penalty under this Act, dies, then-*
- (a) *if a business carried on by the person is continued after his death by his legal representative or any other person, such legal representative or other person, shall be liable to pay tax, interest or penalty due from such person under this Act, and*
  - (b) *if the business carried on by the person is discontinued, whether before or after his death, his legal representative shall be liable to pay, out of the estate of the deceased, to the extent to which the estate is capable of meeting the charge, the tax, penalty or interest due from such person under this Act, -*  
*whether such tax, interest or penalty has been determined before his death but has remained unpaid or is determined after his death.*
- (2) *Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a taxable person, liable to pay tax, interest or penalty under this Act, is a Hindu Undivided Family or an association of persons and the property of the Hindu Undivided Family or the association of persons is partitioned amongst the various members or groups of members, then, each member or group of members shall, jointly and severally, be liable to pay the tax, interest or penalty due from the taxable person under this Act upto the time of the partition whether such tax, penalty or interest has been determined before partition but has remained unpaid or is determined after the partition.*
- (3) *Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a taxable person, liable to pay tax, interest or penalty under this Act, is a firm, and the firm is dissolved, then every person who was a partner shall, jointly and severally, be liable to pay the tax, interest or penalty due from the firm under this Act up to the time of dissolution whether such tax, interest or penalty has been determined before the dissolution, but has remained unpaid or is determined after dissolution.*
- (4) *Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a taxable person liable to pay tax, interest or penalty under this Act,-*
- (a) *is the guardian of a ward on whose behalf the business is carried on by the guardian, or*
  - (b) *is a trustee who carries on the business under a trust for a beneficiary.*  
*then if the guardianship or trust is terminated, the ward or the beneficiary shall be liable to pay the tax, interest or penalty due from the taxable person upto the time of the termination of the guardianship or trust, whether such tax, interest or penalty has been determined before the termination of guardianship or trust but has remained unpaid or is determined thereafter.*

**93.1 Introduction**

Section 93 of GST Act is subject to Insolvency and Bankruptcy Code, 2016. The objects clause of Insolvency and Bankruptcy Code inter-alia is to provide that it has been enacted amongst other things to 'alter the order of priority of payment of Government dues'.

Section 53 of Insolvency and Bankruptcy Code, 2016 which provides for distribution of assets of a company starts with a non-obstante clause against 'any law' enacted by Central or State Government. As per Section 53, the Government dues stand fifth in the order of priority as follows:

- a. Insolvency Resolution process costs and liquidation costs paid in full
- b. Workmen's dues for 24 months preceding liquidation commencement date and debts owed to a secured creditor
- c. Wages and unpaid dues owed to employees for 12 months preceding liquidation commencement date
- d. Financial debts owed to unsecured creditors
- e. Amounts due to Central Government and the State Government, including amount to be received on account of Consolidated Fund of India and Consolidated Fund of State, in respect of whole or part of two years preceding liquidation commencement date'

GST is received by Central and State Governments in the Consolidated Fund of India and Consolidated Fund of State respectively

As per Section 74 of CGST Act, 2017, tax, interest, penalty can be demanded for a period of five years from the relevant date. However, Section 82 of CGST Act, 2017 states that any amount payable by a taxable person or any other person on account of tax, interest or penalty shall be a first charge on the property of such taxable person or other person, subject to Insolvency and Bankruptcy Code, 2016.

**93.2 Analysis****Death of person (individual)**

- (i) If a person (an individual) who is liable to pay tax dies: -
  - (a) In case of continuation of business: the legal representative or the any other person who carries on the business after his death is liable to pay tax, interest, penalty or any other due which is due from the deceased person; or
  - (b) In case of discontinuation of business before or after his death: the legal representative is liable to pay the tax, interest, penalty or any other dues to the government, from and to the extent of the estate of the deceased.
- (ii) The legal representative or any other person as the case may be is liable to pay the tax, interest or penalty whether-
  - (a) It has been determined before his death but has remained unpaid or

- (b) It has been determined after his death<sup>1</sup>

**Partition of HUF or AOP**

- (i) In case of a HUF or AOP property is partitioned between the member or group of members then the liability to pay tax, interest or penalty
- Is on each member or group of members (jointly and severally) who got a portion in that property.
  - The member or the group of members is/are liable only upto the time of partition whether such
    - Tax, interest and penalty has been determined before partition but has remained unpaid or
    - is determined after such partition

**Dissolution of firm**

- (i) In case the firm is dissolved-
- Every person who was a partner upto the time of dissolution is jointly and severally liable to pay the tax, interest or penalty.
  - The person who was a partner is liable to pay tax even if it is
    - determined before dissolution but not paid or
    - determined after dissolution.
  - The provision applicable for partnership firm would equally apply for LLP as well.

**Termination of Guardianship or Trusteeship**

- (i) In case the guardian is carrying on the business on behalf of a ward or the trustee who carries the business under the trust on behalf of beneficiary, then on the termination of guardianship or trusteeship,
- The ward or the beneficiary is liable to pay tax, interest or penalty upto the time of such termination.
  - The ward or the beneficiary is liable to pay tax, interest or penalty
    - determined before the termination of guardianship or trusteeship but not paid or
    - determined after such termination

The above provisions are applicable to extent that there is no contrary provision in Insolvency and Bankruptcy Code, 2016.

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<sup>1</sup> This is to overcome the Supreme Court decision in Shabina Abraham Vs CCE, 2015 (322) ELT 372 (SC),

**93.3 FAQs**

Q1. Can a legal representative be made liable for tax dues payable by a deceased person?

Ans. Yes. Legal representative is made liable for the tax dues of the deceased person even if it is determined after death.

Q2. To what extent tax dues of the deceased person could be recoverable from the legal representative?

Ans. (a) In case of continuation of business: the legal representative or the any other person who carries on the business after his death is liable to pay tax, interest, penalty or any other due which is due from the deceased person; or

(b) In case of discontinuation of business before or after his death: the legal representative is liable to pay the tax, interest, penalty or any other dues to the government. The liability of the legal representative in case of discontinued business is only to the extent of property or estate received from such deceased person.

Q3. In case of partition of HUF or AOP, what would be the extent of liability of members of the HUF/AOP?

Ans. The member or the group of members is/are liable only upto the time of partition.

Q4. In case of dissolution of a firm, upto which date the partners would be responsible to pay the tax dues?

Ans. Every person who was a partner upto the time of dissolution is jointly and severally liable to pay the tax, interest or penalty.

**93.4 MCQs**

Q1. Who is liable to pay tax if the business of an individual is discontinued before his death-

- (a) Board of Directors or Manager
- (b) Any member of his person who is willing to pay
- (c) Legal representative of taxable person
- (d) Employee

Ans. (c) Legal representative of taxable person

Q2. The legal representative or any other person of an individual who is dead is liable to pay tax, only if -

- (a) The business has been carried on by the legal representative
- (b) The business has been carried by the legal representative or any other person
- (c) The business has been carried by any other person
- (d) None of the above.



Ans. (b) The business has been carried on by the legal representative or any other person

Q3. The dues recoverable under this section includes-

- (a) Only Interest
- (b) Any dues which are recoverable under this Act
- (c) Only tax
- (d) Only Penalty

Ans. (b) Any dues which are recoverable under this Act

Q4. As per this section, the member or group of members of HUF or AOP is/are liable to pay tax on taxable supplies -

- (a) Even after its partition
- (b) Upto the time of partition
- (c) Both (a) and (b)
- (d) None of the above

Ans. (b) Upto the time of partition

### Statutory Provisions

#### **94. Liability in other cases**

- (1) *Where a taxable person is a firm or an association of persons or a Hindu Undivided Family and such firm, association or family has discontinued business-*
  - (a) *the tax, interest or penalty payable under this Act by such firm, association or family up to the date of such discontinuance may be determined as if no such discontinuance had taken place; and*
  - (b) *every person who, at the time of such discontinuance, was a partner of such firm, or a member of such association or family, shall, notwithstanding such discontinuance, jointly and severally, be liable for the payment of tax and interest determined and penalty imposed and payable by such firm, association or family, whether such tax and interest has been determined or penalty imposed prior to or after such discontinuance and subject as aforesaid, the provisions of this Act shall, so far as may be, apply as if every such person or partner or member were himself a taxable person.*
- (2) *Where a change has occurred in the constitution of a firm or an association of persons, the partners of the firm or members of association, as it existed before and as it exists after the reconstitution, shall, without prejudice to the provisions of section 90, jointly and severally, be liable to pay tax, interest and penalty due from such firm or association for any period before its reconstitution.*

- (3) *The provisions of sub-section (1) shall, so far as may be, apply where the taxable person, being a firm or association of persons is dissolved or where the taxable person, being a Hindu Undivided Family, has effected partition with respect to the business carried on by it and accordingly references in that sub-section to discontinuance shall be construed as reference to dissolution or, to partition.*

*Explanation.- For the purpose of this chapter,*

- (a) *a "limited liability partnership" formed and registered under the provisions of the Limited Liability Partnership Act, 2008) shall also be considered as a firm.*
- (b) *"court" means the District Court, High Court or Supreme Court.*

#### Related provisions of the Statute

Section or Rule	Description
Section 90	Liability of partners of firm to pay tax

#### 94.1 Introduction

This section discusses the liability of partners of firm or members of AOP or HUF on discontinuance of business.

#### 94.2 Analysis

- (i) In case of discontinuance of business, the firm or AOP or HUF, the liability of the firm/AOP/HUF shall be determined (upto the date of discontinuance) as if no such discontinuance had taken place.
- (ii) Every partner of such firm or member of such AOP or HUF at the time of discontinuance shall be jointly and severally liable for payment of tax, interest and penalty imposed.
- (iii) In case of change in the constitution of the firm or association, the partners and members who existed before reconstitution shall be liable jointly and severally to pay tax, interest or penalty for any period upto the date of reconstitution. This will operate even if the retirement was intimated to the commissioner in terms of Section 90.
- (iv) Discontinuance includes dissolution of firm or association and partition in case of HUF.
- (v) This provision, the way it applies to a partnership firm will apply to an LLP as well.

#### 94.3 FAQs

Q1. In case of discontinuance of business of a firm or AOP or HUF, who would be liable to pay the tax and other dues?

Ans. Every partner of the firm or member of the AOP or HUF at the time of discontinuance shall be jointly and severally liable.

Q2. In case of discontinuance of partnership business to what extent a partner would be liable?

Ans. Every person who was a partner at the time of discontinuance is jointly and severally liable for liability of the discontinued firm towards tax, interest or penalty.

Q3. In case of reconstitution of partnership firm how and to what extent the partners liability is determined?

Ans. Without prejudice to the provisions of section 90, all the partners of the firm prior to the date of reconstitution and after the date of reconstitution shall jointly and severally, be liable to pay tax, interest or penalty due from firm which is reconstituted, for any period before its reconstitution.

**94.4 MCQs**

Q1. In case of discontinuance of HUF business, the liability would arise till the date of

- (a) Discontinuance
- (b) Court verdict
- (c) As mutually agreed upon by the HUF members
- (d) Determination of liability by the Department.

Ans. (a) Discontinuance

Q2. The expression 'firm' would include a \_\_\_\_\_

- (a) company
- (b) LLP
- (c) HUF
- (d) AOP.

Ans. (b) LLP

## Chapter–XVII

# Advance Ruling

Sections	Rules
95. Definitions	103. Qualification and appointment of members of the Authority for Advance Ruling
96. Authority for Advance Ruling*	104. Form and manner of application to the Authority for Advance Ruling
97. Application for Advance Ruling	105. Certification of copies of advance rulings pronounced by the Authority
98. Procedure on receipt of application	106. Form and manner of appeal to the Appellate Authority for Advance Ruling
99. Appellate Authority for Advance Ruling**	107. Certification of copies of the advance rulings pronounced by the Appellate Authority
100. Appeal to Appellate Authority	107A. Manual filing and processing
101. Orders of Appellate Authority	
102. Rectification of advance ruling	
103. Applicability of advance ruling	
104. Advance ruling to be void in certain circumstances	
105. Powers of Authority and Appellate Authority	
106. Procedure of Authority and Appellate Authority	
*Section 96 of the State GST Acts	
**Section 99 of the State GST Acts	

### Statutory provisions

#### **95. Definitions**

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

- (a) “advance ruling” means a decision provided by the Authority or the Appellate Authority to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100, in relation to the supply of goods and/or services or both being undertaken or proposed to be undertaken by the applicant;
- (b) “Appellate Authority” means the Appellate Authority for Advance Ruling referred to in section 99;

- (c) “applicant” means any person registered or desirous of obtaining registration under the Act;
- (d) “application” means an application made to the Authority under sub-section (1) of section 97;
- (e) “Authority” means the Authority for Advance Ruling, referred to in section 96;

**Relevant circulars, notifications, clarifications issued by Government:**

1. Chapter Thirty Seven of the compilation of the GST Flyers as issued by the CBIC on ‘Advance Ruling Mechanism in GST’

**Related Provisions of the Statute**

Section or Rule	Description
Section 2(84)	Definition of Person
Section 97(2)	Question on advance ruling
Section 100(1)	Appeal to the Appellate authority

**95.1 Introduction**

This section defines the expressions ‘advance ruling’, ‘applicant’, ‘application’, ‘authority’ and ‘appellate authority’, for the purpose of this chapter. The meanings of said words assigned by the definitions have to be applied unless the context otherwise requires.

**95.2 Analysis**

- (i) The expression ‘advance ruling’ would mean matters decided by the Authority for Advance Ruling (AAR, in short) and the Appellate Authority for Advance Ruling on the questions raised by the Applicant in respect of matters specified in Section 97(2) or Section 100(1).
- (ii) Such matters or questions could be in relation to supply of goods and/or supply of services being undertaken or proposed to be undertaken by the applicant. The phrase ‘being undertaken’ is a present continuous tense which refers to supply which is underway.
- (iii) The word “applicant” refers to any person already registered or one who desires to get registered under the Act. It is not mandatory to have a registration at the time of making an application for advance ruling. However in case of an unregistered person will be mandatorily be required to have quote his PAN unless he is a non-resident. The term ‘Person’ has been defined in section 2(84) of the Act.
- (iv) One can make an application to the authority under section 97(1) stating the question

on which he seeks advance ruling. An application for advance ruling shall be made in FORM GST ARA-1.

- (v) Thus, an applicant can seek Advance ruling if the following conditions are fulfilled:
  - (a) If such applicant is either registered under the GST law or is desirous of obtaining registration
  - (b) If the matter or question pertains to any issue specified in Section 97(2) or Section 100(1)
  - (c) If the advance ruling is sought in respect of any transaction involving supply of goods or services or both
  - (d) Such a transaction is being undertaken or is proposed to be undertaken. It is important to note that no advance ruling can be sought on transactions already undertaken in the past.
- (vi) The word “authority” refers to the AAR constituted under section 96 of CGST Act, 2017 in each State or Union territory.
- (vii) The expression “Appellate Authority” refers to the Appellate Authority for Advance Ruling constituted under section 99 in each State or Union territory. Therefore every state/Union Territory will have its own Appellate Authority for Advance Ruling.

### 95.3 Comparative review

For the first time an appellate authority for advance ruling has been prescribed. This is a marked departure from the pre-GST regime, which did not provide for an appellate remedy against rulings given by AAR.

Also, under erstwhile laws, advance ruling can be sought by an applicant on an activity of production or manufacture of goods or import or export of goods proposed to be undertaken or a service proposed to be provided by him. However, under the GST laws, advance ruling can also be sought on a present activity of supply of goods and or services being undertaken by the applicant.

Further, the scope of persons eligible to apply for advance ruling has been widened under the GST law as compared to the erstwhile Central Excise, Customs and Service Tax laws.

### 95.4 FAQs

Q1. Can advance ruling be given orally?

Ans. No. Advance ruling cannot be given orally in view of section 98(6) and 98(7).

Q2. Can Advance Ruling be applied for after supply of goods and/or services?

Ans. No, as per section 95(a) of the Act, application can be made for Advance Ruling in relation to the supply of goods and/ or services being undertaken by the applicant but not for a supply which has already been effected.

Q3. Who can make an application to the Authority for Advance Ruling?

Ans. An application for advance ruling can be made by any person defined in section 2(84), either registered or is desirous of obtaining a registration under GST.

### Statutory provisions

#### **96. Authority for advance ruling**

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

### Extract of Delhi SGST Act, 2017:

#### **96. Constitution of Authority for Advance Ruling**

(1) *The Government shall, by notification, constitute an Authority to be known as the Delhi Authority for Advance Ruling:*

*Provided that the Government may, on the recommendation of the Council, notify any Authority located in another State to act as the Authority for the State.*

(2) *The Authority shall consist of-*

*(i) one member from amongst the officers of central tax; and*

*(ii) one member from amongst the officers of State tax,*

*to be appointed by the Central Government and the State Government respectively.*

(3) *The qualifications, the method of appointment of the members and the terms and conditions of their services shall be such as may be prescribed.*

### Extract of the CGST Rules, 2017

#### **103. Qualification and appointment of members of the Authority for Advance Ruling.**

*The Government shall appoint officers not below the rank of Joint Commissioner as member of the Authority for Advance Ruling.*

#### **Relevant circulars, notifications, clarifications issued by Government:**

- Chapter Thirty Seven of the compilation of the GST Flyers as issued by the CBIC on 'Advance Ruling Mechanism in GST'

**Related Provisions of the Statute**

Section or Rule	Description
Section 95 of CGST Act	Definitions
Rule 103 of CGST Rules	Qualification and appointment of members of the Authority for Advance Ruling

**96.1 Introduction**

The Authority for advance ruling constituted under provisions of a State GST Act or UTGST Act shall be deemed to be the Authority for advance ruling in respect of that State or Union territory.

**96.2 Analysis**

The AAR shall be located in each State/Union Territory constituted under the provisions of State Goods and Services Tax Act and Union Territory Goods and Services tax Act. The Government shall appoint officers not below the rank of Joint Commissioner as member of the Authority for Advance Ruling.

As per Section 96 of the State GST Acts, the State Government may, on the recommendation of the Council, notify any AAR located in another State to act as the Authority for Advance Ruling for the State.

Further, the AAR shall consist of one member from amongst the officers of Central tax and one member from amongst the officers of State tax, to be appointed by the Central Government and the State Government respectively. The qualifications, method of appointment of the members and the terms and conditions of their services shall laid down in the SGST Rules.

As the AAR and the Appellate Authority have been instituted under the respective State / Union Territory Act and not the Central Act, the ruling given by the AAR and AAAR will be applicable only within the jurisdiction of the concerned state or union territory. Thus, an advance ruling in case of an applicant in Kerala cannot be made applicable to another division of the same company located in Karnataka. This has the potential to create an absurd scenario where the jurisdictional officer of the division located in Karnataka may choose not to abide by the Advance Ruling issued by the Kerala AAR to another division of the same company in Kerala. Similarly, a situation may also arise wherein the Authority for Advance Ruling in different States may conclude differently in respect of the same issue.

It is important to note that the members of the AAR are appointed from the lot of departmental officers, be it the CGST representative or the SGST representative. These officers who decide upon matters relating to taxability of a transaction, liability of the assessee, registration requirements and other matters stated in Section 97(2) 'are themselves a creation of the system'. Such is the nature of the constitution of the AAR or the Appellate Authority is that the very same officers who have interpreted the law in favour of tax collections will now sit in



judgement on matters of levy, taxability and liability. Hence before applying for an advance ruling, the applicant must appreciate the fact that the members of the AAR or the Appellate Authority cannot question the vires of the provisions of the GST law. It would not be wrong to say interpretations of the members might be prejudiced by their experiences and understanding as tax officers which could cloud the rulings and decisions given by them.

Thus, it is important for an applicant to weigh his options before seeking an Advance Ruling however attractive a proposition it may seem to be. Given that Section 103 states that an advance ruling shall have a binding effect on the applicant and the officers in respect of the applicant, the applicant should analyse the impact of an advance ruling not going in his favour. Would it be more beneficial for the assessee to litigate the matter in the Court of law as and when the need arises or on the other hand submit himself before the AAR (previously, tax officers) which would involve disclosing his business model, books of accounts and other material facts requires examination.

### 96.3 Comparative review

Under the erstwhile laws, there is one AAR for three Central indirect tax laws i.e. Central Excise, Customs and Service Tax constituted by the Central Government under section 28F of the Customs Act, 1962 having its office in Delhi. Under the GST law, there will be one AAR in each State or Union Territory because the concept of advance ruling is being made applicable to SGST laws/ UTGST laws as well.

### 96.4 FAQs

Q1. Where will the office of AAR be situated?

Ans. The office of the AAR will be situated in each State/UT. However, the State Government, on the recommendation of the Council, may notify any AAR located in another State to act as the Authority for Advance Ruling for the State.

### Statutory provisions

#### 97. Application for Advance Ruling

- (1) *An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and manner and accompanied by such fee as may be prescribed, stating the question on which the advance ruling is sought.*
- (2) *The question on which the advance ruling is sought under this Act shall be in respect of,*
  - (a) *classification of any goods and/or services or both;*
  - (b) *applicability of a notification issued under provisions of this Act;*
  - (c) *determination of time and value of supply of goods or services or both;*
  - (d) *admissibility of input tax credit of tax paid or deemed to have been paid;*
  - (e) *determination of the liability to pay tax on any goods or services or both;*
  - (f) *whether applicant is required to be registered;*

- (g) *whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.*

**Extract of the CGST Rules, 2017****104. Form and manner of application to the Authority for Advance Ruling.**

- (1) *An application for obtaining an advance ruling under sub-section (1) of section 97 shall be made on the common portal in FORM GST ARA-01 and shall be accompanied by a fee of five thousand rupees, to be deposited in the manner specified in section 49.*
- (2) *The application referred to in sub-rule (1), the verification contained therein and all the relevant documents accompanying such application shall be signed in the manner specified in rule 26.*

**106. Form and manner of appeal to the Appellate Authority for Advance Ruling.**

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

**107A. Manual filing and processing.**

*Notwithstanding anything contained in this Chapter, in respect of any process or procedure prescribed herein, any reference to electronic filing of an application, intimation, reply, declaration, statement or electronic issuance of a notice, order or certificate on the common portal shall, in respect of that process or procedure, include manual filing of the said application, intimation, reply, declaration, statement or issuance of the said notice, order or certificate in such Forms as appended to these rules.*

**Relevant circulars, notifications, clarifications issued by Government:**

1. Circular No. 25/25/2017-GST dated 21.12.2017 regarding Manual filing of applications for Advance Ruling and appeals before Appellate Authority for Advance Ruling.

2. Chapter Thirty Seven of the compilation of the GST Flyers as issued by the CBIC on 'Advance Ruling Mechanism in GST'

#### Related Provisions of the Statute

Section or Rule	Description
Section 95	Definitions
Section 98	Procedure on receipt of application
Section 100	Appeal to Appellate Authority
Section 49	Payment of tax, interest, penalty and other amounts
Rule 26	Method of authentication

#### 97.1 Introduction

This section specifies the matters in respect of which an advance ruling can be sought and prescribes the form and manner in which an application for advance ruling may be filed.

#### 97.2 Analysis

- (i) An applicant who seeks an advance ruling should make an application online in the prescribed FORM GST ARA-01 together with a fee of Rs. 5000/- stating the question on which such a ruling is sought. Similarly, an applicant who seeks to file an appeal before the Appellate Authority for Advance Ruling shall apply online in FORM GST ARA-02 together with a fee of Rs. 10000/-.
- (ii) The said fee of Rs. 5000/- or Rs. 10000/- as the case may be, shall be paid by the applicant under the CGST Act and the respective State GST Act utilising the amount in the Electronic Cash Ledger in the manner specified in section 49.
- (iii) The application and all the relevant documents accompanying such application should be digitally signed through Digital Signature Certificate (DSC) or e-signature as specified in Rule 26.
- (iv) It is advised that the questions or issues in respect of which an advance ruling is sought be simple, direct and specific. The facts brought out in the application should be germane and pertinent to the issue at hand. Facts which do not necessarily concern the issue at hand would not require mention in the application as this might attract unnecessary attention to the business carried out by the assessee. Although an AAR cannot extend its scope by ruling on matters or issues not sought, it is still advisable that an applicant exercise restraint and caution while placing facts in the application.
- (v) As regards an appeal against an advance ruling by the AAR filed by the concerned officer or the jurisdictional officer, the application shall be filed online in Form GST ARA-03 without any payment of fee.
- (vi) The question raised is limited to the following:
  - a) Classification of any goods or services or both;

- b) Applicability of notification issued under the GST law.
- c) Determining the time and value of supply of goods or services or both;
- d) Input credit admissibility of tax paid or deemed to be paid;
- e) Determination of liability to pay tax on any goods or services or both;
- f) Requirement for registration by an applicant;
- g) Whether any particular thing done by the applicant amounts to or results in supply of goods or services or both.

Thus, it is apparent from this section that the Authority will not admit questions or matters which fall outside the purview of the issues stated above.

- (vii) It is interesting to observe that matters relating to determination of place of supply are beyond the scope of matters to be decided by the Authority. This emanates from the fact that the ruling given by the AAR and AAAR will be applicable only within the jurisdiction of the concerned state or union territory and not beyond.
- (viii) Also, no advance ruling can be sought on matters such as those relating to
  - a) Transitional credits specified in Chapter XX of the CGST Act, 2017
  - b) E-way bill requirements
  - c) Anti-Profiteering issues
  - d) Restraining officers from initiating an action/proceeding under the Act
- (ix) Manual filing of an Application for Advance Ruling: Although Rules 104 and 106 specify filing of an application on the common portal, Rule 107A was introduced to allow manual filing of the same. Accordingly Circular No. 25/25/2017-GST dated 21.12.2017 was issued detailing the procedures for manual filing of an application for advance ruling till such time the advance ruling module is made available on the common portal. An application for advance ruling, or appeal thereon to be filed by the applicant, the concerned officer or the jurisdictional officer shall be filed in quadruplicate. It is to be noted that though the application shall be filed manually, the fee is required to be deposited online in terms of section 49 of the CGST Act. The Applicant is required to download and take a print of the challan and file the application duly signed by the authorised person with the Authority for Advance Ruling. One may refer to the above circular for detailed procedures to be followed for manual filing of an application for advance ruling or an appeal to the Appellate Authority for Advance Ruling.

*Note: The circular allowing manual filing of applications for advance ruling shall be effective in a State only until such time an online module is made available on the common portal.*

### 97.3 Comparative review

The questions on which AAR can be sought is quite comprehensive as compared to the erstwhile indirect tax regime.

Under the erstwhile laws, the applicant may withdraw the application within 30 days from the date of application. However, there is no such withdrawal provision under present GST laws.

#### 97.4 FAQs

Q1. Can the application made to the authority be withdrawn at any time?

Ans. It appears that there is no such provision under present GST law.

Q2. Should the applicant submit individual applications for advance ruling on various issues?

Ans. No. The applicant can choose to consolidate all the issues in one application for advance ruling.

Q3. Should the applicant make an application for advance Ruling under CGST Act, SGST Act and IGST Act separately?

Ans. No. The applicant can file one consolidated application seeking an advance ruling on all matters irrespective of the GST legislation to which the issue pertains to.

#### Statutory provisions

##### 98. Procedure on receipt of application

(1) *On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the concerned officer and, if necessary, call upon him to furnish the relevant records:*

*Provided that where any records have been called for by the Authority in any case, such records shall, as soon as possible, be returned to the said concerned officers.*

(2) *The Authority may, after examining the application and the records called for and after hearing the applicant or his authorised representative and the concerned officer or his authorised representative, by order, either admit or reject the application:*

*Provided that the Authority shall not admit the application where the question raised in the application is already pending or decided in any proceedings in the case of an applicant under any of the provisions of this Act.*

*Provided further that no application shall be rejected under this sub-section unless an opportunity of hearing has been given to the applicant:*

*Provided also that where the application is rejected, the reasons for such rejection shall be specified in the order.*

(3) *A copy of every order made under sub-section (2) shall be sent to the applicant and to the concerned officer.*

(4) *Where an application is admitted under sub-section (2), the Authority shall, after examining such further material as may be placed before it by the applicant or obtained by the Authority and after providing an opportunity of being heard to the applicant or his authorized representative as well as to the concerned officer or his*

*authorised representative, pronounce its advance ruling on the question specified in the application.*

- (5) *Where the members of the Authority differ on any question on which the advance ruling is sought, they shall state the point or points on which they differ and make a reference to the Appellate Authority for hearing and decision on such question.*
- (6) *The Authority shall pronounce its advance ruling in writing within ninety days from the date of receipt of application.*
- (7) *A copy of the advance ruling pronounced by the Authority duly signed by the members and certified in such manner as may be prescribed shall be sent to the applicant, the concerned officer and the jurisdictional officer after such pronouncement.*

#### **Extract of the CGST Rules, 2017**

##### **105. Certification of copies of advance rulings pronounced by the Authority.**

*A copy of the advance ruling shall be certified to be a true copy of its original by any member of the Authority for Advance Ruling.*

#### **Relevant circulars, notifications, clarifications issued by Government:**

1. Chapter Thirty Seven of the compilation of the GST Flyers as issued by the CBIC on 'Advance Ruling Mechanism in GST'

#### **Related Provisions of the Statute**

Section or Rule	Description
Section 95	Definitions
Section 101	Orders of Appellate Authority
Section 116	Appearance by authorised representative
Rule 107A	Manual filing and processing

#### **98.1 Introduction**

This section sets out the procedure to be followed by the Authority for Advance Ruling (AAR) on receipt of an application for advance ruling by an applicant.

#### **98.2 Analysis**

##### **Receipt of Application**

- (i) On receipt of an application in FORM GST ARA-01, the AAR shall forward a copy to the concerned officer and, if necessary, direct him to furnish the relevant records.
- (ii) Such records should be returned as soon as possible to the concerned officer. No specific time limit has been set out for submission of the said records to the AAR

- (iii) The AAR may either accept or reject the application after considering the application, examining the records, hearing the applicant and the concerned officer or their authorised representatives. However no application shall be rejected without giving the applicant an opportunity of being heard.
- (iv) Any application for advance ruling involving questions already pending or decided in any proceedings in the case of that applicant under any of the provisions of this Act shall not be admitted. Thus, it is important to note that issues pending or decided in a proceeding in respect of another person will not disentitle the applicant from seeking an advance ruling on the same issue.
- (v) Where the application is finally rejected, the reasons for such rejection shall be stated in the order.
- (vi) A copy of every order admitting or rejecting made shall be sent to the applicant and to the concerned officer.

**Pronouncement of advance ruling**

Where the application is admitted, the AAR shall proceed as follows:

- Examine such further material as may be placed before it by the applicant or obtained by the AAR.
- Provide opportunity of being heard to the applicant or his authorized representatives and concerned officer or this authorized representative.
- Pronounce its advance ruling in writing on the question(s) specified in the application within 90 days from the date of receipt of application.

**Reference to Appellate Authority**

- (i) Where the members of the AAR differ on any question on which the advance ruling is sought, they shall state the point(s) of difference and refer it to the Appellate Authority for advance ruling for final decision.
- (ii) The Appellate Authority to whom a reference is made due to difference of opinion is required to pronounce the ruling within ninety days of such reference.

**Submission of advance ruling pronounced.**

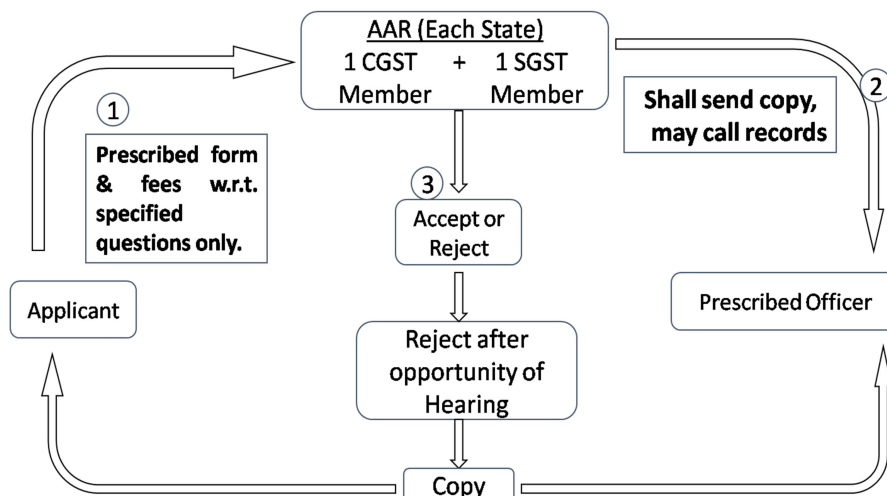
A copy of the advance ruling pronounced by the concerned AAR / Appellate Authority, duly signed by the Members and certified, shall be sent to the applicant and to the concerned officer after pronouncement. A copy of the advance ruling shall be certified to be a true copy of its original by any member of the Authority for Advance Ruling.

**98.3 Comparative review**

- (i) The provision has some similarities with the Advance Rulings provision in Central Indirect Tax laws.
- (ii) In case of difference of opinion, the matter would be directly referred to the appellate authority, which is a new development.

The analysis of above provision in a pictorial form is summarised as follows:

#### Application for Advance ruling – Sec: 98 & 97



\* Not to admit if already before/decided by any Adjudicating or Appellate Authority.

#### Procedure for Advance ruling

##### 98.4 FAQs

Q1. When can the AAR reject the application for advance ruling?

Ans. AAR shall not admit the application where the issue raised is already pending or decided in any proceedings in the case of an applicant under any of the provisions of this Act.

Q2. Can an application be rejected without providing the applicant an opportunity of being heard?

Ans. No. Before rejecting the application, the AAR is bound to provide the applicant with an opportunity of being heard.

Q3. Is it necessary to specify reasons for rejecting an application in the order of the AAR?

Ans. Yes. Where the application is rejected, reasons for such rejection shall be given in the order.

Q4. When should a reference be made to the appellate authority?

Ans. A reference shall be made to the Appellate Authority stating the point of differences, when the members of the authority differ on any question on which advance ruling is sought.



**98.5 MCQs**

Q1. On receipt of an application for advance ruling, Authority for Advance ruling shall:

- (a) fix a date of hearing
- (b) forward a copy of the same to concerned officers
- (c) None of the above

Ans. (b) forward a copy of the same to concerned officers.

Q2. AAR shall refuse to admit the application if the issue raised in the application is already pending in the applicant's own case before:

- (a) any First Appellate Authority
- (b) the Appellate Tribunal
- (c) any Court;
- (d) All the above

Ans. (d) All the above

Q3. The AAR shall pronounce its advance ruling:

- (a) Without examining further materials placed before it by the applicant
- (b) After examining further materials placed before it by the applicant
- (c) Without providing the applicant or his AR any opportunity of being heard
- (d) After providing the applicant or his AR any opportunity of being heard
- (e) (b) & (d) both

Ans. (e) (b) & (d) both

Q4. The AAR should pronounce the ruling within:

- (a) 30 days from the date of receipt of application
- (b) 90 days from the date of receipt of application
- (c) 60 days from the date of receipt of application
- (d) 45 days. from the date of receipt of application

Ans. (b) 90 days from the date of receipt of application

Q4. A copy of the Advance Ruling signed and certified by the members shall be sent to

- a) Applicant
- b) Concerned officer
- c) Jurisdictional officer
- d) All the above

Ans: d) All the above

**Statutory provisions****99. Appellate Authority for Advance Ruling**

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

**Extract of Delhi SGST Act, 2017:****99. Constitution of Appellate Authority for Advance Ruling**

*The Government shall, by notification, constitute an Authority to be known as Delhi Appellate Authority for Advance Ruling for Goods and Services Tax for hearing appeals against the advance ruling pronounced by the Advance Ruling Authority consisting of –*

- (i) the Chief Commissioner of central tax as designated by the Board; and*
- (ii) the Commissioner of State tax:*

*Provided that the Government may, on the recommendations of the Council, notify any Appellate Authority located in another State or Union territory to act as the Appellate Authority for the State.*

**Relevant circulars, notifications, clarifications issued by Government:**

1. Chapter Thirty Seven of the compilation of the GST Flyers as issued by the CBIC on 'Advance Ruling Mechanism in GST'

**Related Provisions of the Statute**

Section or Rule	Description
Section 95	Definitions
Section 99 of SGST Act	Constitution of Appellate Authority for Advance Ruling

**99.1 Introduction**

The appellate authority for advance ruling shall be constituted in each state/UT. The State Government may, on the recommendations of the Council, notify any Appellate Authority located in another State or Union territory to act as the Appellate Authority for the State.

**99.2 Analysis**

The appellate authority constituted in each State/UT shall be deemed to be the Appellate Authority in respect of that State/UT which will entertain appeals against any advance ruling that is passed by the AAR of that State/UT. However, similar to Section 96 in respect of AAR, a State Government may, on the recommendations of the Council, notify any Appellate Authority located in another State/UT to act as the Appellate Authority for the State.

The Appellate Authority for Advance Ruling shall consist of members representing the Central GST and the State GST. The Chief Commissioner of central tax as designated by the Board and the Commissioner of State tax shall constitute the Appellate Authority for Advance Ruling.

### 99.3 Comparative Review

This is a new concept hitherto not seen in the pre-GST regime. Under erstwhile tax laws, there was no provision for an appellate authority for advance ruling.

#### Statutory provisions

##### **100 Appeal to Appellate Authority**

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

#### Extract of the CGST Rules, 2017

##### **106. Form and manner of appeal to the Appellate Authority for Advance Ruling.**

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

**107A. Manual filing and processing.**

*Notwithstanding anything contained in this Chapter, in respect of any process or procedure prescribed herein, any reference to electronic filing of an application, intimation, reply, declaration, statement or electronic issuance of a notice, order or certificate on the common portal shall, in respect of that process or procedure, include manual filing of the said application, intimation, reply, declaration, statement or issuance of the said notice, order or certificate in such Forms as appended to these rules.*

**Relevant circulars, notifications, clarifications issued by Government:**

1. Circular No. 25/25/2017-GST dated 21.12.2017 regarding Manual filing of applications for Advance Ruling and appeals before Appellate Authority for Advance Ruling.
2. Chapter Thirty Seven of the compilation of the GST Flyers as issued by the CBIC on 'Advance Ruling Mechanism in GST'

**Related Provisions of the Statute**

Section or Rule	Description
Section 95	Definitions
Section 97	Application for Advance Ruling
Section 99	Appellate authority for advance ruling
Section 49	Payment of tax, interest, penalty and other amounts
Rule 26	Method of authentication

**100.1 Introduction**

This section deals with the procedure to be followed for filing of an appeal before the appellate authority against the ruling` of the authority under section 98(4).

**100.2 Analysis**

- (i) An appeal can be filed by the concerned or jurisdictional officer or the applicant, who is aggrieved by the ruling.
- (ii) The appeal should be filed within 30 days from the date of receipt of the ruling. This period can further be extended for another 30 days, if there is sufficient cause for not filing the appeal within the first 30 days.
- (iii) The appeal shall be filed by the aggrieved applicant in FORM GST ARA-02 along with a fee of Rs.10,000/- to be paid under the CGST Act and the respective SGST Act.
- (iv) An appeal preferred by the concerned officer or the Jurisdictional officer shall be in the

prescribed FORM GST ARA-03 without any fee and shall to be signed by an officer authorized in writing by such officer.

- (v) The procedure for manual filing has been detailed in Circular No. 25/25/2017-GST dated 21.12.2017. The same has been discussed in Para 97.2

### 100.3 Comparative review

This is a new mechanism evolved which was not prevalent in the erstwhile indirect tax regime.

### 100.4 FAQs

Q1. Who can file an appeal before the appellate authority for advance ruling?

Ans. The concerned officer or jurisdictional officer or the applicant may file an appeal before the Appellate Authority, if he is aggrieved by the advance ruling pronounced by the authority under section 98(4).

Q2. What is the time limit for filing an appeal before the appellate authority for advance ruling?

Ans. The time limit for filing an appeal before the appellate authority is 30 days from the date of communication of the advance ruling to the aggrieved party. This time can further be extended by another 30 days if sufficient cause is shown for not filing the appeal within the first 30 days.

### Statutory provisions

#### 101. Orders of the Appellate Authority

- (1) *The Appellate Authority may, after giving the parties to the appeal or reference an opportunity of being heard, pass such order as it thinks fit, confirming or modifying the ruling appealed against or referred to.*
- (2) *The order referred to in sub-section (1) shall be passed within a period of ninety days from the date of filing of the appeal under section 100 or a reference under sub-section (5) of section 98.*
- (3) *Where the members of the Appellate Authority differ on any point or points referred to in appeal or reference, it shall be deemed that no advance ruling can be issued in respect of the question under the appeal or reference.*
- (4) *A copy of the advance ruling pronounced by the Appellate Authority duly signed by the Members and certified in such manner as may be prescribed shall be sent to the applicant, the concerned officer, the jurisdictional officer and to the Authority after such pronouncement.*

**Extract of the CGST Rules, 2017****107. Certification of copies of the advance rulings pronounced by the Appellate Authority.**

*A copy of the advance ruling pronounced by the Appellate Authority for Advance Ruling and duly signed by the Members shall be sent to-*

- (a) the applicant and the appellant;*
- (b) the concerned officer of central tax and State or Union territory tax;*
- (c) the jurisdictional officer of central tax and State or Union territory tax; and*
- (d) the Authority,*

*in accordance with the provisions of sub-section (4) of section 101 of the Act.*

**Relevant circulars, notifications, clarifications issued by Government:**

1. Chapter Thirty Seven of the compilation of the GST Flyers as issued by the CBIC on 'Advance Ruling Mechanism in GST'

**Related Provisions of the Statute**

Section or Rule	Description
Section 95	Definitions
Section 97	Application for Advance Ruling
Section 99	Appellate authority for advance ruling
Section 49	Payment of tax, interest, penalty and other amounts
Rule 26	Method of authentication

**101.1 Introduction**

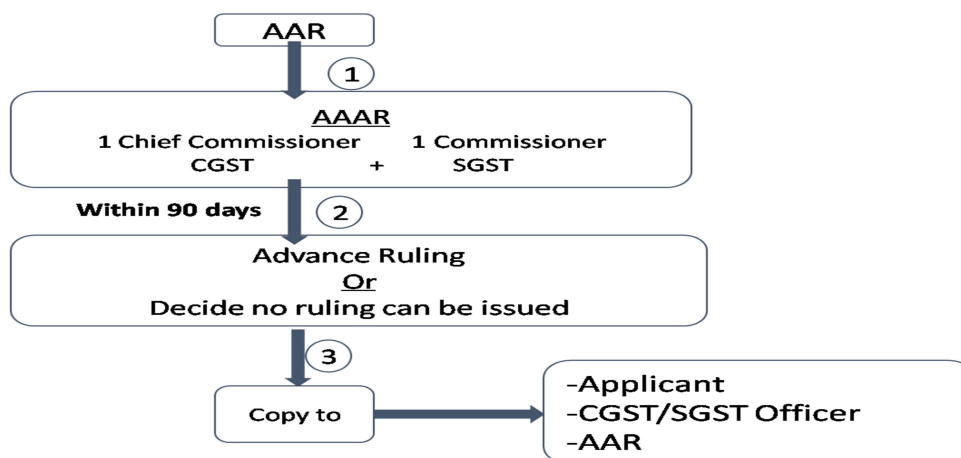
This section prescribes the procedure to be followed by the appellate authority where an appeal has been preferred against an advance ruling by the AAR under Section 98(4) or a reference has been made to it by the AAR under Section 98(5).

**101.2 Analysis**

- (i) The appellate authority must afford a reasonable opportunity of being heard to the parties before passing the order after which it may choose to either:
  - a. Confirm the Advance Ruling passed by the AAR;
  - b. Modify the Advance Ruling appealed against; or
  - c. Pass such orders as it may deem fit

- (ii) The order should be passed within 90 days from the date of filing appeal or date of reference by the AAR.
- (iii) If there is a difference of opinion between members on the question covered under the appeal, then it would be considered that no advance ruling can be issued in respect of that matter on which no consensus was reached by the members. Thus, all matters or questions for which an advance ruling has been sought will not be deemed to be matters against which no advance ruling can be passed if the Appellate Authority has reached a consensus on other matters or questions raised therein.

#### Appellate Authority for Advance ruling – Sec: 100 & 101



**Note:** Rulings pronounced will only have a prospective effect.

#### 101.3 Issues and Concerns

- (i) Is the Appellate Authority for Advance Ruling empowered to only decide on such matters contained in the Advance Ruling against which the appellant is aggrieved or can the appellate authority review the entire impugned Advance Ruling against which an appeal has been preferred?
- (ii) Where the advance ruling has been issued by the AAR under Section 98(4) of the Act and the same has is the subject matter of an appeal before the Appellate Authority, what is the status of the original ruling during the interim period until the appeal has reached finality? Would the appellants and other parties to the advance ruling be obliged to conform to the advance ruling during the interim period?
- (iii) Where an advance ruling decided by the AAR has been appealed against and in respect of which the members of the Appellate Authority have not been able to reach a conclusion, would such a question or matter still be deemed to be a matter against which no advance ruling can be issued although the AAR had originally decided on the issue?
- (iv) Can the ruling by the Appellate Authority be challenged in a higher Court of law?

**101.4 FAQs**

Q1. What is the time limit for passing of an order by the appellate authority for advance ruling?

Ans. The time limit for passing of an order by the appellate authority for advance ruling is 90 days from the date of filing of appeal.

Q2. Under what circumstances will it be deemed that no advance ruling can be issued in respect of the question covered under the appeal?

Ans. Where the members of the appellate authority differ on any point or points of the question referred to them in appeal under 101(3), then it shall be deemed that no advance ruling is issued in respect of the question covered under the appeal.

**Statutory provisions****102. Rectification of advance ruling**

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

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

**Related Provisions of the Statute**

Section or Rule	Description
Section 95	Definitions
Section 98	Procedure on receipt of application
Section 101	Orders of Appellate Authority

**102.1 Introduction**

This section deals with the rectification of an error in the advance ruling which is apparent on the face of the record, the time limit within which it may be rectified and the procedures to be followed in respect of the same.

**102.2 Analysis**

1. The rectification may be made by the AAR or Appellate Authority within six months from the date of the order, and shall not result in a substantial amendment to the order being rectified. The rectification shall not arise on account of any interpretational issues or change in views and opinions of the members of the AAR and Appellate Authority.



2. Any rectification resulting in an increase in the tax liability or reduction of admissible input tax credit shall be carried out only after giving the applicant/appellant an opportunity of being heard.
3. The AAR or Appellate authority may amend the order to rectify any mistake apparent from records, if such mistake:
  - (a) Is noticed by it on its own accord, or
  - (b) Is brought to its notice by the concerned or the jurisdictional officer or
  - (c) Is brought to its notice by the applicant/ appellant.

### 102.3 FAQs

Q1. When can an advance ruling order be rectified?

Ans. An advance ruling may be amended by the Authority or Appellant Authority, as the case may be, with a view to rectify any mistake apparent from the record, which:

- (a) is noticed by the AAR or Appellate Authority on its own accord, or
- (b) is brought to the notice of the AAR or Appellate Authority by the concerned officer or the jurisdictional officer or;
- (c) is brought to the notice of the AAR or Appellate Authority notice by the appellant or applicant.

Q2. Under what circumstances is a notice required to be issued to the applicant or appellant, as the case may be, before rectification of an advance ruling order?

Ans. Before rectification of an advance ruling order, a notice is required to be issued to the applicant or appellant, as the case may be, to provide him a reasonable opportunity of being heard, if such rectification has the effect of:

- i. enhancing the tax liability or
- ii. reducing the amount of admissible input tax credit.

### 102.4 MCQs

Q1. Rectification of order can be done under the following circumstances

- (a) to do justice
- (b) when there is mistake apparent on record
- (c) if it is in the interest of revenue
- (d) none of the above.

Ans. (b) when there is mistake apparent on record

Q2. What is the time limit to rectify the order?

- (a) Three months from the date of the order

- (b) Six months from the date of the order
- (c) Six months from the date of communication of the order
- (d) None of the above

Ans. (b) Six months from the date of the order

### Statutory provisions

#### **103. Applicability of advance ruling**

- (1) *The advance ruling pronounced by the Authority or, the Appellate Authority under this chapter shall be binding only -*
  - (a) *on the applicant who had sought it in respect of any matter referred to in subsection (2) of section 97 for advance ruling;*
  - (b) *on the concerned or jurisdictional officer in respect of the applicant.*
- (2) *The advance ruling referred to in sub-section (1) shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.*

### Related Provisions of the Statute:

Section or Rule	Description
Section 95	Definitions
Section 97	Application for Advance Ruling

#### **103.1 Introduction**

This provisions specifies the persons to whom the Advance Ruling will apply and the period for which the Advance Ruling shall stay in effect.

#### **103.2 Analysis**

- (i) The advance ruling pronounced by the Authority under this chapter shall be binding only on the applicant and on the jurisdictional officer in respect of the applicant. It is important to note the advance ruling is GSTIN specific and not PAN based. That is to say, the advance ruling obtained by an applicant would not be applicable to distinct person of such applicant.
- (ii) Therefore, an applicant/appellant does not have an option but to abide by the advance ruling that he had applied for.
- (iii) The advance ruling shall be binding on the said persons/authorities unless there is a change in law or facts or circumstances, on the basis of which the advance ruling has been pronounced. When any change occurs in such laws, facts or circumstances, the advance ruling shall no longer remain binding on such person.
- (iv) Although an advance ruling may not be binding on persons other than the applicant or the appellant, it does throw light on the manner in which the law is being understood and interpreted. Other assesseees could draw inferences from the advance rulings.

- (v) The above provision which seeks to bind only the applicant to the advance ruling could be misused by which applications for advance rulings are filed through a proxy carrying on business with the same/similar business model or issues. This would help gauge the interpretation of the revenue officers without having to be bound by the ruling.

### 103.3 Issues and Concerns

- (i) An advance ruling would be in effect only till such time that the law, facts of the case or circumstances on which the original advance ruling was based, remains changed. One has to consider if Circulars issued by the CBIC subsequent an advance ruling can be considered to be a change in law, as may be contended by the proper officers.

### 103.4 Comparative review

The provision is similar to the Advance Rulings provisions in erstwhile Central Indirect Tax laws as contained in section 23E of Central Excise Act, section 28J of Customs Act and section 96E of the Finance Act, 1994.

### 103.5 FAQs

Q1. Is the advance ruling binding on other assessee?

Ans. No. Advance ruling is binding only on that applicant who has sought an advance ruling.

Q2. Are the tax authorities bound by the advance ruling?

Ans. Only the jurisdictional officer/concerned officer, in respect of applicant who has sought advance ruling is bound by the advance ruling.

### Statutory provisions

#### 104. Advance Ruling to be void in certain circumstances

- (1) *Where the Authority or the Appellate Authority finds that advance ruling pronounced by it under sub-section (4) of section 98 or under sub-section (1) of section 101 has been obtained by the applicant or the appellant by fraud or suppression of material facts or misrepresentation of facts, it may, by order, declare such ruling to be void ab initio and thereupon all the provisions of the Act or the Rules made thereunder shall apply to the applicant or the appellant as if such advance ruling had never been made:*

*Provided that no order shall be passed under this sub-section unless an opportunity of being heard has been given to the applicant or the appellant.*

*Explanation. - The period beginning with the date of such advance ruling and ending with the date of order under this sub-section shall be excluded while computing the period specified in sub-sections (2) and (10) of section 73 or sub-sections (2) and (10) of section 74.*

- (2) *A copy of the order made under sub-section (1) shall be sent to the applicant, the concerned office and the jurisdictional officer.*

**Related Provisions of the Statute:**

Section or Rule	Description
Section 98	Procedure on receipt of application
Section 101	Orders of Appellate Authority
Section 73	Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful misstatement or suppression of facts.
Section 74	Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful misstatement or suppression of facts

**104.1 Introduction**

It states the circumstances under which the ruling would be considered as void *ab initio* and the resultant impact.

**104.2 Analysis**

- (i) Where the Authorities (AAR or Appellate Authority, as the case may be) subsequently discover that an advance ruling has been obtained by the applicant or appellant fraudulently or by way of suppression of material facts or misrepresentation of facts, the Authorities are empowered to declare such a ruling to be void *ab initio*.
- (ii) The above would result in all the provisions of the Act becoming applicable to the applicant as if such advance ruling had never been made.
- (iii) However, no such order can be passed by the AAR or Appellate Authority without giving the applicant/appellant an opportunity of being heard. A copy of such order, once passed, shall be sent to the applicant and the concerned/ jurisdictional officer.
- (iv) The period beginning with the date of advance ruling and ending with the date of order declaring the advance ruling to be void *ab initio* shall be excluded in computing the period for issuance of Show-cause notice and adjudication order under sub-section (2) and (10) of both Section 73 and 74 respectively.

Sections 73(2) and 73(10) specify the time limit within which a show cause notice and adjudication order respectively, may be issued in a case where the tax is not paid, short paid, erroneously refunded or ITC has been wrongly utilised or refunded.

Similarly, Section 74(2) and 74(10) specifies the time limit within which a show cause notice and adjudication order respectively, may be issued in a case where the tax is not paid, short paid, erroneously refunded or ITC has been wrongly utilised or refunded by reason of fraud or any wilful misstatement or suppression of facts.

The period of limitation for raising a demand for recovery under Section 73(10) and Section 74(10) has been pegged at 3 years and 5 years respectively from the date of

furnishing the annual return for the year in respect of which a demand is being raised. The said period of 3 and 5 years shall be extended by the period equivalent to the period beginning with the date of advance ruling and ending with the date of order declaring the advance ruling to be void *ab initio*, to enable the officer to issue a show cause notice or demand order.

What this section seeks to do is provide the proper officers an additional window to recover such amount from the applicant/appellant as would have been payable by him had he not sought the advance ruling fraudulently.

#### 104.3 Issues and Concerns

- (i) One should consider if the this section can be made applicable to render an advance ruling to be void *ab initio* in bona fide cases where the applicant/appellant himself was not aware of certain facts at the time of seeking the advance ruling.
- (ii) Would the advance ruling also be declared to be void *ab initio* where an applicant on subsequent realisation of having genuinely erred in placing the facts before the AAR or Appellate Authority, voluntarily brings it to the notice of the AAR or Appellate Authority? Or would it be more appropriate for an applicant to seek another advance ruling based on current facts that have subsequently come to his notice?
- (iii) Where the applicant/appellant has raised multiple issues to be decided by way of an advance ruling and it was subsequently discovered by the Authorities that there was suppression of fact in respect of one particular issue, can the advance ruling be held to be valid in respect of the other issues raised therein not involving any suppression of fact?

#### 104.4 Comparative review

The provision relating to the circumstances when an advance ruling can be declared void *ab initio* are more or less the same as those in the erstwhile central Indirect Tax laws as contained in section 23F of Central Excise Act, section 28K of Customs Act and section 96F of the Finance Act, 1994 except that under GST laws, an additional criterion of “suppression of material facts” has been added to serve as a basis for declaring an advance ruling void *ab initio*.

#### 104.5 FAQs

Q1. Can the advance ruling be declared to be void without hearing?

Ans. No. An advance ruling cannot be declared to be void unless the opportunity of being heard has been given.

Q2. Under what circumstances advance ruling can be declared as void?

Ans. The authority or the appellate authority may declare an advance ruling to be void *ab initio* if it the applicant or the appellant, as the case may be, has obtained it by fraud, suppression of material facts or misrepresentation of facts.

**Statutory provisions****105. Powers of the Authority and Appellate Authority**

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

**Related Provisions of the Statute:**

Section or Rule	Description
Section 195 of the Code of Criminal Procedure	Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence
Chapter XXVI of the Code of Criminal Procedure	Provisions As To Offences Affecting The Administration Of Justice
Section 193 of the Indian Penal Code	Punishment for false evidence
Section 228 of the Indian Penal Code	Intentional insult or interruption to public servant sitting in judicial proceeding
Section 196 of the Indian Penal Code	Using evidence known to be false

**105.1 Introduction**

The provision specifies the powers conferred on the AAR and appellate authority in the discharge of its functions.

**105.2 Analysis**

- (i) The Authorities have all the powers of a civil court under the Code of Civil Procedure, 1908 for the purpose of discovery and inspection, enforcing the attendance of any

person and examining him on oath, issuing commissions and compelling production of books of account and other records.

- (ii) The Authorities are deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973.
- (iii) Every proceeding before the Authorities shall be deemed to be a judicial proceeding within the meaning of sections 193, 196 and 228 of the Indian Penal Code, 1860.

### 105.3 Comparative review

The powers remain exactly the same as have been specified in section 23G of Central Excise Act, section 28L of Customs Act and section 96G of the Finance Act, 1994.

### 105.4 FAQs

Q1. What are the powers vested with the authority and the appellate authority?

Ans. The authority or the appellate authority shall have all the powers of a civil court to exercise the following powers:

- (i) discovery and inspection;
- (ii) enforcing attendance of any person and examining him on oath;
- (iii) issuing commissions and compelling production of books of accounts and other records.

Q2. What is the nature of proceedings conducted by the AAR and appellate authority under this chapter?

Ans. The nature of proceeding conducted by AAR and appellate authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of Indian Penal Code (45 of 1860)

### 105.5 MCQs

Q1. The AAR shall be deemed to be a \_\_\_\_\_:

- (a) High Court
- (b) Supreme Court
- (c) Economic Offences Court
- (d) Civil Court

Ans. (d) Civil court

Q2. The proceedings under this chapter shall be deemed to be:

- (a) Quasi-judicial proceedings
- (b) Judicial proceedings
- (c) Administration proceedings

(d) Special proceedings

Ans. (b) Judicial proceedings

### Statutory provisions

**106. Procedure of the Authority and the Appellate Authority**

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

**106.1 Introduction**

It seeks to empower the AAR and the Appellate Authority to regulate its own procedure.

**106.2 Analysis**

The Authorities shall have the power to regulate their own procedure.

**106.3 Comparative review**

The powers remain exactly the same as are contained in section 23H of Central Excise Act, section 28L of Customs Act and section 96H of the Finance Act.

Various states have constituted the Advance Ruling Authority and are issuing the Advance Ruling clarification on various issues under the GST Act. There is no provision stating that the Advance Ruling clarified in one state is applicable to all the states and union Territories. There is possibility of difference Advance Ruling by different states and accordingly it will be applicable to respective states only unless the different ruling is issued by the respective state. The Advance Ruling Authority should be common for all the states and union territories to reduce the disparity and to bring uniformity in the GST law.



## Chapter–XVIII

# Appeals and Revision

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Sections	Rules
107. Appeals to Appellate Authority	108. Appeal to the Appellate Authority
108. Powers of Revisional Authority	109. Application to the Appellate Authority
109. Constitution of Appellate Tribunal and Benches thereof	109A. Appointment of Appellate Authority
110. President and Members of Appellate Tribunal, their qualification, appointment, conditions of service, etc.	110. Appeal to the Appellate Tribunal
111. Procedure before Appellate Tribunal	111. Application to the Appellate Tribunal
112. Appeals to Appellate Tribunal	112. Production of additional evidence before the Appellate Authority or the Appellate Tribunal
113. Orders of Appellate Tribunal	113. Order of Appellate Authority or Appellate Tribunal
114. Financial and administrative powers of President	114. Appeal to the High Court
115. Interest on refund of amount paid for admission of appeal	115. Demand confirmed by the Court
116. Appearance by authorised representative	116. Disqualification for misconduct of an authorised representative
117. Appeal to High Court	
118. Appeal to Supreme Court	
119. Sums due to be paid notwithstanding appeal, etc.	
120. Appeal not to be filed in certain cases	
121. Non-appealable decisions and orders	

### Statutory Provisions

#### **107. Appeals to Appellate Authority**

- (1) *Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such appellate authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.*

- (2) *The Commissioner may, on his own motion, or upon request from the Commissioner of State tax or the Commissioner of Union Territory Tax, call for and examine the record of any proceeding in which an adjudicating authority has passed any decision or order under this Act, or under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, for the purpose of satisfying himself as to the legality or propriety of the said decision or order and may, by order, direct any Officer subordinate to him to apply to the Appellate Authority within six months from the date of communication of the said decision or order for the determination of such points arising out of the said decision or order as may be specified by the Commissioner in his order.*
- (3) *Where, in pursuance of an order under sub-section (2), the authorized officer makes an application to the Appellate Authority, such application shall be dealt with by the Appellate Authority as if it were an appeal made against the decision or order of the adjudicating authority and such authorised officer were an appellant and the provisions of this Act relating to appeals shall apply to such application.*
- (4) *The Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months or six months, as the case may be, allow it to be presented within a further period of one month.*
- (5) *Every appeal under this section shall be in such form and shall be verified in such manner as may be prescribed.*
- (6) *No appeal shall be filed under sub-section (1) unless the appellant has paid –*
- (a) *in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and*
  - (b) *a sum equal to ten per cent of the remaining amount of tax in dispute arising from the said order, in relation to which the appeal has been filed.*
- (7) *Where the appellant has paid the amount under sub-section (6), the recovery proceedings for the balance amount shall be deemed to be stayed.*
- (8) *The Appellate Authority shall give an opportunity to the appellant of being heard.*
- (9) *The Appellate Authority may, if sufficient cause is shown at any stage of hearing of an appeal, grant time to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:*
- Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.*
- (10) *The Appellate Authority may, at the time of hearing of an appeal, allow an appellant to add any ground of appeal not specified in the grounds of appeal, if it is satisfied that the omission of that ground from the grounds of appeal was not wilful or unreasonable.*
- (11) *The Appellate Authority shall, after making such further inquiry as may be necessary,*

*pass such order, as it thinks just and proper, confirming, modifying or annulling the decision or order appealed against but shall not refer the case back to the adjudicating authority that passed the said decision or order.*

*Provided that an order enhancing any fee or penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund or input tax credit shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order:*

*Provided further that where the Appellate Authority is of the opinion that any tax has not been paid or short-paid or erroneously refunded, or where input tax credit has been wrongly availed or utilized, no order requiring the appellant to pay such tax or input tax credit shall be passed unless the appellant is given notice to show cause against the proposed order and the order is passed within the time limit specified under section 73 or section 74.*

- (12) The order of the Appellate Authority disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for such decision.*
- (13) The Appellate Authority shall, where it is possible to do so, hear and decide every appeal within a period of one year from the date on which it is filed:*  
*Provided that where the issuance of order is stayed by an order of a Court or Tribunal, the period of such stay shall be excluded in computing the period of one year.*
- (14) On disposal of the appeal, the Appellate Authority shall communicate the order passed by it to the appellant, respondent and to the adjudicating authority.*
- (15) A copy of the order passed by the Appellate Authority shall also be sent to the jurisdictional Commissioner or the authority designated by him in this behalf and the jurisdictional Commissioner of State Tax or Commissioner of Union Territory Tax or an authority designated by him in this behalf.*
- (16) Every order passed under this section shall, subject to the provisions of section 108 or section 113 or section 117 or section 118, be final and binding on the parties.*

#### **Extract of the CGST Rules, 2017**

##### **108. Appeal to the Appellate Authority**

- (1) An appeal to the Appellate Authority under sub-section (1) of section 107 shall be filed in FORM GST APL-01, along with the relevant documents, either electronically or otherwise as may be notified by the Commissioner, and a provisional acknowledgement shall be issued to the appellant immediately.*
- (2) The grounds of appeal and the form of verification as contained in FORM GST APL-01 shall be signed in the manner specified in rule 26.*

- (3) A certified copy of the decision or order appealed against shall be submitted within seven days of filing the appeal under sub-rule (1) and a final acknowledgement, indicating appeal number shall be issued thereafter in FORM GST APL-02 by the Appellate Authority or an officer authorised by him in this behalf:

*Provided that where the certified copy of the decision or order is submitted within seven days from the date of filing the FORM GST APL-01, the date of filing of the appeal shall be the date of the issue of the provisional acknowledgement and where the said copy is submitted after seven days, the date of filing of the appeal shall be the date of the submission of such copy.*

*Explanation.– For the provisions of this rule, the appeal shall be treated as filed only when the final acknowledgement, indicating the appeal number, is issued.*

#### **109. Application to the Appellate Authority**

- (1) An application to the Appellate Authority under sub-section (2) of section 107 shall be made in FORM GST APL-03, along with the relevant documents, either electronically or otherwise as may be notified by the Commissioner.
- (2) A certified copy of the decision or order appealed against shall be submitted within seven days of the filing the application under sub-rule (1) and an appeal number shall be generated by the Appellate Authority or an officer authorised by him in this behalf.

#### **109A. Appointment of Appellate Authority**

- (1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to -
- the Commissioner (Appeals) where such decision or order is passed by the Additional or Joint Commissioner;
  - the Additional Commissioner (Appeals) where such decision or order is passed by the Deputy or Assistant Commissioner or Superintendent,
- within three months from the date on which the said decision or order is communicated to such person.*
- (2) An officer directed under sub-section (2) of section 107 to appeal against any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to –
- the Commissioner (Appeals) where such decision or order is passed by the Additional or Joint Commissioner;
  - the Additional Commissioner (Appeals) where such decision or order is passed by the Deputy or Assistant Commissioner or the Superintendent, within six months from the date of communication of the said decision or order.

**112. Production of additional evidence before the Appellate Authority or the Appellate Tribunal.**

- (1) *The appellant shall not be allowed to produce before the Appellate Authority or the Appellate Tribunal any evidence, whether oral or documentary, other than the evidence produced by him during the course of the proceedings before the adjudicating authority or, as the case may be, the Appellate Authority except in the following circumstances, namely:-*
  - (a) *where the adjudicating authority or, as the case may be, the Appellate Authority has refused to admit evidence which ought to have been admitted; or*
  - (b) *where the appellant was prevented by sufficient cause from producing the evidence which he was called upon to produce by the adjudicating authority or, as the case may be, the Appellate Authority; or*
  - (c) *where the appellant was prevented by sufficient cause from producing before the adjudicating authority or, as the case may be, the Appellate Authority any evidence which is relevant to any ground of appeal; or*
  - (d) *where the adjudicating authority or, as the case may be, the Appellate Authority has made the order appealed against without giving sufficient opportunity to the appellant to adduce evidence relevant to any ground of appeal.*
- (2) *No evidence shall be admitted under sub-rule (1) unless the Appellate Authority or the Appellate Tribunal records in writing the reasons for its admission.*
- (3) *The Appellate Authority or the Appellate Tribunal shall not take any evidence produced under sub-rule (1) unless the adjudicating authority or an officer authorised in this behalf by the said authority has been allowed a reasonable opportunity -*
  - (a) *to examine the evidence or document or to cross-examine any witness produced by the appellant; or*
  - (b) *to produce any evidence or any witness in rebuttal of the evidence produced by the appellant under sub-rule (1)*
- (4) *Nothing contained in this rule shall affect the power of the Appellate Authority or the Appellate Tribunal to direct the production of any document, or the examination of any witness, to enable it to dispose of the appeal.*

**Relevant circulars, notifications, clarifications, flyers issued by Government: -**

1. Chapter Fifty of the compilation of the GST Flyers titled 'Appeals and Review Mechanism under GST', as issued by the CBIC (erstwhile CBEC).

**Related provisions of the Statute**

Section or Rule	Description
Section 2(4)	Definition of “adjudicating authority”
Section 2(8)	Definition of “appellate authority”
Section 2(24)	Definition of “commissioner”
Section 73	Recovery of tax for reasons other than fraud or any wilful-misstatement or suppression of facts.
Section 74	Recovery of tax for reasons of fraud or any wilful-misstatement or suppression of facts.

**107.1 Introduction**

- (a) This section pertains to appeals to the appellate authority by any person who is aggrieved against any decision or order passed by the adjudicating authority.
- (b) This section also provides for appeal by the tax authorities against a decision or order passed by adjudicating authority.

**107.2 Analysis**

- (i) An assessee, aggrieved by any decision or order may prefer an appeal within a period of 3 months from the date of communication of decision or order in **Form GST APL-01**, along with relevant documents either electronically or otherwise as notified by the Commissioner against which a provisional acknowledgement will be issued. The grounds of appeal and form of verification must be duly signed and a certified copy of the decision or order is to be filed before the Appellate Authority within 7 days of filing the appeal. Thereafter, a final acknowledgement indicating the appeal number shall be issued in **Form GST APL-02** by the said authority. In such a situation, the appeal shall be deemed to be filed on the date on which the provisional acknowledgement stands issued.

In case the said certified copy is submitted after a period of 7 days, the date of filing of appeal shall be the date of submission of such copy.

The appeal shall be considered as filed only when the final acknowledgement, indicating the appeal number is issued.

- (ii) Alternatively, the Commissioner of Central / State or any Union territory can, with a view to satisfy himself about the legality or propriety of any order or decision, direct a subordinate officer to file an application before the Appellate Authority within 6 months from the date of communication of decision or order in **Form GST APL-03**, along with relevant documents either electronically or otherwise as notified against issue of an acknowledgement. A certified copy of the decision or order of the appeal is to be filed before the Appellate Authority within 7 days of filing the application and an appeal number shall be generated accordingly.

- (iii) The appellate authority in either of the above cases is empowered to condone the delay up to a period of 1 month.
- (iv) The Appeal has to be filed before the following authorities:
  - Commissioner (Appeals) where such decision or order is passed by the Additional or Joint Commissioner; and
  - the Additional Commissioner (Appeals) where such decision or order is passed by the Deputy or Assistant Commissioner or Superintendent
- (v) Appeal has to be filed in prescribed form and manner along with payment of:
  - Amount of tax, interest, fine, fee & penalty, as is admitted, in full; and
  - pre-deposit of sum equal to 10% of remaining amount of tax in dispute.
- (vi) On payment of above amount, the recovery proceedings for balance amount are deemed to be stayed.
- (vii) Maximum 3 adjournments shall be granted to a party on showing reasonable cause that is to be recorded in writing.
- (viii) Appellate authority may allow any additional grounds not specified in the grounds of appeal on being satisfied that the omission was not wilful or unreasonable.
- (ix) Appellate authority has to pass the order confirming, modifying or annulling the decision or order appealed against, but shall not remand the case back to the adjudicating authority.
- (x) Opportunity of being heard to be granted in case of order for enhancing fees or penalty or fine in lieu of confiscation of goods or reducing amount of refund/input tax credit after issuing show cause notice.
- (xi) The appellate authority has power to issue show cause notice in case it is of the opinion that any tax has not been paid or short paid or erroneously refunded or input tax credit is wrongly availed or utilised.
- (xii) Appellate authority has to hear and decide the appeal, wherever possible, within a period of 1 year from the date of filing.
- (xiii) Where the issuance of order is stayed by an order of a court or Tribunal, the period of such stay shall be excluded in computing the period of one year.
- (xiv) Appellate authority to communicate the copy of order to the appellant, the respondent, the adjudicating authority, jurisdictional Commissioner of CGST, SGST and UTGST.
- (xv) The Appellate Authority shall, along with its order under sub-section (11) of section 107 of the Act, issue a summary of the order in **FORM GST APL-04** clearly indicating the final amount of demand confirmed.

**Production of additional evidence before the Appellate Authority**

- (i) In addition to the evidences produced by the appellant before the adjudicating authority during the course of the proceedings, he is permitted to produce before the Appellate Authority additional evidences in the following cases:
  - (a) where evidence that ought to be admitted has been refused by the adjudicating authority; or
  - (b) where the appellant was prevented by sufficient cause from producing the evidence which he was called upon to produce by the adjudicating authority; or
  - (c) where the appellant was prevented by sufficient cause from producing before the adjudicating authority any evidence which is relevant to any ground of appeal; or
  - (d) where the adjudicating authority has made the order appealed against without giving sufficient opportunity to the appellant to adduce evidence relevant to any ground of appeal.
- (ii) The evidence shall be admitted only after the Appellate Authority records in writing the reasons for its admission.
- (iii) The Appellate Authority shall not take any evidence produced under sub-rule (1) unless the reason for its admission is not recorded in writing and the adjudicating authority has been allowed a reasonable opportunity -
  - (a) to examine the evidence or document or to cross-examine any witness produced by the appellant; or
  - (b) to produce any evidence or any witness in rebuttal of the evidence produced by the appellant under sub-rule (1).

**107.3 Comparative review**

- (i) Similar provisions are contained in Section 84 & 85 of the Finance Act, 1994 & Section 35 of the Central Excise Act, 1944
- (ii) After examining the records of proceedings related to decision or order passed by adjudicating authority subordinate to him, Principal Commissioner of Central Excise or Commissioner of Central Excise may pass an order.
- (iii) Under Service Tax, previously the time limit for filing first appeal to CCE (Appeals) by adjudicating authority is 1 month from the date of order or decision of Principal Commissioner of Central Excise or Commissioner of Central Excise

**Statutory Provisions****108 Powers of Revisional Authority**

- (1) *Subject to the provisions of section 121 and any rules made thereunder, the Revisional Authority may, on his own motion, or upon information received by him or on request from the commissioner of State tax or the Commissioner of Union territory*



*tax, call for and examine the record of any proceedings and if he considers that any decision or order passed under this Act or under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by any officer subordinate to him is erroneous in so far as it is prejudicial to the interest of revenue and is illegal or improper or has not taken into account certain material facts, whether available at the time of issuance of said order or not or in consequence of an observation by the Comptroller and Auditor General of India, he may, if necessary, stay the operation of such decision or order for such period as he deems fit and after giving the person concerned an opportunity of being heard and after making such further inquiry as may be necessary, pass such order, as he thinks just and proper, including enhancing or modifying or annulling the said decision or order.*

- (2) *The Revisional Authority shall not exercise any power under sub-section (1), if -*
  - (a) *the order has been subject to an appeal under section 107 or under section 112 or under section 117 or under section 118; or*
  - (b) *the period specified under sub-section (2) of section 107 has not yet expired or more than three years have expired after the passing of the decision or order sought to be revised; or*
  - (c) *the order has already been taken for revision under this section at any earlier stage; or*
  - (d) *the order has been passed in exercise of the powers under sub-section (1):*  
*Provided that the Revisional Authority may pass an order under sub-section (1) on any point which has not been raised and decided in an appeal referred to in clause (a) of sub-section (2), before the expiry of a period of one year from the date of the order in such appeal or before the expiry of a period of three years referred to in clause (b) of that sub-section, whichever is later.*
- (3) *Every order passed in revision under sub-section (1) shall, subject to the provisions of sections 113 or section 117 or section 118, be final and binding on the parties.*
- (4) *If the said decision or order involves an issue on which the Appellate Tribunal or the High Court has given its decision in some other proceedings and an appeal to the High Court or the Supreme Court against such decision of the Appellate Tribunal or the High Court is pending, the period spent between the date of the decision of the Appellate Tribunal and the date of the decision of the High Court or the date of decision of the High Court and the date of the decision of the Supreme Court shall be excluded in computing the period of limitation referred to in clause (b) of sub-section (2) where proceedings for revision have been initiated by way of issue of a notice under this section.*
- (5) *Where the issuance of an order under sub-section (1) is stayed by the order of a Court or Appellate Tribunal, the period of such stay shall be excluded in computing the period of limitation referred to in clause (b) of sub-section (2).*

- (6) For the purposes of this section, the term, -
- (i) 'record' shall include all records relating to any proceedings under this Act available at the time of examination by the Revisional Authority.
- (ii) 'decision' shall include intimation given by any officer lower in rank than the Revisional Authority.

**Relevant circulars, notifications, clarifications, flyers issued by Government: -**

1. Chapter Fifty of the compilation of the GST Flyers titled 'Appeals and Review Mechanism under GST', as issued by the CBIC (erstwhile CBEC).

**Related provisions of the Statute**

Section or Rule	Description
Section 2(99)	Definition of "revisional authority"
Section 121	Non-appealable decisions and orders
Section 107	Appeals to Appellate Authority
Section 112	Appeals to Appellate Tribunal
Section 117	Appeals to High Court
Section 118	Appeals to Supreme Court

**108.1 Introduction**

This section pertains to revisionary powers of Revisional Authority.

**108.2 Analysis**

- (i) The Revisional Authority is empowered to examine any proceedings and stay the operation of any decision or order, if he considers that such decision or order passed by any officer subordinate to him is erroneous in so far as it is prejudicial to the interest of the revenue.
- (ii) After giving the concerned person an opportunity of being heard and making further necessary inquiry, the Revisional Authority may pass an order within 3 years of passing of the said order sought to be revised including enhancing or modifying or annulling the said decision or order.
- (iii) The Revisional Authority shall not exercise such revisionary powers if
- (a) appeal is filed against the order to –
- Appellate Authority U/s.107
  - Appellate Tribunal U/s.112
  - High Court U/s.117
  - Supreme Court U/s.118

- (b) period of 6 months as specified in section 107(2) has not expired or more than 3 years have expired after passing the decision or order
  - (c) the order has already been taken for revision at any earlier stage
  - (d) revisionary order has already been passed once.
- (iv) However, the Revisional Authority may pass an order on any point which has not been raised & decided in an appeal, referred to hereinabove, within 1 year from the date of order passed in such appeal or within 3 years from the date of such order sought to be revised, whichever is later.

### Statutory Provisions

#### **109 Constitution of the Appellate Tribunal and Benches thereof**

- (1) *The Government shall, on the recommendations of the Council, by notification, constitute with effect from such date as may be specified therein, an Appellate Tribunal known as the Goods and Services Tax Appellate Tribunal for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority.*
- (2) *The powers of the Appellate Tribunal shall be exercisable by the National Bench and Benches thereof (hereinafter in this Chapter referred to as "Regional Benches"), State Bench and Benches thereof (hereafter in this Chapter referred to as "Area Benches").*
- (3) *The National Bench of the Appellate Tribunal shall be situated at New Delhi which shall be presided over by the President and shall consist of one Technical Member (Centre) and one Technical Member (State).*
- (4) *The Government shall, on the recommendations of the Council, by notification, constitute such number of Regional Benches as may be required and such Regional Benches shall consist of a Judicial Member, one Technical Member (Centre) and one Technical Member (State).*
- (5) *The National Bench or Regional Benches of the Appellate Tribunal shall have jurisdiction to hear appeals against the orders passed by the Appellate Authority or the Revisional Authority in the cases where one of the issues involved relates to the place of supply.*
- (6) *The Government shall, by notification, specify for each State or Union territory, a Bench of the Appellate Tribunal (hereafter in this Chapter, referred to as "State Bench") for exercising the powers of the Appellate Tribunal within the concerned State or Union territory:*

*Provided that the Government shall, on receipt of a request from any State Government, constitute such number of Area Benches in that State, as may be recommended by the Council:*

*Provided further that the Government may, on receipt of a request from any State, or on its own motion for a Union territory, notify the Appellate Tribunal in a State to act as the Appellate Tribunal for any other State or Union territory, as may be recommended by the Council, subject to such terms and conditions as may be prescribed.*

- (7) *The State Bench or Area Benches shall have jurisdiction to hear appeals against the orders passed by the Appellate Authority or the Revisional Authority in the cases involving matters other than those referred to in sub-section (5).*
- (8) *The President and the State President shall, by general or special order, distribute the business or transfer cases among Regional Benches or, as the case may be, Area Benches in a State.*
- (9) *Each State Bench and Area Benches of the Appellate Tribunal shall consist of a Judicial Member, one Technical Member (Centre) and one Technical Member (State) and the State Government may designate the senior most Judicial Member in a State as the State President.*
- (10) *In the absence of a Member in any Bench due to vacancy or otherwise, any appeal may, with the approval of the President or, as the case may be, the State President, be heard by a Bench of two Members:*

*Provided that any appeal where the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined in any order appealed against, does not exceed five lakh rupees and which does not involve any question of law may, with the approval of the President and subject to such conditions as may be prescribed on the recommendations of the Council, be heard by a Bench consisting of a single Member.*

- (11) *If the Members of the National Bench, Regional Benches, State Bench or Area Benches differ in opinion on any point or points, it shall be decided according to the opinion of the majority, if there is a majority, but if the Members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the President or, as the case may be, State President for hearing on such point or points to one or more of the other Members of the National Bench, Regional Benches, State Bench or Area Benches and such point or points shall be decided according to the opinion of the majority of Members who have heard the case, including those who first heard it.*
- (12) *The Government, in consultation with the President may, for the administrative convenience, transfer—*
  - (a) *any Judicial Member or a Member Technical (State) from one Bench to another Bench, whether National or Regional; or*
  - (b) *any Member Technical (Centre) from one Bench to another Bench, whether National, Regional, State or Area.*

- (13) *The State Government, in consultation with the State President may, for the administrative convenience, transfer a Judicial Member or a Member Technical (State) from one Bench to another Bench within the State.*
- (14) *No act or proceedings of the Appellate Tribunal shall be questioned or shall be invalid merely on the ground of the existence of any vacancy or defect in the constitution of the Appellate Tribunal.*

**Relevant circulars, notifications, clarifications, flyers issued by Government**

1. Chapter Fifty of the compilation of the GST Flyers titled 'Appeals and Review Mechanism under GST', as issued by the CBIC (erstwhile CBEC).

**Related provisions of the Statute**

Section or Rule	Description
Section 2(9)	Definition of "appellate tribunal"
Section 2(36)	Definition of "council"

**109.1 Introduction**

- (a) This section pertains to constitution of GST Appellate Tribunal

**109.2 Analysis**

- (a) Based on the recommendation of the Council and by Notification, the Central Government shall constitute Goods & Service Tax Appellate Tribunal (GSTAT) for hearing appeals against the orders passed by the Appellate Authority or Revisional Authority.
- (b) The powers of the Appellate Tribunal shall be exercisable by the National Bench or Regional Benches and State Bench or Area Benches.
- (c) The National Bench shall be situated at New Delhi which shall be presided over by the President, one Technical Member (Centre) and one Technical Member (State).
- (d) The Regional Benches shall consist of a Judicial Member, one Technical Member (Centre) and one Technical Member (State).
- (e) The National Bench or Regional Benches shall hear the appeals only where one of the issues involved relates to the place of supply.
- (f) The State Bench or Area Benches shall hear the appeals involving matters other than matters covering place of supply.
- (g) The President and the State President shall by general or special order distribute the business or transfer cases among Regional Benches or Area Benches in a State.
- (h) In the absence of a member of any bench due to vacancy or otherwise, any appeal with the approval of President or State President be heard by a bench of two members.

- (i) Any matter (other than matter involving question of law) involving tax, input tax credit, fine, fee or penalty not exceeding ₹5 Lakhs may be heard by single member bench.
- (j) No act or proceedings of the Appellate Tribunal shall be questioned or shall be invalid merely only on the ground of the existence of any vacancy or defect in the constitution of Appellate Tribunal.

**Statutory Provisions****110 President and Members of Appellate Tribunal, their qualification, appointment, conditions of service, etc.**

- (1) A person shall not be qualified for appointment as—
  - (a) the President, unless he has been a Judge of the Supreme Court or is or has been the Chief Justice of a High Court, or is or has been a Judge of a High Court for a period not less than five years;
  - (b) a Judicial Member, unless he—
    - (i) has been a Judge of the High Court; or
    - (ii) is or has been a District Judge qualified to be appointed as a Judge of a High Court; or
    - (iii) is or has been a Member of Indian Legal Service and has held a post not less than Additional Secretary for three years;
  - (c) a Technical Member (Centre) unless he is or has been a member of Indian Revenue (Customs and Central Excise) Service, Group A, and has completed at least fifteen years of service in Group A;
  - (d) a Technical Member (State) unless he is or has been an officer of the State Government not below the rank of Additional Commissioner of Value Added Tax or the State goods and services tax or such rank as may be notified by the concerned State Government on the recommendations of the Council with at least three years of experience in the administration of an erstwhile law or the State Goods and Services Tax Act or in the field of finance and taxation.
- (2) The President and the Judicial Members of the National Bench and the Regional Benches shall be appointed by the Government after consultation with the Chief Justice of India or his nominee:
 

*Provided that in the event of the occurrence of any vacancy in the office of the President by reason of his death, resignation or otherwise, the senior most Member of the National Bench shall act as the President until the date on which a new President, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office:*

*Provided further that where the President is unable to discharge his functions owing to absence, illness or any other cause, the senior most Member of the National*

*Bench shall discharge the functions of the President until the date on which the President resumes his duties.*

- (3) *The Technical Member (Centre) and Technical Member (State) of the National Bench and Regional Benches shall be appointed by the Government on the recommendations of a Selection Committee consisting of such persons and in such manner as may be prescribed.*
- (4) *The Judicial Member of the State Bench or Area Benches shall be appointed by the State Government after consultation with the Chief Justice of the High Court of the State or his nominee.*
- (5) *The Technical Member (Centre) of the State Bench or Area Benches shall be appointed by the Central Government and Technical Member (State) of the State Bench or Area Benches shall be appointed by the State Government in such manner as may be prescribed.*
- (6) *No appointment of the Members of the Appellate Tribunal shall be invalid merely by the reason of any vacancy or defect in the constitution of the Selection Committee.*
- (7) *Before appointing any person as the President or Members of the Appellate Tribunal, the Central Government or, as the case may be, the State Government, shall satisfy itself that such person does not have any financial or other interests which are likely to prejudicially affect his functions as such President or Member.*
- (8) *The salary, allowances and other terms and conditions of service of the President, State President and the Members of the Appellate Tribunal shall be such as may be prescribed:*  
*Provided that neither salary and allowances nor other terms and conditions of service of the President, State President or Members of the Appellate Tribunal shall be varied to their disadvantage after their appointment.*
- (9) *The President of the Appellate Tribunal shall hold office for a term of three years from the date on which he enters upon his office, or until he attains the age of seventy years, whichever is earlier and shall be eligible for reappointment.*
- (10) *The Judicial Member of the Appellate Tribunal and the State President shall hold office for a term of three years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for reappointment.*
- (11) *The Technical Member (Centre) or Technical Member (State) of the Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for reappointment.*
- (12) *The President, State President or any Member may, by notice in writing under his*

*hand addressed to the Central Government or, as the case may be, the State Government resign from his office:*

*Provided that the President, State President or Member shall continue to hold office until the expiry of three months from the date of receipt of such notice by the Central Government, or, as the case may be, the State Government or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.*

- (13) *The Central Government may, after consultation with the Chief Justice of India, in case of the President, Judicial Members and Technical Members of the National Bench, Regional Benches or Technical Members (Centre) of the State Bench or Area Benches, and the State Government may, after consultation with the Chief Justice of High Court, in case of the State President, Judicial Members, Technical Members (State) of the State Bench or Area Benches, may remove from the office such President or Member, who—*

- (a) *has been adjudged an insolvent; or*
- (b) *has been convicted of an offence which, in the opinion of such Government involves moral turpitude; or*
- (c) *has become physically or mentally incapable of acting as such President, State President or Member; or*
- (d) *has acquired such financial or other interest as is likely to affect prejudicially his functions as such President, State President or Member; or*
- (e) *has so abused his position as to render his continuance in office prejudicial to the public interest:*

*Provided that the President, State President or the Member shall not be removed on any of the grounds specified in clauses (d) and (e), unless he has been informed of the charges against him and has been given an opportunity of being heard.*

- (14) *Without prejudice to the provisions of sub-section (13),—*

- (a) *the President or a Judicial and Technical Member of the National Bench or Regional Benches, Technical Member (Centre) of the State Bench or Area Benches shall not be removed from their office except by an order made by the Central Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court nominated by the Chief Justice of India on a reference made to him by the Central Government and of which the President or the said Member had been given an opportunity of being heard;*
- (b) *the Judicial Member or Technical Member (State) of the State Bench or Area Benches shall not be removed from their office except by an order made by the*



*State Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the concerned High Court nominated by the Chief Justice of the concerned High Court on a reference made to him by the State Government and of which the said Member had been given an opportunity of being heard.*

- (15) *The Central Government, with the concurrence of the Chief Justice of India, may suspend from office, the President or a Judicial or Technical Members of the National Bench. or the Regional Benches or the Technical Member (Centre) of the State Bench or Area Benches in respect of whom a reference has been made to the Judge of the Supreme Court under sub-section (14).*
- (16) *The State Government, with the concurrence of the Chief Justice of the High Court, may suspend from office, a Judicial Member or Technical Member (State) of the State Bench or Area Benches in respect of whom a reference has been made to the Judge of the High Court under sub-section (14).*
- (17) *Subject to the provisions of article 220 of the Constitution, the President, State President or other Members, on ceasing to hold their office, shall not be eligible to appear, act or plead before the National Bench and the Regional Benches or the State Bench and the Area Benches thereof where he was the President or, as the case may be, a Member.*

### Comments

This section deals with appointment of the President / Members of the Appellate Tribunal, their qualifications, methodology of appointment, service conditions etc. and hence are not commented upon in this background material.

### Statutory Provisions

#### **111 Procedure before Appellate Tribunal**

- (1) *The Appellate Tribunal shall not, while disposing of any proceedings before it or an appeal before it, be bound by the procedure laid down in the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and subject to the other provisions of this Act and the rules made thereunder, the Appellate Tribunal shall have power to regulate its own procedure.*
- (2) *The Appellate Tribunal shall, for the purposes of discharging its functions under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely:—*
  - (a) *summoning and enforcing the attendance of any person and examining him on oath;*
  - (b) *requiring the discovery and production of documents;*

- (c) *receiving evidence on affidavits;*
- (d) *subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or a copy of such record or document from any office;*
- (e) *issuing commissions for the examination of witnesses or documents;*
- (f) *dismissing a representation for default or deciding it ex parte;*
- (g) *setting aside any order of dismissal of any representation for default or any order passed by it ex parte; and*
- (h) *any other matter which may be prescribed.*
- (3) *Any order made by the Appellate Tribunal may be enforced by it in the same manner as if it were a decree made by a court in a suit pending therein, and it shall be lawful for the Appellate Tribunal to send for execution of its orders to the court within the local limits of whose jurisdiction,—*
  - (a) *in the case of an order against a company, the registered office of the company is situated; or*
  - (b) *in the case of an order against any other person, the person concerned voluntarily resides or carries on business or personally works for gain.*
- (4) *All proceedings before the Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code, and the Appellate Tribunal shall be deemed to be civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973*

**Relevant circulars, notifications, clarifications, flyers issued by Government**

1. Chapter Fifty of the compilation of the GST Flyers titled 'Appeals and Review Mechanism under GST', as issued by the CBIC (erstwhile CBEC).

### 111.1 Introduction

- (i) This section deals with the procedure to be followed by Appellate Tribunal while disposing of any proceedings before it.

### 111.2 Analysis

- (i) The Appellate Tribunal is not bound by the procedure laid down under the Code of Civil Procedure except in respect of certain matters such as summoning and enforcing attendance of person, receiving evidence on affidavits, requiring production of documents etc.
- (ii) All the proceedings before the Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of Section 193, 228 & 196 of IPC.

**Statutory Provisions****112 Appeals to Appellate Tribunal**

- (1) Any person aggrieved by an order passed against him under section 107 or section 108 of this Act or of the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to the Appellate Tribunal against such order within three months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal.
- (2) The Appellate Tribunal may, in its discretion, refuse to admit any such appeal where the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined by such order, does not exceed fifty thousand rupees.
- (3) The Commissioner may, on his own motion or upon request from the Commissioner of State Tax or Commissioner of Union Territory Tax, call for and examine the record of any order passed by the Appellate Authority or the Revisional Authority under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act for the purpose of satisfying himself as to the legality or the propriety of the said order and may, by order, direct any officer subordinate to him to apply to the Appellate Tribunal within six months from the date on which the said order has been passed for the determination of such points arising out of the said order as may be specified by the Commissioner in his order.
- (4) Where in pursuance of an order under sub-section (3) the authorized officer makes an application to the Appellate Tribunal, such application shall be dealt with by the Appellate Tribunal as if it were an appeal made against the order under sub-section (11) of section 107, or under sub-section (1) of section 108 and the provisions of this Act shall apply to such application, as they apply in relation to appeals filed under sub-section (1).
- (5) On receipt of notice that an appeal has been preferred under this section, the party against whom the appeal has been preferred may, notwithstanding that he may not have appealed against such order or any part thereof, file, within forty-five days of the receipt of the notice, a memorandum of cross-objections, verified in the prescribed manner, against any part of the order appealed against and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (1).
- (6) The Appellate Tribunal may admit an appeal within 3 months after the expiry of the period referred to in sub-section (1), or permit the filing of a memorandum of cross-objections within forty-five days after the expiry of the period referred to in sub-section (5) if it is satisfied that there was sufficient cause for not presenting it within that period.
- (7) An appeal to the Appellate Tribunal shall be in such form, verified in such manner and shall be accompanied by such fee, as may be prescribed:

- (8) No appeal shall be filed under sub-section (1) unless the appellant has paid
- (a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and
  - (b) a sum equal to twenty per cent of the remaining amount of tax in dispute, in addition to the amount paid under sub-section (6) of the section 107, arising from the said order, in relation to which the appeal has been filed:
- (9) Where the appellant has paid the amount as per sub-section (8), the recovery proceedings for the balance amount shall be deemed to be stayed till the disposal of the appeal.
- (10) Every application made before the Appellate Tribunal, —
- (a) in an appeal for rectification of error or for any other purpose; or
  - (b) for restoration of an appeal or an application, shall be accompanied by such fees as may be prescribed.

**Extract of the CGST Rules, 2017****110. Appeal to the Appellate Tribunal.**

- (1) An appeal to the Appellate Tribunal under sub- section (1) of section 112 shall be filed along with the relevant documents either electronically or otherwise as may be notified by the Registrar, in FORM GST APL-05, on the common portal and a provisional acknowledgement shall be issued to the appellant immediately.
- (2) A memorandum of cross-objections to the Appellate Tribunal under sub-section (5) of section 112 shall be filed either electronically or otherwise as may be notified by the Registrar, in FORM GST APL-06.
- (3) The appeal and the memorandum of cross objections shall be signed in the manner specified in rule 26.
- (4) A certified copy of the decision or order appealed against along with fees as specified in sub-rule (5) shall be submitted to the Registrar within seven days of the filing of the appeal under sub-rule (1) and a final acknowledgement, indicating the appeal number shall be issued thereafter in FORM GST APL-02 by the Registrar:  
  
*Provided that where the certified copy of the decision or order is submitted within seven days from the date of filing the FORM GST APL-05, the date of filing of the appeal shall be the date of the issue of the provisional acknowledgement and where the said copy is submitted after seven days, the date of filing of the appeal shall be the date of the submission of such copy.*  
  
*Explanation.— For the purposes of this rule, the appeal shall be treated as filed only when the final acknowledgement indicating the appeal number is issued.*
- (5) The fees for filing of appeal or restoration of appeal shall be one thousand rupees for

*every one lakh rupees of tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined in the order appealed against, subject to a maximum of twenty-five thousand rupees.*

- (6) *There shall be no fee for application made before the Appellate Tribunal for rectification of errors referred to in sub-section (10) of section 112.*

**111. Application to the Appellate Tribunal.**

- (1) *An application to the Appellate Tribunal under sub-section (3) of section 112 shall be made electronically or otherwise, in FORM GST APL-07, along with the relevant documents on the common portal.*
- (2) *A certified copy of the decision or order appealed against shall be submitted within seven days of filing the application under sub-rule (1) and an appeal number shall be generated by the Registrar.*

**112. Production of additional evidence before the Appellate Authority or the Appellate Tribunal.**

- (1) *The appellant shall not be allowed to produce before the Appellate Authority or the Appellate Tribunal any evidence, whether oral or documentary, other than the evidence produced by him during the course of the proceedings before the adjudicating authority or, as the case may be, the Appellate Authority except in the following circumstances, namely:-*
- (a) *where the adjudicating authority or, as the case may be, the Appellate Authority has refused to admit evidence which ought to have been admitted; or*
  - (b) *where the appellant was prevented by sufficient cause from producing the evidence which he was called upon to produce by the adjudicating authority or, as the case may be, the Appellate Authority; or*
  - (c) *where the appellant was prevented by sufficient cause from producing before the adjudicating authority or, as the case may be, the Appellate Authority any evidence which is relevant to any ground of appeal; or*
  - (d) *where the adjudicating authority or, as the case may be, the Appellate Authority has made the order appealed against without giving sufficient opportunity to the appellant to adduce evidence relevant to any ground of appeal.*
- (2) *No evidence shall be admitted under sub-rule (1) unless the Appellate Authority or the Appellate Tribunal records in writing the reasons for its admission.*
- (3) *The Appellate Authority or the Appellate Tribunal shall not take any evidence produced under sub-rule (1) unless the adjudicating authority or an officer authorised in this behalf by the said authority has been allowed a reasonable opportunity -*
- (a) *to examine the evidence or document or to cross-examine any witness produced by the appellant; or*

- (b) *to produce any evidence or any witness in rebuttal of the evidence produced by the appellant under sub-rule (1).*
- (4) *Nothing contained in this rule shall affect the power of the Appellate Authority or the Appellate Tribunal to direct the production of any document, or the examination of any witness, to enable it to dispose of the appeal.*

**Relevant circulars, notifications, clarifications, flyers issued by Government: -**

1. Chapter Fifty of the compilation of the GST Flyers titled 'Appeals and Review Mechanism under GST', as issued by the CBIC (erstwhile CBEC).

**Related provisions of the Statute**

Section or Rule	Description
Section 107	Appeals to Appellate Authority
Section 108	Powers of Revisional Authority
Section 2(9)	Definition of "appellate tribunal"

**112.1 Introduction**

- (a) This section pertains to appeals to Appellate Tribunal by any person who is aggrieved against decision or order passed by Appellate Authority.
- (b) This section also provides for appeal by the tax authorities against a decision or order passed by Appellate Authority.

**112.2 Analysis**

- (a) An assessee, aggrieved by any decision or order may prefer an appeal within a period of 3 months from the date of communication of decision or order in Form GST APL-05, along with relevant documents either electronically or otherwise as notified by the Commissioner against which a provisional acknowledgement will be issued. The grounds of appeal and form of verification must be duly signed and a certified copy of the decision or order, along with the prescribed fees is to be filed before the Registrar within 7 days of filing the appeal. Thereafter, a final acknowledgement indicating the appeal number shall be issued in Form GST APL-02 by the said authority. In such a situation, the appeal shall be deemed to be filed on the date on which the provisional acknowledgement stands issued.

In case the said certified copy is submitted after a period of 7 days, the date of filing of appeal shall be the date of submission of such copy.

The appeal shall be considered as filed only when the final acknowledgement, indicating the appeal number is issued.

- (b) The Appellate Tribunal has discretion to refuse to admit such appeal in case the tax amount or input tax credit or the difference in tax or input tax credit involved or amount of fine, fees or penalty ordered against does not exceed Rs. 50,000/-.
- (c) The Commissioner of Central / State or any Union territory can, with a view to satisfy himself about the legality or propriety of any order or decision passed by the Appellate Authority or Revisional Authority, direct a subordinate officer to file an application before the Appellate Tribunal within 6 months from the date of communication of decision or order in Form **GST APL-07**, along with relevant documents either electronically or otherwise as notified against issue of an acknowledgement. A certified copy of the decision or order of the appeal, along with the prescribed fees is to be filed before the Registrar within 7 days of filing the application and an appeal number shall be generated accordingly.
- (d) Every appeal by assessee to Appellate Tribunal to be filed within 3 months from the date of communication of order or decision appealed against.
- (e) The appeal to the Appellate Tribunal by the tax authorities can be filed within 6 months from the date of order or decision appealed against.
- (f) Memorandum of Cross objection to be filed in **FORM GST APL-06** within 45 days from the receipt of notice of filing of such appeal.
- (g) Appellate Tribunal is empowered to condone the delay in filing appeal by assessee for a further period of 3 months or memorandum of cross objection for a further period of 45 days.
- (h) No powers have been granted to the Appellate Tribunal to condone the delay in filing appeal by the tax authorities.
- (i) Appeal has to be filed in prescribed form and manner along with payment of:
  - Amount of tax, interest, fine, fee & penalty, as is admitted, in full; and
  - pre-deposit of sum equal to 20% of remaining amount of tax in dispute in addition to amount deposited during filling appeal before Appellate Authority
- (j) On payment of above amount, the recovery proceedings for balance amount are stayed till the disposal of appeal.
- (k) No pre-deposit shall be payable in case of appeal filed by the tax authorities.
- (l) Every miscellaneous application shall be filed along with prescribed fees.
- (m) The fees for filing and restoration of appeal shall be one thousand rupees for every one lakh rupees of tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined in the order appealed against, subject to maximum of twenty-five thousand rupees.
- (n) There shall be no fee for application made before the Appellate Tribunal for rectification of errors.

**Production of additional evidence before the Appellate Tribunal**

- (i) The appellant is permitted to produce before the Appellate Tribunal only such oral or documentary evidence that was produced by him during the course of the proceedings before the Appellate Authority. However, he is permitted to produce additional evidences in the following cases:
  - (a) where the Appellate Authority has refused to admit evidence which ought to have been admitted; or
  - (b) where the appellant was prevented by sufficient cause from producing the evidence which he was called upon to produce by the Appellate Authority; or
  - (c) where the appellant was prevented by sufficient cause from producing before the Appellate Authority any evidence which is relevant to any ground of appeal; or
  - (d) where the Appellate Authority has made the order appealed against without giving sufficient opportunity to the appellant to adduce evidence relevant to any ground of appeal.
- (ii) The evidence shall be admitted only after the Appellate Tribunal records in writing the reasons for its admission.
- (iii) The Appellate Tribunal shall not take any evidence produced under sub-rule (1) unless the adjudicating authority or an authorized officer has been allowed a reasonable opportunity -
  - (a) to examine the evidence or document or to cross-examine any witness produced by the appellant; or
  - (b) to produce any evidence or any witness in rebuttal of the evidence produced by the appellant under sub-rule (1).
- (iv) The power of the Appellate Tribunal to direct the production of any document, or the examination of any witness, to enable it to dispose of the appeal remains unaffected by the above.

**112.3 Comparative review**

- (a) Similar provisions are contained in Section 86 of the Finance Act, 1994 & Section 35B of the Central Excise Act, 1944.

**Statutory Provisions****113. Orders of Appellate Tribunal**

- (1) *The Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the decision or order appealed against or may refer the case back to the Appellate Authority, or the Revisional Authority or to the original adjudicating authority, with such directions as it may think fit, for a fresh adjudication or decision after taking additional evidence, if necessary.*



- (2) *The Appellate Tribunal may, if sufficient cause is shown, at any stage of hearing of an appeal, grant time to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:*  
*Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.*
- (3) *The Appellate Tribunal may amend any order passed by it under sub-section (1) so as to rectify any error apparent on the face of the record, if such error is noticed by it on its own accord, or is brought to its notice by the Commissioner or the Commissioner of State Tax or the Commissioner of Union Territory Tax or the other party to the appeal within a period of three months from the date of the order:*  
*Provided that no amendment which has the effect of enhancing an assessment or reducing a refund or input tax credit or otherwise increasing the liability of the other party, shall be made under this sub-section, unless the party has been given opportunity of being heard.*
- (4) *The Appellate Tribunal shall, as far as possible, hear and decide every appeal within a period of one year from the date on which it is filed.*
- (5) *The Appellate Tribunal shall send a copy of every order passed under this section to the Appellate Authority or Revisional Authority, or the original adjudicating authority, as the case may be, the appellant, the jurisdictional Commissioner or the Commissioner of State Tax or the Union Territory Tax.*
- (6) *Save as provided in section 117 or section 118, orders passed by the Appellate Tribunal on an appeal shall be final and binding on the parties.*

**Relevant circulars, notifications, clarifications, flyers issued by Government: -**

1. Chapter Fifty of the compilation of the GST Flyers titled 'Appeals and Review Mechanism under GST', as issued by the CBIC (erstwhile CBEC).

Section or Rule	Description
Section 107	Appeals to Appellate Authority
Section 2(9)	Definition of "appellate tribunal"

### 113.1 Introduction

- (i) This section pertains to the orders by Appellate Tribunal

### 113.2 Analysis

- (i) The Appellate Tribunal to pass the order confirming, modifying or annulling the decision or order appealed against.
- (ii) The Appellate Tribunal also has power to remand the case back to the appellate authority or the Revisional authority or the original adjudicating authority.

- (iii) Maximum 3 adjournments shall be granted to a party on showing reasonable cause to be recorded in writing.
- (iv) The Appellate Tribunal is empowered to amend its order to rectify any mistake apparent from record. However, tribunal may rectify its order if the mistake is brought to its notice by Commissioner or other party to appeal within period of 3 months of date of such order. Opportunity of being heard to be granted in case such rectification results into enhancing an assessment or reducing a refund or input tax credit or otherwise increasing the liability.
- (v) The Appellate Tribunal to hear and decide the appeal, as far as possible, within a period of 1 year from the date of filing.
- (vi) The Appellate Tribunal to communicate the copy of order to appellate authority / Revisional authority / original adjudicating authority, the appellant, the jurisdictional Commissioner, Commissioner of State Tax or Union Territory Tax.
- (vii) The jurisdictional officer shall issue a statement in **FORM GST APL-04** clearly indicating the final amount of demand confirmed by the Appellate Tribunal.

**Summary of Forms**

Sl. No.	Particulars	Form no.	Time Limit
1	Appeal to prescribed Appellate Authority by assessee	GST APL-01	Within 3 months from date of receipt of order
2	Final Acknowledgement indicating Appeal No.	GST APL-02	After filing of certified copy of the decision or order
3	Department Appeal	GST APL-03	Within 6 months from date of receipt of order
4	Summary of the Order	GST APL-04	Maximum within 1 year
5	Appeal to Appellate Tribunal by assessee	GST APL-05	Within 3 months from dt of receipt of order
6	Department Appeal to Tribunal	GST APL-07	Within 6 months from dt of receipt of order
7	Cross Objection by opposition party	GST APL-06	within 45 days

**Summary of provisions**

S.no.	Particulars	Description
1	Date of filing appeal	a) date of filing appeal on portal when provisional acknowledgement issued (if hard copy of order submitted within seven days from the date of filing)

		b) date of filing hard copy if submitted after seven days from the date of filing
2	Refusal to admit appeal by Appellate tribunal	where tax or ITC involved or the difference between the two is less than ₹50, 000/-
3	Fees for filing Appeal	₹1,000/- for every one lakh rupees of tax or ITC involved or difference in tax and ITC or the amount of fine, fee or penalty determined in the order appealed against, subject to a maximum of ₹ 25,000/-.
4	Condonation of delay in filing appeal	If satisfied, condone upto 3 months.
5	Pre deposit requirement for disputed amount	Assessee paid in full/ part amount of Tax, interest, fine, fee and penalty arising from the order appealed against:- 10% in case appeal to appellate authority 20% in case of Tribunal in addition to 10% deposited at time of appeal to appellate authority
6	Interest on refund of pre deposit	Shall be payable from date of payment till the date of Refund
7	Orders of Appellate Tribunal	As far as possible within one year confirming/ modifying/ annulling the order OR refer the case back to Appellate Authority

### 113.3 Comparative review

- (a) As per erstwhile provisions of Section 35C of the Central Excise Act, 1944, the time limit for rectification of mistake apparent from records is 6 months of date of order.
- (b) As per Section 35C, the preferable time limit for deciding the appeal by CESTAT is 3 years from date of filing.

### Statutory Provisions

#### 114. Financial and administrative powers of President

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

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

**114.1 Introduction**

This section pertains to the financial & administrative powers of the President over the National Bench and Regional Benches of the Appellate Tribunal.

**114.2 Analysis**

The President is empowered to delegate his financial and administrative powers to any other Member or any officer of the National Bench and Regional Benches, on a condition that such Member or officer shall continue to act under the direction, control and supervision of the President while exercising such delegated powers.

**Statutory Provisions****115. Interest on refund of amount paid for admission of appeal**

*Where an amount paid by the appellant under sub-section (6) of section 107 or under sub-section (8) of section 112 is required to be refunded consequent to any order of the Appellate Authority or of the Appellate Tribunal, interest at the rate specified under section 56 shall be payable in respect of such refund from the date of payment of the amount till the date of refund of such amount.*

**Relevant circulars, notifications, clarifications, flyers issued by Government**

1. Chapter Fifty of the compilation of the GST Flyers titled 'Appeals and Review Mechanism under GST', as issued by the CBIC (erstwhile CBEC).

**Related provisions of the Statute**

Section	Description
Section 56	Interest on delayed refunds
Section 107(6)	Appeal to Appellate Authority
Section 112(8)	Appeal to Appellate Tribunal

**115.1 Introduction**

- (i) This section provides for interest on delayed refund of pre-deposit made while filing the appeal.

**115.2 Analysis**

- (i) Interest at the rates specified in Section 56 shall be payable on refund of pre-deposit.
- (ii) Such interest to be calculated from the date of payment of such pre-deposit till the date of refund

**115.3 Comparative review**

Section 35FF of the Central Excise Act, 1944 read with Notification No. 24/2014-CE (NT)

dated August 12, 2014 provides for interest on refund of pre-deposit at the rate of 6% per annum.

#### 115.4 FAQs

Q1. When is interest on refund of pre-deposit calculated?

Ans. The interest will be calculated from the date of pre-deposit to the date of refund of the same.

#### Statutory Provisions

##### **116. Appearance by authorised representative**

(1) Any person who is entitled or required to appear before an Officer appointed under this Act, or the Appellate Authority or the Appellate Tribunal in connection with any proceedings under this Act, may, otherwise than when required under this Act to appear personally for examination on oath or affirmation, subject to the other provisions of this section, appear by an authorized representative.

(2) For the purposes of this section, the expression "authorised representative" shall mean a person authorised by the person referred to in sub-section (1) to appear on his behalf, being —

- (a) his relative or regular employee; or
- (b) an advocate who is entitled to practice in any court in India, and who has not been debarred from practicing before any court in India; or
- (c) any chartered accountant, a cost accountant or a company secretary, who holds a certificate of practice and who has not been debarred from practice; or
- (d) a retired officer of the Commercial Tax Department of any State Government or Union Territory or of the Board, who, during his service under the Government, had worked in a post not below the rank than that of a Group-B gazetted officer for a period of not less than two years.

*Provided that such officer shall not be entitled to appear before any proceedings under this Act for a period of one year from the date of his retirement or resignation; or*

- (e) any person who has been authorized to act as a Goods and Services Tax Practitioner on behalf of the concerned registered person.

(3) No person, —

- (a) who has been dismissed or removed from government service; or
- (b) who is convicted of an offence connected with any proceeding under this Act, the State Goods and Services Tax Act, the Integrated Goods and Services Tax Act or the Union Territory Goods and Services Tax Act or under the erstwhile law or

- under any of the Acts passed by a state legislature dealing with the imposition of taxes on sale of goods or supply of goods or services or both, or*
- (c) *who is found guilty of misconduct by the prescribed authority;*
- (d) *who has been adjudged as an insolvent,*
- shall be qualified to represent any person under sub-section (1) --*
- (i) *for all times in the case of a person referred to in clause (a), (b) and (c); and*
- (ii) *for the period during which the insolvency continues in the case of a person referred to in clause (d).*
- (4) *Any person who has been disqualified under the provisions of the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act shall be deemed to be disqualified under this Act.*

**Extract of the CGST Rules, 2017**

**116.** Disqualification for misconduct of an authorised representative.-Where an authorised representative, other than those referred to in clause (b) or clause (c) of sub- section (2) of section 116 is found, upon an enquiry into the matter, guilty of misconduct in connection with any proceedings under the Act, the Commissioner may, after providing him an opportunity of being heard, disqualify him from appearing as an authorised representative.

**Relevant circulars, notifications, clarifications, flyers issued by Government: -**

- Chapter Fifty of the compilation of the GST Flyers titled 'Appeals and Review Mechanism under GST', as issued by the CBIC (erstwhile CBEC).

**Related provisions of the Statute**

Section	Description
Section 2(23)	Definition of "chartered accountant"
Section 2(28)	Definition of "company secretary"
Section 2(35)	Definition of "cost accountant"
Section 2(55)	Definition of "goods and service tax practitioner"

**116.1 Introduction**

- (i) This section provides for appearance by authorised representative in proceedings or appeals except in circumstances where personal appearance is required for examination or oath or affirmation.

**116.2 Analysis**

- (i) "Authorised representative" means –
- relative or regular employee
  - Practising Advocate
  - Practising CA, CWA or CS
  - A retired government officer who had worked for not less than 2 years in a post not lower in rank than Group-B gazetted officer
  - Goods and Services Tax Practitioner
- (ii) Any person, who has retired or resigned after serving more than 2 years in the indirect tax departments of Government of India or any State Government as a gazetted officer, shall not be entitled to appear as authorised representative for a period of 1 year from the date of retirement or resignation.
- (iii) Any person,
- who has been dismissed or removed from government service
  - who is convicted of an offence under CGST Act, SGST Act, IGST Act, UTGST Act or under erstwhile laws
  - who is found guilty of misconduct by the prescribed authority
- shall not be qualified as authorised representative.
- (iv) Any person, who has become insolvent, shall not be qualified as authorised representative during the period of insolvency.
- (v) Any disqualification under SGST Act or UTGST Act shall be construed as disqualification under CGST Act.

**116.3 Comparative review**

- (i) Section 35Q of the Central Excise Act, 1944

**116.4 MCQs**

- Q1. Any person who has retired/resigned after serving 2 years as gazetted officer in the indirect tax departments of the Government of India or any State Government shall be entitled to appear as authorised representative after:-
- (a) 1 year from date of resignation / retirement
  - (b) 2 years from date of resignation / retirement
  - (c) 3 years from date of resignation / retirement
  - (d) Not entitled to appear at all

Ans. (a) 1 year from date of resignation / retirement

Q2. Any person who has been dismissed or removed from government services shall be entitled to appear as authorised representative after:-

- (a) 1 year from date of dismissal / removal
- (b) 2 years from date of dismissal / removal
- (c) 3 years from date of dismissal / removal
- (d) Not entitled to appear at all

Ans. (d) Not entitled to appear at all

Q3. Any insolvent person shall not be entitled to appear as authorised representative:-

- (a) Up to a period of 1 year of insolvency
- (b) Up to a period of 2 years of insolvency
- (c) During the period of insolvency
- (d) Not entitled to appear at all

Ans. (c) During the period of insolvency

Q4. Any person who is disqualified to represent, being found guilty of misconduct, has no further remedy at all

- (a) True
- (b) False

Ans. (a) True

### Statutory Provisions

#### **117. Appeals to High Court**

- (1) Any person aggrieved by any order passed by the State Bench or Area Benches of the Appellate Tribunal may file an appeal to the High Court and the High Court may admit such appeal if it is satisfied that the case involves a substantial question of law.
- (2) An appeal under sub-section (1) shall be filed within one hundred and eighty days from the date on which the order appealed against is received by the aggrieved person and it shall be in such form verified in such manner as may be prescribed;  
*Provided that the High Court may entertain an appeal after the expiry of the said period if it is satisfied that there was sufficient cause for not filing it within such period.*
- (3) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question and the appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question:



*Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the Court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.*

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

#### **Extract of the CGST Rules, 2017**

**114. Appeal to the High Court.-** (1) An appeal to the High Court under sub-section (1) of section 117 shall be filed in FORM GST APL-08.

(2) The grounds of appeal and the form of verification as contained in FORM GST APL-08 shall be signed in the manner specified in rule 26.

#### **Relevant circulars, notifications, clarifications, flyers issued by Government: -**

1. Chapter Fifty of the compilation of the GST Flyers titled 'Appeals and Review Mechanism under GST', as issued by the CBIC (erstwhile CBEC).

**117.1 Introduction**

- (i) This section provides for appeal to High Court by any person aggrieved by an order passed by State Bench or Area Benches.

**117.2 Analysis**

- (i) The High Court may admit an appeal if it is satisfied that the case involves a substantial question of law.
- (ii) No appeal shall lie before a High Court if such order is passed by National Bench or Regional Benches.
- (iii) Appeal has to be filed in the Form **GST APL 08**, precisely stating the substantial question of law involved, within 180 days from the date of receipt of order appealed against accompanied by prescribed fee.
- (iv) The High Court is empowered to condone the delay in filing appeal.
- (v) On being satisfied, High Court shall formulate a substantial question of law.
- (vi) Appeal to be heard only on the question so formulated and the respondent shall be allowed to argue that the case does not involve such question.
- (vii) The High Court may hear the appeal on any other substantial question of law not formulated by it after satisfying, for reasons to be recorded, of involvement of such question in the case.
- (viii) The High Court may determine any issue which has not been determined or has been wrongly determined by the State Bench or Area Benches.
- (ix) Appeal to be heard by a Bench of not less than 2 Judges of High Court and shall be decided in accordance with the majority of opinion of such Judges.
- (x) Difference of opinion on any point shall be referred to one or more of the other Judges of High Court and such point shall be decided according to the opinion of majority of Judges who have heard the case including those who first heard it.
- (xi) The effect of judgment of High Court shall be given on the basis of a certified copy of the judgment.
- (xii) The provisions of Code of Civil Procedure relating to appeals to High Court shall apply to appeals under this section.

**117.3 Comparative review**

- (i) Section 35G of the Central Excise Act, 1944

**117.4 FAQs**

- Q1. Any appeal filed before High Court shall be heard by a bench consisting how many judges of High Court?

Ans. An appeal filed before the Honourable High Court shall be heard by judges consisting of not less than two judges.

**117.5 MCQs**

Q1. The High Court may admit an appeal if the case involves a substantial question of fact

- (a) True
- (b) False

Ans. (b) False

Q2. An appeal involving a matter, where two or more States or a State and Centre have a difference of views regarding place of supply, shall lie to High Court

- (a) True
- (b) False

Ans. (a) True

Q3. An appeal before High Court shall be filed within

- (a) 6 months from date of order
- (b) 6 months from date of communication of order
- (c) 180 days from date of order
- (d) 180 days from date of communication of order

Ans. (d) 180 days from date of communication of order

Q4. The High Court can condone the delay in filing appeal for a period up to

- (a) 1 Month
- (b) Month
- (c) Without any time limit
- (d) No condonation powers

Ans. (c) Without any time limit

**Statutory Provisions****118. Appeal to Supreme Court**

(1) An appeal shall lie to the Supreme Court -

- (a) from any order passed by the National Bench or the Regional Benches of the Appellate Tribunal; or
- (b) from any judgment or order passed by High Court in an appeal made under section 117, in any case which, on its own motion or on an oral application made by or on behalf of the party aggrieved, immediately after passing of the judgment or order, the High Court certifies to be a fit one for appeal to the Supreme Court.

- |     |  |
|-----|--|
| (2) | <i>The provisions of the Code of Civil Procedure, 1908, relating to appeals to the Supreme Court shall, so far as may be, apply in the case of appeals under this section as they apply in the case of appeals from decrees of a High Court.</i> |
| (3) | <i>Where the judgment of the High Court is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in section 117 in the case of a judgment of the High Court.</i>                      |

**Related provisions of the Statute**

Section	Description
Section 117	Appeal to High Court

**118.1 Introduction**

- (i) This section provides for appeal to Supreme Court.

**118.2 Analysis**

An appeal can lie with the Supreme Court in case of:

- (i) Any judgement or order passed by National Bench, Regional Benches of Appellate Tribunal or High Court.
- (ii) When an appeal is reversed, or varied, the effect shall be given to the order of the Supreme Court on the question of law so formulated and delivered.
- (iii) The said judgement shall clearly indicate the grounds on which the decision is founded.
- (iv) Apart from this, the Supreme Court is empowered to frame any substantial question of law not formulated by any lower authority if it is satisfied that the case before it involves such question of law.

**118.3 Comparative review**

- (i) Section 35L of the Central Excise Act, 1944

**Statutory Provisions****119. Sums due to be paid notwithstanding appeal etc.**

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

**119.1 Introduction**

- (i) This section provides for payment of sums due pending appeal.

**119.2 Analysis**

- (i) The sums due to the Government as a result of an order passed by the Appellate Tribunal or High Court shall be paid notwithstanding the fact that an appeal has been preferred before the High Court or Supreme Court, as the case may be.

**119.3 Comparative review**

Section 35N of the Central Excise Act, 1944

**Statutory Provisions****120. Appeal not to be filed in certain cases**

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

**120.1 Introduction**

- (i) This section provides for non-filing of appeal by the tax authorities in certain cases.

**120.2 Analysis**

- (i) On recommendation of Council, the Board may issue order or instructions or directions fixing monetary limits for the purpose of regulating the filing of appeal or application by Officer of central tax.
- (ii) In case the Officer has not filed an appeal / application against any decision / order in view of such order / instruction / directions, it shall not preclude him from filing appeal / application in any other cases involving same / similar issue or question of law.
- (iii) No party in appeal / application shall contend that the Officer has acquiesced (agreed / consented) in the decision on the disputed issue by not filing an appeal / application.

- (iv) The Appellate Tribunal or court hearing such appeal / application shall have regard to the circumstances under which appeal / application was not filed by the Officer in pursuance of such order / instructions / directions.

### 120.3 Comparative review

- (i) Section 35R of the Central Excise Act, 1944

### Statutory Provisions

#### 121. Non Appealable decision and orders

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

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

### Related provisions of the Statute:

Section	Description
Section 2(41)	Definition of "document"
Section 67	Power of inspection, search & seizure
Section 80	Payment of tax and other amount in instalments
Section 132	Punishment for Certain Offences

### 121.1 Introduction

- (i) This section prescribes decisions or orders which are non-appealable.

### 121.2 Analysis

- (i) No appeal shall lie against any decision / order taken / passed by Officer of central tax if such decision / order relates to any one or more of following matters –
- Transfer of proceeding from one officer to another officer;
  - Seizure or retention of books of account, register and other documents;
  - Order sanctioning prosecution under the Act
  - Order passed U/s.80 related to payment of tax & other amount in instalments.

## Chapter–XIX

# Offences and Penalties

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Sections	Rules
122. Penalty for certain offences	162. Procedure for compounding of offences.
123. Penalty for failure to furnish information return	
124. Fine for failure to furnish statistics	
125. General penalty	
126. General disciplines related to penalty	
127. Power to impose penalty in certain cases	
128. Power to waive penalty or fee or both	
129. Detention, seizure and release of goods and conveyances in transit	
130. Confiscation of goods or conveyances and levy of penalty	
131. Confiscation or penalty not to interfere with other punishments	
132. Punishment for certain offences	
133. Liability of officers and certain other persons	
134. Cognizance of offences	
135. Presumption of culpable mental state	
136. Relevancy of statements under certain circumstances	
137. Offences by companies	
138. Compounding of offences	

### Statutory Provision

<p><b>122. <i>Penalty for certain offences</i></b></p> <p>(1) <i>Where a taxable person who -</i></p> <p>(i) <i>supplies any goods or services or both without issue of any invoice or issues an incorrect or false invoice with regard to any such supply;</i></p> <p>(ii) <i>issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder;</i></p>
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- (iii) *collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;*
- (iv) *collects any tax in contravention of the provisions of this Act but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;*
- (v) *fails to deduct the tax in accordance with the provisions of sub-section (1) of section 51, or deducts an amount which is less than the amount required to be deducted under the said sub-section, or where he fails to pay to the Government under sub-section (2) thereof, the amount deducted as tax;*
- (vi) *fails to collect tax in accordance with the provisions of sub-section (1) of section 52, or collects an amount which is less than the amount required to be collected under the said sub-section, or where he fails to pay to the Government the amount collected as tax under sub-section (3) of section 52;*
- (vii) *takes or utilizes input tax credit without actual receipt of goods or services or both either fully or partially, in contravention of the provisions of this Act, or the rules made thereunder;*
- (viii) *fraudulently obtains refund of tax under this Act;*
- (ix) *takes or distributes input tax credit in contravention of section 20, or the rules made thereunder;*
- (x) *falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information or return with an intention to evade payment of tax due under this Act;*
- (xi) *is liable to be registered under this Act but fails to obtain registration;*
- (xii) *furnishes any false information with regard to registration particulars, either at the time of applying for registration, or subsequently;*
- (xiii) *obstructs or prevents any officer in discharge of his duties under the Act;*
- (xiv) *transports any taxable goods without the cover of documents as may be specified in this behalf;*
- (xv) *suppresses his turnover leading to evasion of tax under this Act;*
- (xvi) *fails to keep, maintain or retain books of account and other documents in accordance with the provisions of this Act or the rules made thereunder;*
- (xvii) *fails to furnish information or documents called for by an officer in accordance with the provisions of this Act or the rules made thereunder or furnishes false information or documents during any proceedings under this Act;*
- (xviii) *supplies, transports or stores any goods which he has reason to believe are liable to confiscation under this Act;*



- (xix) issues any invoice or document by using the registration number of another registered person;
- (xx) tampers with, or destroys any material evidence or document;
- (xxi) disposes off or tampers with any goods that have been detained, seized, or attached under this Act;
- he shall be liable to a penalty of ten thousand rupees or an amount equivalent to the tax evaded or the tax not deducted under section 51 or short deducted or deducted but not paid to the Government or tax not collected under Section 52 or short collected or collected but not paid to the Government or input tax credit availed of or passed on or distributed irregularly, or the refund claimed fraudulently, whichever is higher.
- (2) Any registered person who supplies any goods or services or both on which any tax has not been paid or short-paid or erroneously refunded, or where the input tax credit has been wrongly availed or utilized, -
- (a) for any reason, other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty of ten thousand rupees or ten percent of the tax due from such person, whichever is higher.
- (b) for reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty of ten thousand rupees or the tax due from such person, whichever is higher.
- (3) Any person who--
- (a) aids or abets any of the offences specified in clauses (i) to (xxi) of sub-section (1);
- (b) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;
- (c) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reason to believe are in contravention of any provisions of this Act or the rules made thereunder;
- (d) fails to appear before the officer of central tax, when issued with a summon for appearance to give evidence or produce a document in an inquiry;
- (e) fails to issue invoice in accordance with the provisions of this Act or the rules made thereunder or fails to account for an invoice in his books of account, shall be liable to a penalty which may extend to twenty-five thousand rupees.

**Extract of the CGST Rules, 2017**

No rules have been specified
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**Related provisions of the Statute**

Section or Rule	Description
Section 2(107)	Definition of taxable person
Section 31	Tax Invoice
Section 35	Accounts and records
Section 51	Tax deducted at source (TDS)
Section 52	Collection of Tax at source
Sections 16 to 21, 41 and 42	Input tax credit & matching, reversal and reclaim
Section 22 to 30	Registration
Section 54 to 58	Refunds

**122.1 Introduction**

For effective implementation of any tax-law and to do justice to tax abiding society, certain provisions to take strict action against offenders are required. The penal provisions in many cases act as a deterrent while some provisions attract the wrath of the penal provisions even for a breach, although such an infraction of law could be a minor offence and not a venial breach of law. It is for this reason that the law maker in his wisdom has laid down general disciplines relating to penalty so as to enable the person vested with such powers does not overshoot those powers that are inherently vested in him. While Courts have consistently laid down several guiding principles for the purpose of levy of penalties, it has been observed that the statutes are so drafted that several punitive penalties have now become mandatory. The discussion in the following paragraphs deal with the punitive provisions of GST law.

**122.2 Analysis**

At the outset, the section declares the offences that attract penalty as a consequence, apart from the requirement to pay the tax and applicable interest. Some of the offences listed under this section may also attract prosecution under section 132 but that depends on the gravity of the offence defined in that section.

The Section is divided into three sub-sections:

- (i) The first sub-section prescribes 21 types of offences, any one of which, if committed, can attract penalty of ten thousand rupees or equal to the amount of tax involved, whichever is higher.
- (ii) The second sub-section deals with two situations, firstly, where certain offences committed are not due to either fraud or wilful misstatement or suppression of facts. In such a case, penalty will get reduced to 10% of tax involved, subject to a minimum of ten thousand rupees. Secondly, where the offence committed is due to either fraud or any wilful misstatement or suppression of facts to evade tax will result in a penalty

equal to tax involved subject to a minimum of ten thousand rupees.

- (iii) The third sub-section deals with offences where the person is not directly involved in any evasion but may aid or abet or may be a party to evasion or if he does not attend summons or produce documents. Penalty in such a cases would be up to twenty five thousand rupees.

While this section describes the offence and prescribes the penalty applicable, the procedure for adjudicating the imposition of this penalty is under section 73 and section 74 in which there is no express reference to this section. Persons found to have committed the offences listed in this section are liable to payment of penalty as follows:

- A. Penalty equivalent to tax or Rupees 10,000/- whichever is higher in cases where - tax is evaded; tax is not deducted; or short deducted or deducted but not paid to the Government; or tax is not collected (or short collected) or collected but not paid to the Government or input tax credit availed of or passed on or distributed irregularly or fraudulent claim of refund, in the following cases:
  - 1. Supplies any goods and / or services:
    - (a) Without issue of any invoice or
    - (b) Issues an incorrect / false invoice in respect of such supply

**Comment:**

Raising of an invoice before or at the time of removal of goods is mandatory under law whereas the time limit for issue of services is one month. However, there can be a situation that a supplier could have supplied either goods or services or both, without issuing an invoice for any reason or for reasons that may be bonafide. All such cases, would constitute an offence attracting the penal provisions. For instance, a supplier could have supplied the goods against a contract without an invoice accompanying the goods (since the price for such supply may not have been agreed upon) even such cases would attract the penal provisions stipulated by this section.

Incorrect invoice would take into its sweep and ambit any misclassification of goods which on the face of it is incorrect. For instance an incorrect invoice could be a case where an invoice is issued for supply of "automobile spare" as a supply of "machinery spare".

A false invoice is one which on the face of it is patently false. False in the normal course means "untrue" but in this instance the word false means something more than "untrue". For instance supply of unit quantity 100 for Rs.10000/- could be invoiced as unit quantity 10 for Rs.1000/-.

- 2. Issues an invoice (or bill of supply) without supply of goods or services or both in violation of the provisions of the Act/ Rules. **Comment:** In business parlance these are termed as "bogus invoices / bills".

3. Collects any amount as tax but fails to deposit the same with the Government beyond a period of three months from due date. **Comment:** Collection of taxes could either be passive or active collection. This section covers both such situations. It must be understood that the GST Law presupposes that tax is deemed to have been passed even in cases where tax has not been collected unless it is proved to the contrary (refer 49(9)).
4. Collects any tax in contravention of law but fails to deposit the same with the Government beyond a period of three months from due date. **Comment:** One must ensure that any collection of taxes cannot be retained by the registered person. Collection of taxes in contravention of law would also mean where a registered person collects 18% as taxes but the actual tax rate is 12%. In this scenario, the difference of 6% cannot be retained by the registered person.
5. Fails to -
  - (a) Deduct tax/deduct appropriate tax, as per Section 51 (Section 51 is applicable to certain specific persons. The said section requires such specified persons to deduct tax at the rate of one per cent out of the payment to the supplier if the value of supply under a contract exceeds two lakh and fifty thousand rupees) or
  - (b) deposit the tax deducted with the Government**Comment:** Currently, this provision is kept in abeyance and suitable notifications have not been issued.
6. Fails to -
  - (a) collect tax/collect appropriate tax as per provisions of Section 52 (Section 52 is applicable to electronic commerce operator to collect tax from the supplier of goods at the time of payment to such supplier at the rate of one per cent )
  - (b) deposit the tax collected with the appropriate Government**Comment:** Currently, this provision is kept in abeyance and suitable notifications have not been issued.
7. takes or utilizes input tax credit without actual receipt of goods or services either fully or partially in contravention of provisions of Act/ Rules.  
**Comment:** This situation covers a case where the goods or services have not been received but the invoice has been received in advance. In such a situation the registered person cannot avail the credit in terms of section 16 of the CGST Act. If he does so, the penal provisions under this clause will stand attracted.
8. fraudulently obtains refund of tax. **Comment:** In the normal course refunds can be claimed by a registered person in case of inverted duty structure or exports or supplies to SEZ (Zero rated supplies). One must be very careful at the time of claiming such refunds including furnishing of documentation etc.,. Any false or incorrect claim will get covered under this section.

9. takes or distributes input tax credit in contravention of section 20, or the rules made thereunder (Section 20 prescribes manner of distribution of credit by input service distributor). **Comment:** This clause covers cases relating to ISD who either avails or distributes the available credits contravening the provisions of section 20.
10. With an intention to evade payment of tax-
  - (a) falsifies or substitutes financial records, or
  - (b) produces fake accounts or documents, or
  - (c) furnishes any false information or return**Comment:** The above three situations need no further elaboration. It covers all cases of misrepresentation.
11. fails to obtain registration. **Comment:** This clause would typically cover - for example a situation where a person is required to register since his turnovers have exceeded the threshold limits but has failed to register; or a casual taxable person who does not obtain registration.
12. furnishes any false information with regard to registration particulars, either at the time of applying for registration, or subsequently. **Comment:** Example : Furnishing false information with regard to address of a business premise or not declaring a warehouse that existed etc.
13. obstructs or prevents any officer in discharge of his duties. **Comment:** A Government servant cannot be obstructed in the performance of his duties. For instance if a registered person does not allow an Officer to enter a godown.
14. transports any taxable goods without the cover of specified documents. **Comment:** For example taxable goods are to be transported under cover of a tax invoice and in certain cases along with an e-way bill / delivery challan etc..
15. suppresses his turnover leading to evasion of tax. **Comment:** Suppression and evasion are normally used or understood interchangeably. But suppression means "failure to disclose" which essentially leads to evasion of tax.
16. fails to keep, maintain or retain books of account and other documents as specified in law.
17. fails to furnish information or documents called for by an officer or furnishes false information or documents during any proceedings.
18. supplies, transports or stores any goods which he has reason to believe are liable to confiscation.
19. issues any invoice or document by using the registration number of another taxable person. **Comment:** This is a clear case of evasion. Typically it would also cover a case of misrepresentation of registration number of another registered person.

20. tampers with or destroys any material evidence or document.
21. disposes off or tampers with any goods that have been detained, seized, or attached under this Act.
- B. Penalty at a reduced rate of 10% of the tax involved subject to minimum of Rs.10,000 will be levied in cases where any **registered person** who supplies any goods or services by whom any tax has not been paid or short-paid or erroneously refunded, or where the input tax credit has been wrongly availed or utilized for any reason, other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax. Penalty of 100% of the tax involved subject to minimum of ₹ 10,000 where fraud or any wilful misstatement or suppression of facts to evade tax.
- C. Penalty up to rupees twenty-five thousand where **any person**:
  1. aids or abets any of the offences specified in clause A above; **Comment:** Aiding or abetting normally means collusion with another person or to encourage or assist another person to commit an offence. It may be noted that almost all offences committed under clause A would require assistance / collusion / connivance.
  2. acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with any goods which he knows or has reason to believe are liable to confiscation;
  3. receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reason to believe are in contravention of any provisions of this Act or the rules made thereunder;
  4. fails to appear before the officer of central tax, when issued with a summon for appearance to give evidence or produce a document in an enquiry. **Comment:** Before levy of penalty under this section the question of malafide intent or resistance would also need to be considered.
  5. fails to issue invoice in accordance with the provisions of this Act or rules made thereunder, or fails to account for an invoice in his books of account

### 122.3 Comparative review

Penalty provisions are more or less in line with the following provisions of subsumed Central laws in addition to the provisions of VAT laws of various States:

Section/Rule	Act/Rule	Provision
Section 9	Central Excise Act, 1944	Offences and penalties.
Chapter XVI	Customs Act, 1962	Offences & Prosecutions
Rules 8(3A)	Central Excise Rules, 2002	Failure to pay duty declared in return
Rules 25 &	Central Excise Rules,	— Confiscation & Penalty

26	2002	— Penalty for Certain Offences
Section 76	Finance Act, 1994	Penalty for failure to pay Service tax
Section 77	Finance Act, 1994	General penalty for residual offences
Section 78	Finance Act, 1994	Penalty for failure to pay service tax for reasons of fraud
Section 89	Finance Act, 1994	Offences and Penalties
Rules 15	Cenvat Credit Rules, 2004	Penalty for defaults in relation to CENVAT credit
Rules 15A	Cenvat Credit Rules, 2004	General penalty

**122.4 FAQs**

Q1. Whether penalty becomes automatically leviable without any adjudication?

Ans. Though not specifically mentioned in section 122 relating to penalties, in the light of section 126 dealing with general disciplines related to penalty and in view of principles of natural justice, penalties cannot be imposed without affording him an adequate opportunity of being heard.

Q2. Can there be any liability even if a person is not a taxable person?

Ans. Yes, penalty under sub-section (3) of Section 122 can be levied on any person even if he is not a taxable person.

**122.5 MCQs**

Q1. If a person has failed to obtain the registration the penalty is equivalent to:

- (a) amount of tax
- (b) 10% of tax
- (c) upto ₹ 10,000
- (d) the amount of tax or ₹ 10,000 whichever is higher

Ans. (d) the amount of tax or ₹ 10,000 whichever is higher

Q2. If a person fails to appear before GST officer, the maximum penalty that can be levied is:

- (a) amount of tax
- (b) 10% of tax
- (c) upto ₹ 10,000
- (d) none of the above

Ans. (d) none of the above

Q3. Penalty of 10% of the tax can be levied if:

- (a) a person repeatedly had not appeared before GST officer for 3 times
- (b) the taxable person has not filed returns for 6 consecutive months or more
- (c) a taxable person has been served with show cause notice for 3 times repeatedly
- (d) registered taxable person has not paid under *bona fide* belief

Ans. (d) registered taxable person has not paid under *bona fide* belief.

Q4. There is no penalty for not carrying specified documents during transportation of goods

- (i) True
- (ii) False

Ans. (ii) False

#### Statutory provisions

##### **123. Penalty for failure to furnish information return**

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

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

#### Extract of the CGST Rules, 2017

No rules have been specified

#### Related provisions of the Statute:

Section	Description
Section 150	Obligation to furnish Information Return

##### **123.1 Introduction**

This Section would be relevant where the information return as prescribed under Section 150 is not filed.

##### **123.2 Analysis**

If the person who is required to file an 'information return' as prescribed under Section 150 has not filed the return within the stipulated period of 30 days (please see section 150(2) and 150(3)) from the date of issue of show cause notice, a penalty of ₹ 100/- per day shall be levied for each day for which the failure continues but not exceeding five thousand rupees.

##### **123.3 Comparative Review**

The provision is similar to Section 15B of Central Excise Act, 1944.



**123.4 FAQs**

Q1. What would be the penalty for not filing the information return?

Ans. Penalty of Rs.100 per day would be applicable for each day for which the failure continues subject to maximum of Rs. 5,000/-.

Q2. Would penalty under this Section be payable for defective returns?

Ans. No, the penalty for defective information returns would not be payable under this section.

Q3. Is there any maximum ceiling on penalty payable for failure to furnish information return u/s. 150?

Ans. Yes. There is maximum ceiling of Rs. 5,000/- for failure to furnish information return u/s. 150.

**Statutory provisions****124. Fine for failure to furnish statistics**

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

- (a) *without reasonable cause fails to furnish such information or return as may be required under that section, or*
- (b) *wilfully furnishes or causes to furnish any information or return which he knows to be false,*

*he shall be punishable with a fine which may extend to ten thousand rupees and in case of a continuing offence to a further fine which may extend to one hundred rupees for each day after the first day during which the offence continues subject to a maximum limit of twenty-five thousand rupees.*

**Extract of the CGST Rules, 2017**

No rules have been specified

**Related provisions of the Statute:**

Section	Description
Section 151	Power to collect statistics

**Relevant circulars, notifications, clarifications, flyers issued by Government: NA**

**124.1 Introduction**

This section provides for penal consequences for failure to furnish information or return as required under section 151 regarding collection of statistics.

**124.2 Analysis**

The section specifies penalty for failure to provide information or return in two circumstances viz.

- (a) fails to furnish information or return without reasonable cause; and
- (b) where furnished knowing it to be false.

The penalty specified is of up to ₹ 10,000/- and where the offence is continuing a further fine of up to ₹ 100 per day subject to maximum of ₹ 25,000/-.

**Statutory provision****125. General Penalty**

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

**Extract of the CGST Rules, 2017**

No rules have been specified

**Relevant circulars, notifications, clarifications, flyers issued by Government: NA**

**Related provisions of the Statute:**

Section	Description
Section 2(84)	Definition of Person
Section 2(107)	Definition of Taxable Person
Section 126	General disciplines related to penalty

**125.1 Introduction**

The duty of the State is not only to recover all lawful dues from a defaulter, but to do justice towards the law abiding populace to impose a penalty – *jus in rem*. To this end offences are listed in section 122 along with penalty specifically applicable to each. Any offence that does not have a specific penalty prescribed, cannot be let off without penal consequences. Section 125 is a general penalty provision under the GST law for cases where no separate penalty is prescribed under the Act or rules.

**125.2 Analysis**

Penalty upto rupees twenty-five thousand is imposable where any person contravenes:

- (a) any of the provisions of the Act; or
- (b) rules made thereunder.

for which no penalty is separately prescribed under the Act

**125.3 Comparative review**

General penalty provisions are more or less in line with the following provisions of subsumed Central laws in addition to the provisions of VAT laws of various States:

Section/Rule	Act/Rule	Provision
Rule 27	Central Excise Rules, 2002	General Penalty
Rule 15A	Cenvat Credit Rules, 2004	General penalty
Section 77	Finance Act, 1994	General penalty for residual offences

The residuary penalty as prescribed under service tax law and central excise law is upto ₹ 10,000/- and ₹ 5,000/ respectively-. There is substantial increase in maximum limit of penalty as prescribed under the Act.

**125.4 FAQs**

Q1. Which are the cases where general penalty can be levied?

Ans. The instances where there is no specific penalty prescribed under any other section or rule made thereunder general penalty will be attracted.

Q2. What is the amount of general penalty leviable under the Act?

Ans. An amount upto 25,000/-

**125.5 MCQs**

Q1. General penalty can be levied in addition to the specific penalties prescribed under the law

- (i) Yes, general penalty is levied in addition to the specific penalties
- (ii) No, when no specific penalty is prescribed, then only the general penalty applies.

Ans. (ii) No, when no specific penalty is prescribed, then only the general penalty applies.

Q2. If the assessee discovers any default on his own he must pay penalty along under this section?

- (i) Yes
- (ii) No

Ans. (ii) No.

**Statutory provisions****126. General disciplines related to penalty**

- (1) No officer under this act shall impose any penalty for minor breaches of tax regulations or procedural requirements and in particular, any omission or mistake in documentation which is easily rectifiable and made without fraudulent intent or gross negligence.

*Explanation. - For the purpose of this sub-section –*

- (a) *a breach shall be considered a 'minor breach' if the amount of tax involved is less than five thousand rupees.*
- (b) *an omission or mistake in documentation shall be considered to be easily rectifiable if the same is an error apparent on the face of record.*
- (2) *The penalty imposed under this act shall depend on the facts and circumstances of each case and shall be commensurate with the degree and severity of the breach.*
- (3) *No penalty shall be imposed on any person without giving him an opportunity of being heard.*
- (4) *The officer under this act shall while imposing penalty in an order for a breach of the any law, regulation or procedural requirement, specify the nature of the breach and the applicable law, regulation or procedure under which the amount of penalty for the breach has been specified.*
- (5) *When a person voluntarily discloses to an officer under this act the circumstances of a breach of the tax law, regulation or procedural requirement prior to the discovery of the breach by the officer under this act, the proper officer may consider this fact as a mitigating factor when quantifying a penalty for that person.*
- (6) *The provisions of this section shall not apply in such cases where the penalty specified under the Act is either a fixed sum or expressed as a fixed percentage.*

#### **Extract of the CGST Rules, 2017**

No rules have been specified

**Relevant circulars, notifications, clarifications, flyers issued by Government: NA**

#### **Related provisions of the Statute:**

<b>Section/Rule/Form</b>	<b>Description</b>
Section 122	Penalty for certain offences
Section 123	Penalty for failure to furnish information return
Section 125	General penalty

#### **126.1. Introduction**

While penalties are not new in tax laws, this section lays down certain guiding principles to ensure tax administration can be held accountable to the tax paying citizen. It is salutary that such well-reasoned 'general disciplines' relating to penalty are provided in the Act.

**126.2. Analysis**

Guidelines for imposing penalty is one of the highlights of this progressive tax legislation. Courts have, for long, addresses the presence of circumstances surrounding the instance of – non-payment of tax now admitted – for the imposition of penalty. Now, a section providing guidance on ‘how’ and ‘when’ – to impose or refrain from imposing penalty – is salutary.

The following guiding disciplines in certain circumstances apply to substantial penalties:

- (a) No penalty can be imposed where the tax involved is less than ₹ 5,000/- (minor breach) or in case of documentation errors apparent on the face of record.
- (b) When penalty is still liable to be imposed, the next safety as laid down is to inquire into the degree and severity of the breach to proceed with imposition of penalty. In these cases, if the facts do not demand imposition of penalty, restraint is advised. However, no such discretion is provided in the section while providing for amount of penalty.
- (c) Person liable to penalty must be given an opportunity of being heard. Further a speaking order is passed for imposing such penalty.
- (d) Voluntary disclosure by a person to an officer (not merely in his own books and records) about the circumstances of the breach may be considered as a mitigating factor for the quantifying of penalty.
- (e) Cases involving fixed sum or fixed percentage of penalty are excluded.

**General notes**

The nature of penalty and the principles governing imposition of penalties as held by the Courts would be a guiding factor. There are no infallible tests in law which would guide the provisions relating to levy of penalties. Penalties can or may be levied depending on the facts and circumstances of each case. The guiding principles laid down by Courts can be summarised as follows:

- 1. Provisions of penalty must be strictly construed and within the term and language of the statute.
- 2. Penalty provision should be interpreted as it stands and, in case of a doubt it should be in a manner favourable to the taxpayer. If the language of a taxing provision is ambiguous or capable of having more than one meaning, one has to adopt the interpretation favouring the assessee. (CIT Vs Vegetable Products Ltd., (88 ITR 192(SC)).
- 3. An order imposing penalty for failure to carry out a statutory obligation is the result of a quasi criminal proceeding, and penalty will not ordinarily be imposed unless the person, either acted deliberately in defiance of law or was guilty of conduct, dishonest or acted in conscious disregard of his obligations. Penalty need not be imposed merely because it is lawful to do so. Whether penalty should be imposed for failure to perform a statutory obligation is a matter of discretion of the authority to be exercised judiciously and on a consideration of all the relevant circumstances. Even if a minimum penalty is prescribed, the authority competent to impose the penalty will be justified in refusing to impose penalty when there is a technical or venial breach of the provisions of the Act, or where the breach

flows from the belief that the offender is not liable to act in the manner prescribed by the statute. (Hindustan Steel Ltd., vs State of Orissa)(25 STC 210).

4. Penalty proceedings are apart and separate from assessment proceedings. A person is entitled to adduce any evidence, which he had adduced or not in the assessment proceedings and such evidence has to be duly considered by the authorities. The assessee is also entitled in the penalty proceedings to take up new pleas, which he had not taken up in the course of assessment proceedings.

#### **Doctrine of mensrea**

Non compliance of law under a genuine belief or without a guilty mind should not generally invoke penalties. This view is by and large accepted by the courts. For instance in the case of Modi Spinning and Weaving Mills (16 STC 310 ) the Supreme Court held that "as the assessee bonafide thought that the lift purchased by them would be included in category (b) as well as category (c) of the certificate of registration and as neither the assessing officer nor the appellate assistant commissioner had given any finding that the assessee did not or could not have entertained any bonafide doubt and therefore the offence committed, would not attract any penalties.

There is a clear distinction between a representation, which is negligent, and one, which is fraudulent. Normally a section requires that the representation must have been made falsely i.e., without any belief in its truth. A representation, however negligent is not necessarily fraudulent.

#### **126.3 Comparative review**

Finance Act, 1994 *vide* Section 80, provided for waiver of penalties in cases where the assessee was able to prove that there was a reasonable cause of failure. The same was deleted with effect from 14.05.2015.

#### **126.4 Issues and Concerns**

The applicability of general disciplines relating to levy of penalties prescribed under this section has limited field of operation since sub-section (6) of Section 126 clearly specifies that the general disciplines are not applicable where ever the penalty specified under this Act is either a fixed sum or expressed as a fixed percentage.

#### **126.5 FAQs**

- Q1. What are the discretionary powers of the officers to waive the penalties?
- Ans. Section 126(2) prescribes that penalty shall be levied depending on the facts and circumstances of the case and shall be commensurate with the degree and severity of the breach.
- Q2. What is regarded as "minor breach"?
- Ans. A breach shall be considered a 'minor breach' if the amount of tax involved is less than rupees five thousand.
- Q3. What shall be considered as "mistake easily rectifiable"?

Ans. An omission or mistake in documentation shall be considered to be easily rectifiable if the same is an error apparent on the face of record.

### 126.6 MCQs

Q1. For minor breaches of tax regulations or procedural requirements, the tax authority shall-

- (a) not impose substantial penalties
- (b) impose nominal penalty
- (c) not impose any penalty.
- (d) none of the above.

Ans. (c) not impose any penalty.

### Statutory provisions

#### **127. Power to Impose penalty in certain cases**

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

### Extract of the CGST Rules, 2017

No rules have been specified

**Relevant circulars, notifications, clarifications, flyers issued by Government: NA**

### Related provisions of the Statute

Section or Rule	Description
Section 2(84)	Definition of Person
Section 2(107)	Definition of Taxable Person
Section 62	Assessment of non-filers of returns
Section 63	Assessment of unregistered persons
Section 64	Summary of assessment in certain special cases
Section 73	Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful-misstatement or suppression of facts.
Section 74	Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful-misstatement or suppression of facts.
Section 129	Detention, seizure and release of goods and conveyances in transit.
Section 130	Confiscation of goods or conveyances and levy of penalty

**127.1 Introduction**

This section empowers the proper officer to initiate separate penalty proceedings if penalty is not leviable under any the provisions of section 62, 63, 64, 73, 74 or 129 & 130.

**127.2 Analysis**

Penalty proceedings can be initiated under this Section even if the same are not covered under the following sections:

- Section 62: Assessment of non-filers of returns
- Section 63: Assessment of unregistered persons
- Section 64: Summary assessment in certain special cases
- Section 73 and 74: Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed
- Section 129: Detention, seizure and release of goods and conveyances in transit
- Section 130: Confiscation of goods or conveyances and levy of penalty

In other words, penalties can be imposed by proper officer after giving due opportunity even in cases where there are no proceedings open with regard to assessment, adjudication, detention or confiscation. This may involve situations where there is no evasion of tax directly by the person concerned but he may be involved in offences mentioned in sub-section (3) of Section 122. Section 122(3) encompasses the following situations:

1. aids or abets any of the offences specified in section 122(1)
2. acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with any goods which he knows or has reason to believe are liable to confiscation;
3. receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reason to believe are in contravention of any provisions of this Act or the rules made thereunder;
4. fails to appear before the officer of central tax, when issued with a summon for appearance to give evidence or produce a document in an enquiry;
5. fails to issue invoice in accordance with the provisions of this Act or the rules made thereunder or fails to account for an invoice in his books of account.

**Statutory provision****128. Power to waive penalty or fee or both**

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



**Extract of the CGST Rules, 2017**

No rules have been specified
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**Related provisions of the Statute:**

Section or Rule	Description
Section 47	Levy of late fee
Section 122	Penalty for certain offences
Section 123	Penalty for failure to furnish information return
Section 125	General Penalty

**128.1 Introduction**

This section empowers the government to waive penalty for certain class of taxpayers or under certain circumstances.

**128.2 Analysis**

- (i) This section provides for waiver of penalty leviable under section 122 or section 123 or section 125 or late fee payable under section 47 to those class of taxpayers or under such mitigating factors as notified by the Government.
- (ii) As per Notification No 28/2017 and 50/2017, the Central Government, on the recommendations of the Council, hereby waives the late fee payable under section 47 of the said Act, for all registered persons who failed to furnish the return in FORM GSTR-3B for the month of July, 2017, Aug 2017 and Sept 2017 by the due date.
- (iii) As per Notification No 64/2017, the Central Government, on the recommendations of the Council, waived the amount of late fee payable by any registered person for failure to furnish the return in FORM GSTR-3B for the month of October, 2017 onwards by the due date under section 47 of the said Act, which is in excess of an amount of twenty-five rupees for every day during which such failure continues.

Provided that where the total amount of central tax payable in the said return is nil, the amount of late fee payable by such registered person for failure to furnish the said return for the month of October, 2017 onwards by the due date under section 47 of the said Act shall stand waived to the extent which is in excess of an amount of ten rupees for every day during which such failure continues.

- (iv) A series of notifications issued for reduction of late fee vide Notification No. 04/2018-Central Tax dated 23.01.2018, No.05/2018-Central Tax dated 23.01.2018, No.06/2018-Central Tax dated 23.01.2018, No.07/2018-Central Tax dated 23.01.2018 with regard to GSTR-1, GSTR-5, GSTR-5A, GSTR-6 respectively.

**Statutory provision****129. Detention, seizure and release of goods and conveyances in transit**

(1) *Notwithstanding anything contained in this Act, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or rules made thereunder, all such goods and the conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure and after detention or seizure, shall be released,*

(a) *on payment of the applicable tax and penalty equal to one hundred percent of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two percent of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such tax and penalty;*

(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, and, in case of exempted goods, on payment of an amount equal to five percent of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such tax and penalty.*

(c) *upon furnishing a security equivalent to the amount payable under clause (a) or clause (b) in such form and manner as may be prescribed:*

*Provided that no such goods or conveyance shall be detained or seized without serving an order of detention or seizure on the person transporting the goods.*

(2) *The provisions of sub-section (6) of section 67 shall, mutatis mutandis, apply for detention and seizure of goods and conveyances.*

(3) *The proper officer detaining or seizing goods or conveyances shall issue a notice specifying the tax and penalty payable and thereafter, pass an order for payment of tax and penalty under clause (a) or clause (b) or clause (c).*

(4) *No tax, interest or penalty shall be determined under sub-section (3) without giving the person concerned an opportunity of being heard.*

(5) *On payment of the amount referred to in sub-section (1), all proceedings in respect of the notice specified in sub-section (3) shall be deemed to be concluded.*

(6) *Where the person transporting any goods or the owner of the goods fails to pay the amount of tax and penalty as provided in sub-section (1) within seven days of such detention or seizure, further proceedings shall be initiated in accordance with the provisions of section 130:*

*Provided that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of seven days may be reduced by the proper officer.*

**Extract of the CGST Rules, 2017**

No rules have been specified
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**Relevant circulars, notifications, clarifications, flyers issued by Government:**

1. Circular No. 41/15/2018-GST dated 13.04.2018 - clarifying the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances.

**Related provisions of the Statute:**

Section / Rule / Form	Description
Section 67	Power of inspection, search and seizure
Section 68	Inspection of goods in movement
Section 130	Confiscation of goods or conveyances and levy of penalty

**129.1 Introduction**

This section provides for the basis relating to detention of goods or conveyances or both in case of certain defaults under the law. A common man would understand the meanings of the three terms detention, confiscation and seizure as follows:

- ✓ Detention means keeping or holding back either by force or otherwise;
- ✓ Confiscation means to appropriate to the Government account;
- ✓ Seizure means to take forcible possession of.

**129.2 Analysis**

- (a) If a person contravenes any provision of the Act or Rules while transporting or storing goods during transit, then such goods and the conveyance in which such goods are carried and all the documents relating to such goods and conveyance can be detained or seized. The proper officer detaining and seizing the goods and/or conveyance has to provide proper opportunity to the transporter or such other person to explain his case by issuing a show cause notice to him. After hearing the transporter, the officer shall pass an appropriate order.
- (b) In case of default, where the owner of the goods **comes forward for the payment of tax**, penalty will be levied equal to 100% of the amount of tax and in case of exempted goods 2% of the value of goods or Rs.25000/- whichever is less. The sub section has two limbs to it
  - i. When the goods are taxable and the owner comes forward to pay the tax and penalty – then the amount payable would be equal to :  
Tax + Penalty equal to 100% of tax.

For example if the taxable goods valued at Rs.100000/- (tax rate 12%) is being transported without documents and subject to detention, then if the owner of goods comes forward to pay tax and penalty the amount payable would be equal to : Tax Rs.12000/- + Penalty Rs.12000 = Rs.24000/-. Please note that the taxes paid under this provision would not be eligible to be claimed as input taxes by the recipient – refer section 17(5).

- ii. When the goods are exempt and the owner comes forward to pay the penalty – then the amount payable would be equal to :

Penalty at 2% of value of goods or Rs.25000/-, whichever is lower.

For example if the exempt goods valued at Rs.100000/- is being transported without documents and subject to detention, then if the owner of goods comes forward to pay the penalty the amount payable would be equal to : Rs.2000/- or Rs.25000/- whichever is lower, in this case it is Rs.2000/-.

- (c) In case where owner of the goods **does not come forward for payment of tax**, then an order shall be passed for payment of amount of tax and penalty equal to **50% of the value of goods** reduced by tax amount paid (to be paid by any other person other than owner) and in case of exempted goods 5% of the value of goods or Rs.25000/- whichever is less.

- (d) The sub section has two limbs to it :

1. **When the goods are taxable and the owner does not come forward to pay the tax and penalty** – then the amount payable would be equal to :

Tax + Penalty equal to 50% of the value of goods (as reduced by the tax amount paid thereon)

For example if the taxable goods valued at Rs.100000/- (tax rate 12%) is being transported without documents and subject to detention, then if the owner of goods does not come forward to pay tax and penalty the amount payable would be equal to : Tax Rs.12000/- + Penalty at 50% of value of goods Rs.50000 (less tax amount of Rs.12000/- i.e Rs.38000/- in all = Rs.50000/-. Please note that the taxes paid under this provision would not be eligible to be claimed as input taxes by the recipient – refer section 17(5).

2. **When the goods are exempt and the owner does not come forward to pay the penalty** – then the amount payable would be equal to :

Penalty at 5% of value of goods or Rs.25000/-, whichever is lower.

For example if the exempt goods valued at Rs.100000/- is being transported without documents and subject to detention, then if the owner of goods does not come forward to pay the penalty the amount payable would be equal to : Rs.5000/- or Rs.25000/- whichever is lower, in this case it is Rs.5000/-.

- (e) The proper officer shall release the goods upon the payment of tax and amount of penalty in the above manner or upon furnishing a security equivalent of the amount payable and all the proceedings under this particular section shall be deemed to be concluded. However, if the person (either owner of the goods or any other person) fails to discharge the amount of tax and penalty under this section within 7 days, than the goods and / or conveyance shall be liable for confiscation. The period of 7 days can be reduced by proper officer if goods are of perishable or hazardous nature. Further, such goods can be released on provisional basis under bond as per the provisions of section 67.

### 129.3 FAQs

Q1. Under what circumstances a conveyance can be detained?

Ans. A conveyance can be detained, when the conveyance is used for –

- Transportation of any goods or
- Storage of such goods while they are in transit

in violation of the GST Act or rules made thereunder.

Q2. What is the quantum of penalties in case of detention/seizure of goods and/or conveyance?

Ans. The quantum of penalties in case of detention /seizure of goods and/or conveyance are:-

- In case of owner– the quantum of penalty would be equivalent to the amount of tax and in case of exempted goods 2% of the value of the goods or Rs.25000/- whichever is less.
- In case, payment is to be made by the person other than the owner, penalty shall be 50% of the value of the goods and in case of exempted goods 5% of the value of goods or Rs.25000/- whichever is less.

### 129.4 MCQs

Q1. The detained goods shall be released only after payment of –

- (a) Applicable tax and penalty;
- (b) Furnishing a security;
- (c) Tax and Interest;
- (d) Either (a) or (b).

Ans. (d) Either (a) or (b)

Q2. Number of days within which the amount of tax and penalty on seized goods should be paid-

- (a) 3
- (b) 12

(c) 7

(d) 15

Ans. (c) 7

### Statutory provisions

#### **130. Confiscation of goods and/or conveyances and levy of penalty**

- (1) Notwithstanding anything contained in this Act, if any person –
- (i) supplies or receives any goods in contravention of any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or
  - (ii) does not account for any goods on which he is liable to pay tax under this Act; or
  - (iii) supplies any goods liable to tax under this Act without having applied for the registration; or
  - (iv) contravenes any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax, or
  - (v) uses any conveyance as a means of transport for carriage of taxable goods in contravention of the provisions of this Act or rules made thereunder unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance,
- then, all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty under section 122.
- (2) Whenever confiscation of any goods or conveyance is authorized by this Act, the officer adjudging it shall give to the owner of the goods an option to pay in lieu of confiscation such fine as the said officer thinks fit:
- Provided that such fine leviable shall not exceed the market value of the goods confiscated, less the tax chargeable thereon:*
- Provided further that the aggregate of such fine and penalty leviable shall not be less than the amount of penalty leviable under sub-section (1) of section 129:*
- Provided also that where any such conveyance is used for the carriage of the goods or passengers for hire, the owner of the conveyance shall be given an option to pay in lieu of the confiscation of the conveyance a fine equal to the tax payable on the goods being transported thereon.*
- (3) Where any fine in lieu of confiscation of goods or conveyance is imposed under sub-section (2), the owner of such goods or conveyance or the person referred to in sub-section (1), shall, in addition, be liable to any tax, penalty and charges payable in respect of such goods or conveyance.

- |     |  |
|-----|--|
| (4) | <i>No order for confiscation of goods or conveyance or for imposition of penalty shall be issued without giving the person a reasonable opportunity of being heard.</i>  |
| (5) | <i>Where any goods or conveyance are confiscated under this Act, the title of such goods or conveyance shall thereupon vest in the Government.</i>   |
| (6) | <i>The proper officer adjudging confiscation shall take and hold possession of the things confiscated and every officer of Police, on the requisition of such proper officer, shall assist him in taking and holding such possession</i>   |
| (7) | <i>The proper officer may, after satisfying himself that the confiscated goods or conveyance are not required in any other proceedings under this Act and after giving reasonable time not exceeding three months to pay fine in lieu of confiscation, dispose of such goods or conveyances and deposit the sale proceeds thereof with the Government.</i> |

**Extract of the CGST Rules, 2017**

No rules have been specified
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**Relevant circulars, notifications, clarifications, flyers issued by Government:**

- |    |   |
|----|---|
| 1. | Circular No. 41/15/2018-GST dated 13.04.2018 - clarifying the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances. |
|----|---|

**Related provisions of the Statute:**

Section / Rule / Form	Description
Section 122	Offences and Penalties
Section 126	General discipline related to penalty
Section 129	Detention, seizure and release of goods and conveyances in transit

**130.1 Introduction**

This section provides for specific situations or causes leading to confiscation of goods / conveyances. The nature of authorization to confiscate and providing an opportunity to show cause and release goods /conveyances liable for such confiscation are detailed in this section.

**130.2 Analysis**

There are five precise causes for confiscation of goods and/or conveyances specified in this section and they are:

Action	Consequence
Supply or receive goods in contravention of the Act or rules made thereunder	Resulting in actual evasion of tax
Not accounting for goods	Carrying a liability to payment of tax
Supply of goods liable to tax	Without applying for registration
Contravention of the provisions of Act or rules made thereunder	With intent to evade payment of tax
Use of conveyance as a means of transport/for carriage of taxable goods	In contravention of the Act or rules made thereunder

- In all the above cases, goods or conveyance shall be liable for confiscation. However, the conveyance shall not be confiscated where the owner of the conveyance proves that it is without the connivance of owner himself, his agent or person in charge of the conveyance. Further, the person shall be liable to pay penalty under section 122 of the Act.
- If the goods or conveyance are liable to be confiscated under the provisions of this Act, the proper officer shall give the owner of the goods an option to pay fine in lieu of confiscation.
- The amount of fine shall not exceed the market value of goods as reduced by the amount of tax payable thereon. However, at the same time aggregate of fine and penalty leviable shall not be less than the amount of penalty as leviable under section 129(1) While section 129 is applicable on transporters, section 130 primarily covers the owner.
- Where the conveyance is used for transportation of goods or passenger on hire, the owner of the conveyance shall be given an option to pay in lieu of confiscation of the conveyance a fine equal to amount of tax payable on the goods transported on his conveyance. It is worthwhile to note that the amount of fine payable is in addition to any tax, penalty and other charges payable on confiscated goods or conveyance.
- The order for confiscation cannot be issued without giving the person an opportunity of being heard.
- The title of the confiscated goods or conveyance shall be vested upon the Government.
- The proper officer ordering confiscation shall take and hold possession of the things confiscated on behalf of the Government and every officer of police shall assist in taking such hold and possession.
- If the proper officer is satisfied that the confiscated goods / conveyance are not required for any proceedings under the Act, then he shall after giving reasonable time not exceeding 3 months to pay fine in lieu of confiscation, dispose the goods and deposit the sale proceeds with the Government.



**130.3 Comparative review**

The provision as discussed above for confiscation of goods and levy of penalty is akin to erstwhile confiscation provisions under Sections 33 and 34 of the Central Excise Act, 1944.

**130.4 FAQs**

Q1. Are all cases of contraventions of any of the provisions of the Act or Rules liable for confiscation?

Ans. No, only if the contravention of the provisions results in evasion of taxes or there lies an intent to evade the payment of tax, confiscation of goods/conveyance is permissible.

Q2. What is the maximum amount of fine in lieu of confiscation that can be levied?

Ans. The maximum amount of fine in lieu of confiscation shall not exceed the market price of the goods confiscated, less the tax chargeable thereon

Q3. Can the option to pay redemption fine in lieu of confiscation of goods be given to any person other than the owner of the goods?

Ans. No, in terms of section 130(2) of GST Law,, the officer adjudging confiscation of any goods shall give to the owner of the goods an option to pay in lieu of confiscation such fine as thinks fit.

Q4. Can the option to pay fine in lieu of confiscation be exercised anytime?

Ans. The option to pay fine in lieu of confiscation shall be exercised within 3 months of confiscation.

**Statutory provisions****131. Confiscation or penalty not to interfere with other punishments**

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

**Extract of the CGST Rules, 2017**

No rules have been specified

**Relevant circulars, notifications, clarifications, flyers issued by Government: NA**

**131.1 Introduction**

This is an administrative provision which empowers the Government to initiate other proceedings, as relevant, in addition to confiscation of goods or imposition or penalty.

**131.2 Analysis**

Normally, the inference is that where the goods are confiscated or where any penalty is imposed, no other proceedings which are punitive in nature should be initiated.

This Section provides that in addition to confiscation of goods or penalty already imposed, all / any other proceedings may also be initiated or continued under the GST law or any other law, as applicable. This could be prosecution, arrest, cancellation of registration etc., as applicable and provided for the relevant non-compliances.

**131.3 Comparative review**

This provision is similar to Section 34A of the Central Excise Act, 1944.

**Statutory provisions****132. Punishment for Certain Offences**

- (1) *Whoever commits any of the following offences namely: -*
- (a) *supplies any goods or services or both without issue of any invoice, in violation of the provisions of this Act or the rules made thereunder, with the intention to evade tax;*
  - (b) *issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of input tax credit or refund of tax;*
  - (c) *avails input tax credit using such invoice or bill referred to in clause (b);*
  - (d) *collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;*
  - (e) *evades tax, fraudulently avails input tax credit or fraudulently obtains refund and where such offence is not covered under clauses (a) to (d);*
  - (f) *falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information with an intention to evade payment of tax due under this Act;*
  - (g) *obstructs or prevents any officer in the discharge of his duties under this Act;*
  - (h) *acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with, any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;*
  - (i) *receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;*
  - (j) *tampers with or destroys any material evidence or documents;*

- (k) *fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information; or*
- (l) *attempts to commit, or abets the commission of any of the offences mentioned in clauses (a) to (k) of this section,*
- shall be punishable –*
- (i) *in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds five hundred lakh rupees, with imprisonment for a term which may extend to five years and with fine;*
- (ii) *in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds two hundred lakh rupees but does not exceed five hundred lakh rupees, with imprisonment for a term which may extend to three years and with fine;*
- (iii) *in the case of any other offence where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds one hundred lakh rupees but does not exceed two hundred lakh rupees, with imprisonment for a term which may extend to one year and with fine;*
- (iv) *in cases where he commits or abets the commission of an offence specified in clause (f) or clause (g) or clause (j), he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.*
- (2) *Where any person convicted of an offence under this section is again convicted of an offence under this section, then, he shall be punishable for the second and for every subsequent offence with imprisonment for a term which may extend to five years and with fine.*
- (3) *The imprisonment referred to in clauses (i), (ii) and (iii) of sub-section (1) and sub-section (2) shall, in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court, be for a term not less than six months.*
- (4) *Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act, except the offences referred to in sub-section (5) shall be non- cognizable and bailable.*
- (5) *The offences specified in clause (a) or clause (b) or clause (c) or clause (d) of sub-section (1) and punishable under clause (i) of that sub-section shall be cognizable and non- bailable.*
- (6) *A person shall not be prosecuted for any offence under this section except with the previous sanction of the Commissioner.*

*Explanation.* — For the purposes of this section, the term “tax” shall include the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or refund wrongly taken under the provisions of this Act, the State Goods and Services Tax Act, the Integrated Goods and Services Tax Act or the Union Territory Goods and Services Tax Act and cess levied under the Goods and Services Tax (Compensation to States) Act.

**Extract of the CGST Rules, 2017**

No rules have been specified

**132.1 Introduction**

This section talks about cases of tax evasion and penal actions applicable on specific events subject to amount of tax sought to be evaded. This provision provides for prosecution of offenders and the punishment initiated on them. In the normal course prosecution is the institution or commencement of criminal proceeding the process of exhibiting formal charges against an offender before a legal tribunal, and pursuing them to final judgement on behalf of the State or Government or by indictment or information.

**132.2 Analysis**

- A. In this section the law makers have identified situations whereby, there can be a leakage of government revenue and have thus penned down 12 such situations of malafide intent which are as follows:
- (a) Supply of goods or services or both without the cover of invoice with an intent to evade tax;
  - (b) If any person issues any invoice or bill without actual supply of goods or services or both leading to wrongful input tax credit or refund of tax;
  - (c) Any person who avails input tax credit using invoice referred in point (b) above;
  - (d) Collection of taxes without payment to the government for a period beyond 3 months of due date;
  - (e) Evasion of tax, availment of credit or obtaining refund with intent of fraud where such offence is not covered in clause (a) to (d) above.
  - (f) Falsifying financial records or production of false records/ accounts/ documents/ information with an intent to evade tax;
  - (g) Obstructs or prevents any officer from doing his duties under the act;
  - (h) Acquires or transports or in any manner or deals with any goods which he knows or has reasons to believe are liable for confiscation under this Act or rules made thereunder;
  - (i) Receives or in any way, deals with any supply of services which he knows or has reason to believe are in contravention of any provisions of this law;

- (j) Tamperers with or destroys any material evidence or documents;
- (k) Fails to supply any information which he is required to supply under this law or supply false information;
- (l) Attempts or abets the commission of any of the offences mention above.

This section enables institution of prosecution proceedings against the offenders and the period of imprisonment and quantum of fine varies depending on the amount of tax evaded or seriousness of the offence listed below.

Amount of Tax evaded/ erroneous refund/ wrong ITC availed or utilized	Fine	Imprisonment
Exceeding ₹ 5 Crores	Yes	Upto 5 years
₹ 2 Crores – 5 Crores	Yes	Upto 3 years
₹ 1 Crores – 2 Crores	Yes	Upto 1 year

- B. If any person commits any offence specified in clause (f), (g) or (j) above, he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.
- C. In case of repetitive offences without any specific/special reason which is recorded in the judgment of the Court will entail an imprisonment term of not less than 6 months and which could extend to 5 years plus with a fine.
- D. All offences mentioned in this section are non-cognizable and bailable except the following cases:
  - a. Where the amount exceeds 5 Crores and
  - b. Instances covered by (a) to (d) in Para A.
- E. Every prosecution proceeding initiated requires prior sanction of the Commissioner.

### 132.3 Comparative Review

The old Central and State level indirect tax laws cover prosecution powers.

### Statutory provisions

#### 133. Liability of Officers and certain other persons

- (1) Where any person engaged in connection with the collection of statistics under section 151 or compilation or computerization thereof or if any officer of central tax having access to information specified under sub-section (1) of section 150, or if any person engaged in connection with the provision of service on the common portal or the agent of common portal, willfully discloses any information or the contents of any return furnished under this Act or rules made thereunder otherwise than in execution of his duties under the said sections or for the purposes of prosecution for an offence under this Act or under any other Act for the time being in force, he shall be punishable with

*imprisonment for a term which may extend to six months or with fine which may extend to twenty-five thousand rupees, or with both.*

(2) Any person—

- (a) *who is a Government servant shall not be prosecuted for any offence under this section except with the previous sanction of the Government;*
- (b) *who is not a Government servant shall not be prosecuted for any offence under this section except with the previous sanction of the Commissioner.*

#### Extract of the CGST Rules, 2017

No rules have been specified

**Relevant circulars, notifications, clarifications, flyers issued by Government: NA**

#### Related provisions of the Statute:

Section or Rule	Description
Section 150	Obligation to furnish information return
Section 151	Power to collect statistics

#### 133.1 Introduction

This Section casts duties & obligations on the officers of the Goods and Service Tax Laws to keep the information collected either from the statistical data collected by the government or from the information furnished in the returns.

#### 133.2 Analysis

Since the Officers of the department are dealing with sensitive information, the secrecy and security of such information is of utmost importance. If the officers who are dealing with the statistical data or data collected from the information returns, he has to maintain utmost secrecy of the same.

If the officer willfully discloses such information or contents by any reason other than by reason of his duties cast upon him under the Act, he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to Rs. 25,000 or both.

Further any the prosecution under this section would be carried out with the prior sanction of the Government in case of prosecution of a Government Servant and with the sanction of Commissioner in case of others.

**Statutory provisions****134. Cognizance of offences**

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

**Extract of the CGST Rules, 2017**

No rules have been specified

**Relevant circulars, notifications, clarifications, flyers issued by Government: NA**

**134.1 Introduction**

This provision sets out the manner of taking cognizance of offences.

**134.2 Analysis**

Any offence under the Act or Rules can be tried only before a Court not lower than the Court of Judicial Magistrate First Class. Further, previous sanctions of the Commissioner is mandatory in every such case.

**Statutory provisions****135. Presumption of Culpable Mental State**

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

*Explanation.—For the purposes of this section, —*

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

**Extract of the CGST Rules, 2017**

No rules have been specified

**Relevant circulars, notifications, clarifications, flyers issued by Government: NA**

**135.1 Introduction**

In this section, the framers of law have cast the responsibility upon the shoulders of the one who is alleged of culpable mental state to prove otherwise.

**135.2 Analysis**

Now, once the law has stated that in case of any prosecution which requires the existence of a culpable mental state, the Court would presume the existence of it.

Under the old revenue laws, the burden to prove was on the one who alleges it. The Hon'ble Supreme Court in the case of *Uniworth Textiles Limited vs. Commissioner of Central Excise, Raipur* [(2013) 31 taxmann.com 67 (SC)] stated that "*Burden to prove invocation of extended period on Department. The assessee cannot be asked to bring evidence to prove his bona fide. Similarly it is a cardinal postulate of law that the burden of proving any form of mala fide lies on the shoulders of the one alleging it.*"

The accused can prove that he had no such mental state in respect of a particular act for which he is charged. The expression "Culpable Mental State" is defined inclusively to cover "intent, motive, knowledge of fact, belief in or reason to believe". It also covers facts which exist beyond a reasonable doubt and not based on probabilities.

Hence, a very landmark judgement of the Hon'ble Supreme Court would lose its relevance in the cases covered by this section.

**135.3 Comparative Review**

Section 9C of the Central Excise law has a identical provision. Under the old laws the onus to prove non-existence of Culpable Mental State is cast on the assessee only.

**Statutory provisions****136. Relevancy of statements under certain circumstances**

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

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

**Extract of the CGST Rules, 2017**

No rules have been specified



Relevant circulars, notifications, clarifications, flyers issued by Government: NA
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**Related provisions of the Statute**

Section or Rule	Description
Section 70	Power to summon persons to give evidence and produce documents

**136.1 Introduction**

This provision deals with relevancy of statements and documents recorded or deposed during investigation proceedings.

**136.2 Analysis**

A Statement recorded during an investigation proceedings or inquiry will be relevant to prove the truthfulness of facts when:

- (a) It is made by a person who is not available in Court on account of his death, incapacity, prevention by another party or when he absconds; or when presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the court considers unreasonable or
- (b) The Court consider the statement as an evidence on examination of the person as a witness.

**136.3 Comparative review**

Similar provisions was traceable to section 9D of the Central Excise Act, 1944.

**Statutory provisions****137. Offences by Companies**

- (1) *Where an offence committed by a person under this Act is a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.*
- (2) *Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.*
- (3) *Where an offence under this Act has been committed by a taxable person being a partnership firm or a Limited Liability Partnership or a Hindu undivided family or a trust, the partner or karta or managing trustee shall be deemed to be guilty of that offence*

*and shall be liable to be proceeded against and punished accordingly and the provisions of sub-section (2) shall, mutatis mutandis, apply to such persons.*

- (4) *Nothing contained in this section shall render any such person liable to any punishment Provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.*

*Explanation. —For the purposes of this section, —*

- (i) *“company” means a body corporate and includes a firm or other association of individuals; and*
- (ii) *“director”, in relation to a firm, means a partner in the firm.*

#### **Extract of the CGST Rules, 2017**

No rules have been specified

**Relevant circulars, notifications, clarifications, flyers issued by Government: NA**

#### **Related provisions of the Statute:**

Section or Rule	Description
Section 2(84)	Definition of Person

#### **137.1 Introduction**

This section comes down heavily on the persons who take shelter on the principle of separate legal status of artificial judicial persons and back out of their responsibility of payment of dues of the Government.

#### **137.2 Analysis**

This section states that where an offence is committed by companies, every person/director/ manager/secretary or any other officer who at the time of commitment of the offence, was in charge of and was responsible to the company for the conduct of business of the company, as well as the company shall be deemed to be guilty of such offence and shall be liable to proceeded against and punished accordingly.

Where such offences are committed by the person being Partnership Firm, LLP, HUF or trust, then the partner or Karta or Managing Trustee (as the case may be) shall be deemed to be guilty and liable to be proceeded against and punished.

Further, if the accused person proves that he was in no way related to the offence being committed or he had exercised all possible measures to prevent commission of such offences, then he is not punishable under this section.

**137.3 Comparative Review**

These provisions are comparable to section 9AA of the Central Excise Act, 1944 as well as several State level VAT legislations with few exemptions to persons who can be prosecuted. The provision as regards LLP, HUF, Trust are new developments.

**Statutory provisions****138. Compounding of Offences**

- (1) *Any offence under this Act may, either before or after the institution of prosecution, be compounded by the Commissioner on payment, by the person accused of the offence, to the Central Government or the State Government, as the case be, of such compounding amount in such manner as may be prescribed:*

*Provided that nothing contained in this section shall apply to—*

- (a) *a person who has been allowed to compound once in respect of any of the offences specified in clauses (a) to (f) of sub-section (1) of section 132 and the offences specified in clause (l) which are relatable to offences specified in clauses (a) to (f) of the said sub-section;*
- (b) *a person who has been allowed to compound once in respect of any offence, other than those in clause (a), under this Act or under the provisions of any State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act or the Integrated Goods and Services Tax Act in respect of supplies of value exceeding one crore rupees;*
- (c) *a person who has been accused of committing an offence under this Act which is also an offence under any other law for the time being in force;*
- (d) *a person who has been convicted for an offence under this Act by a court;*
- (e) *a person who has been accused of committing an offence specified in clause (g) or clause (j) or clause (k) of sub-section (1) of section 132; and*
- (f) *any other class of persons or offences as may be prescribed:*

*Provided further that any compounding allowed under the provisions of this section shall not affect the proceedings, if any, instituted under any other law:*

*Provided also that compounding shall be allowed only after making payment of tax, interest and penalty involved in such offences.*

- (2) *The amount for compounding of offences under this section shall be such as may be prescribed, subject to the minimum amount not being less than ten thousand rupees or fifty per cent of the tax involved, whichever is higher, and the maximum amount not being less than thirty thousand rupees or one hundred and fifty per cent. of the tax, whichever is higher.*

- (3) *On payment of such compounding amount as may be determined by the Commissioner, no further proceedings shall be initiated under this Act against the accused person in respect of the same offence and any criminal proceedings, if already initiated in respect of the said offence, shall stand abated.*

**Extract of the CGST Rules, 2017****162. Procedure for compounding of offences**

- 1) An applicant may, either before or after the institution of prosecution, make an application under sub-section (1) of section 138 in FORM GST CPD-01 to the Commissioner for compounding of an offence.
- 2) On receipt of the application, the Commissioner shall call for a report from the concerned officer with reference to the particulars furnished in the application, or any other information, which may be considered relevant for the examination of such application.
- 3) The Commissioner, after taking into account the contents of the said application, may, by order in FORM GST CPD-02, on being satisfied that the applicant has co-operated in the proceedings before him and has made full and true disclosure of facts relating to the case, allow the application indicating the compounding amount and grant him immunity from prosecution or reject such application within ninety days of the receipt of the application.
- 4) The application shall not be decided under sub-rule (3) without affording an opportunity of being heard to the applicant and recording the grounds of such rejection.
- 5) The application shall not be allowed unless the tax, interest and penalty liable to be paid have been paid in the case for which the application has been made.
- 6) The applicant shall, within a period of thirty days from the date of the receipt of the order under sub-rule (3), pay the compounding amount as ordered by the Commissioner and shall furnish the proof of such payment to him.
- 7) In case the applicant fails to pay the compounding amount within the time specified in sub-rule (6), the order made under sub-rule (3) shall be vitiated and be void.
- 8) Immunity granted to a person under sub-rule (3) may, at any time, be withdrawn by the Commissioner, if he is satisfied that such person had, in the course of the compounding proceedings, concealed any material particulars or had given false evidence. Thereupon such person may be tried for the offence with respect to which immunity was granted or for any other offence that appears to have been committed by him in connection with the compounding proceedings and the provisions the Act shall apply as if no such immunity had been granted.;

**Related provisions of the Statute:**

Section or Rule	Description
Section 132	Punishment for certain offences

**138.1 Introduction**

This provision deals with compounding of offences by payment of the prescribed compounding fees. In common parlance, compounding means a condonation for a sum of money. Compounding of an offence is understood to be, the action of taking a reward for forbearing to prosecute. It could also mean an agreement with the offender not to prosecute him.

**138.2 Analysis**

- (a) Compounding of an offence means payment of a sum of money in monetary terms instead of undergoing prosecution. Application for compounding of an offence can be either before or after institution of the prosecution proceedings.
- (b) Compounding of an offence is understood as a comparison between the offender and the tax department and is not an agreement or contract.
- (c) Specified offences can be compounded only once.
- (d) As per Rule 162 of the GST Law, the application of compounding shall be filed in FORM GST-CPD-01.
- (e) On receipt of the application, the commissioner shall call for a report from the concerned officer with reference to the particulars furnished in the application or any other relevant information for the examination of such application

After providing opportunity of being heard to the applicant and taking into account the contents of the application, if satisfied that the applicant has co-operated in the proceedings before him and has made full and true disclosure of facts relating to the case. Commissioner may by order in FORM GST-CPD-02 allow the application indicating the compounding amount and grant him immunity from prosecution or reject such application within 90 days of the receipt of the application stating the grounds of rejection.

However, the application shall not be allowed unless the tax, interest and penalty liable to be paid in case for which the application has been made.

- (f) Immunity granted to applicant may, at any time be withdrawn by Commissioner, if he is satisfied that such person had, in the course of compounding proceedings, concealed any material particulars or had given false evidence. Thereupon such person may be tried of the offence with respect to which immunity was granted or for any other offence that appears to have been committed by him in connection with the compounding proceedings and the provision of the act shall apply as if no such immunity has been granted.

- (g) The applicant, within a period of 30 days from the date of receipt of order allowing compounding, shall pay the compounding amount as ordered by the commissioner and shall furnish the proof of such payment to him. However, if the applicant fails to pay the compounding amount within the time specified then the order of commissioner shall be vitiated and be void.
- (h) On payment, the proceedings indicated will abate and no criminal proceedings can be launched.
- (i) The amount of compounding of offences under this section shall be such as may be prescribed, subject to
- The minimum amount not being less than Rs. 10,000 or 50% of tax whichever is higher and
  - The maximum amount not being less than Rs. 30,000 or 150% of tax whichever is higher.
- (j) Compounding of offences is not permissible to the following offences:
- (i) A person who has compounded once in respect of supply value exceeding Rs. One Crore.
  - (ii) A person who is convicted by a Court under this Act.
  - (iii) Prescribed class of persons,
  - (iv) A person permitted to compound offences in terms of section 132.
  - (v) A person who has been accused of committing an offence under this act which is also an offence under this Act which is also an offence under any other law for the time being in force ..
  - (vi) A person who has been accused of committing an offence in section 132(1) (g) or 132(1) (j) or 132(1) (k)

### 138.3 Comparative Review

These provisions are comparable to section 9A (2) of the Central Excise Act, 1944 read with the Central Excise (Compounding of Offences) Rules, 2005.

## Chapter-XX

# Transitional Provisions

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Sections	Rules
139. Migration of existing taxpayers	117. Tax or duty credit carried forward under any existing law or on goods held in stock on the appointed day
140. Transitional arrangements for input tax credit	118. Declaration to be made under clause (c) of sub-section (11) of section 142
141. Transitional provisions relating to job work	119. Declaration of stock held by a principal and job-worker
142. Miscellaneous transitional provisions	120. Details of goods sent on approval basis
	120A. Revision of declaration in FORM GST TRAN-1
	121. Recovery of credit wrongly availed

### Statutory provisions

#### **139. Migration of existing Tax Payers**

- (1) *On and from the appointed day, every person registered under any of the existing laws and having a valid Permanent Account Number shall be issued a certificate of registration on provisional basis, subject to such conditions and in such form and manner as may be prescribed, which unless replaced by a final certificate of registration under sub- section (2), shall be liable to be cancelled if the conditions so prescribed are not complied with.*
- (2) *The final certificate of registration shall be granted in such form and manner and subject to such conditions as may be prescribed.*
- (3) *The certificate of registration issued to a person under sub-section (1) shall be deemed to have not been issued, if the said registration is cancelled in pursuance of an application filed by such person that he was not liable to registration under section 22 or section 24.*

### Extract of the CGST Rules, 2017

#### **24. Migration of persons registered under the existing law:**

- (1) (a) *Every person, other than a person deducting tax at source or an Input Service Distributor, registered under an existing law and having a Permanent Account Number issued under the provisions of the Income-tax Act, 1961 (Act 43 of*

1961) shall enrol on the common portal by validating his e-mail address and mobile number, either directly or through a Facilitation Centre notified by the Commissioner.

- (b) Upon enrolment under clause (a), the said person shall be granted registration on a provisional basis and a certificate of registration in FORM GST REG-25, incorporating the Goods and Services Tax Identification Number therein, shall be made available to him on the common portal:

*Provided that a taxable person who has been granted multiple registrations under the existing law on the basis of a single Permanent Account Number shall be granted only one provisional registration under the Act:*

- (2) (a) Every person who has been granted a provisional registration under sub-rule (1) shall submit an application electronically in **FORM GST REG-26**, duly signed or verified through electronic verification code, along with the information and documents specified in the said application, on the common portal either directly or through a Facilitation Centre notified by the Commissioner.
- (b) The information asked for in clause (a) shall be furnished within a period of three months or within such further period as may be extended by the Commissioner in this behalf.
- (c) If the information and the particulars furnished in the application are found, by the proper officer, to be correct and complete, a certificate of registration in **FORM GST REG-06** shall be made available to the registered person electronically on the common portal.
- (3) Where the particulars or information specified in sub-rule (2) have either not been furnished or not found to be correct or complete, the proper officer shall, after serving a notice to show cause in **FORM GST REG-27** and after affording the person concerned a reasonable opportunity of being heard, cancel the provisional registration granted under sub-rule (1) and issue an order in **FORM GST REG-28**:
- (3A) Where a certificate of registration has not been made available to the applicant on the common portal within a period of fifteen days from the date of the furnishing of information and particulars referred to in clause (c) of sub-rule (2) and no notice has been issued under sub-rule (3) within the said period, the registration shall be deemed to have been granted and the said certificate of registration, duly signed or verified through electronic verification code, shall be made available to the registered person on the common portal.

*Provided that the show cause notice issued in **FORM GST REG- 27** can be withdrawn by issuing an order in **FORM GST REG- 20**, if it is found, after affording the person an opportunity of being heard, that no such cause exists for which the notice was issued.*

- (4) Every person registered under any of the existing laws, who is not liable to be registered under the Act may, on or before 31st March, 2018, at his option, submit an application electronically in **FORM GST REG-29** at the common portal for the cancellation of



*registration granted to him and the proper officer shall, after conducting such enquiry as deemed fit, cancel the said registration.*

**Relevant circulars, notifications, clarifications, flyers issued by Government: -**

1. Chapter Twenty of the compilation of the GST Flyers titled 'Transition Provisions under GST, as issued by the CBIC (erstwhile CBEC).

**Related provisions of the Statute**

Section	Description	Remarks
Section 22	Registration	Persons liable for registration
Section 23	Registration	Persons not liable for registration
Section 24	Registration	Compulsory registration in certain cases; irrespective of the threshold limit specified under section 22.
Section 25	Registration	Procedure for registration
Section 28	Amendment of registration	<p>Every registered person shall inform the proper officer of any changes in the information furnished at the time of registration, or furnished subsequently, in the manner and within such period as may be prescribed.</p> <p>The proper officer may, on the basis of information furnished under sub-section (1) or as ascertained by him, approve or reject amendments in the registration particulars in the manner and within such period as may be prescribed:</p> <p>Provided that approval of the proper officer shall not be required in respect of amendment of such particulars as may be prescribed.</p>
Section 29	Cancellation of Registration	The proper officer may, either on his own motion or on an application filed by the registered person or by his legal heirs, in case of death of such person, cancel the registration, in such manner and within such period as may be prescribed.
Section 30	Revocation of cancellation of registration	The registered person whose registration is cancelled by the proper officer, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within thirty days from the date of service of the cancellation order.

Section	Description	Remarks
Rule 3 of CGST Rules, 2017	Intimation for Composition levy	The migrated person may file Form GST CMP-01 or CMP-02 to opt for payment of tax under section 10.
Rule 24 of CGST Rules, 2017	Migration of persons registered under the erstwhile law.	Every person registered under the erstwhile indirect tax laws shall be provided with a provisional certificate of registration after enrolling under GST.

### 139.1 Introduction

This transitional provision deals with migration of existing registrants into the GST regime. All existing registrants having a valid Permanent Account Number will be issued provisional registration certificate. After furnishing the required information, a final certificate of registration will be granted. If the information is not furnished, the registration is liable to be cancelled.

### 139.2 Analysis

As part of implementation of GST regime, the existing tax payers / registrants having a valid PAN would be granted provisional registration certificates under the GST law. The details are as follows:

- (i) The existing tax payer, other than a person deducting tax or an Input Service Distributor (ISD), who were registered under various earlier Indirect Tax Laws are liable to be registered under GST Laws with effect from the appointed day, when the relevant sections of CGST Act came in to force. Such taxpayer is required to declare his Permanent Account Number (PAN), mobile number, e-mail address, State or Union territory and shall enroll himself for getting the provisional registration certificate.
- (ii) On successful verification of the PAN, mobile number and e-mail address, an application reference number (ARN) shall be generated and communicated to the applicant on the said mobile number and e-mail address.
- (iii) Upon enrolment, the said person will be granted a provisional registration certificate in Form GST REG-25, incorporating the Provisional ID (GSTIN) and Password, which will be available on the GST common portal. (<https://www.gst.gov.in/>).
- (iv) A person having a single PAN in a State or UT shall be granted only one provisional registration certificate although he may hold multiple registrations under the erstwhile central and State laws.
- (v) A person who holds a provisional certificate of registration is required to furnish certain information in Form GST REG-26, within a period of 3 months or as extended by the commissioner. The date was extended till 31.12.2017 vide order No. 6/2017 - GST dated 28.10.2017.

- (vi) If the information furnished is correct and complete, Final Registration Certificate in Form GST REG 06 will be issued, within 6 months of the appointed day.
- (vii) If the and/or information has not been furnished or not found to be correct or complete, the proper officer shall cancel the provisional registration and issue an order in Form GST REG-28 cancelling the registration after serving a show cause notice in Form GST REG-27 and affording the person concerned a reasonable opportunity of being heard.
- (viii) Once the information specified in sub rule 2(c) has been furnished and no notice has been issued under sub rule 3 within a period of 15 days from the period of furnishing of the information, the registration shall be deemed to have been granted and the registration certificate will be made available on the common portal. The SCN issued in Form 27 can be withdrawn by an order in Form GST REG 20, if it is found subsequently, after affording the person an opportunity of being heard, that no cause as specified in the notice exists.
- (ix) Every existing taxpayer / registrant, who is not liable to be registered under the Act, may at his option, on or before 31st December, 2017, <sup>1</sup> file electronically an application in Form GST REG-29 at the Common Portal for cancellation of the registration granted provisionally to him and the proper officer shall, after conducting such enquiry as deemed fit, cancel the said provisional registration.
- (x) A person to whom provisional certificate is issued and who is eligible to pay tax under composition, may opt to do so by filing electronically an intimation, in Form GST CMP-01 within 30 days after the appointed day, or such further period as may be extended by the Commissioner in this behalf. This period was extended to 16th August, vide *Notification no. 1/2017- GST dated 21.07.2017*. In case the said person does not file Form GST CMP-01 within the said time lines and if he wants to opt for payment of taxes under the composition scheme under section 10, subsequently during the year 2017-18, he shall electronically file an intimation in Form GST CMP-02 before 31<sup>st</sup> March, 2018. He can opt to pay tax under section 10 w.e.f. the 1<sup>st</sup> day of the next month on wards. Such persons shall furnish statement of stock in Form GST ITC-03 within a period of 90 days from the day on which he commences to pay tax under section 10. The above persons who have filed the intimation and statement as above shall not be allowed to file Form GST TRAN-01, after furnishing Form GST ITC-03.
- (xi) It is pertinent to note here that as per Rule 5(1)(b), the person who prefers to file CMP-01 shall not hold any goods in stock on the appointed day;
  - i. that have been purchased in the course of interstate trade or;
  - ii. imported from outside India, or
  - iii. received from his branch, agent or principal situated outside the state;

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<sup>1</sup> Notification No. 51/2017 CT dt. 28.10.2017

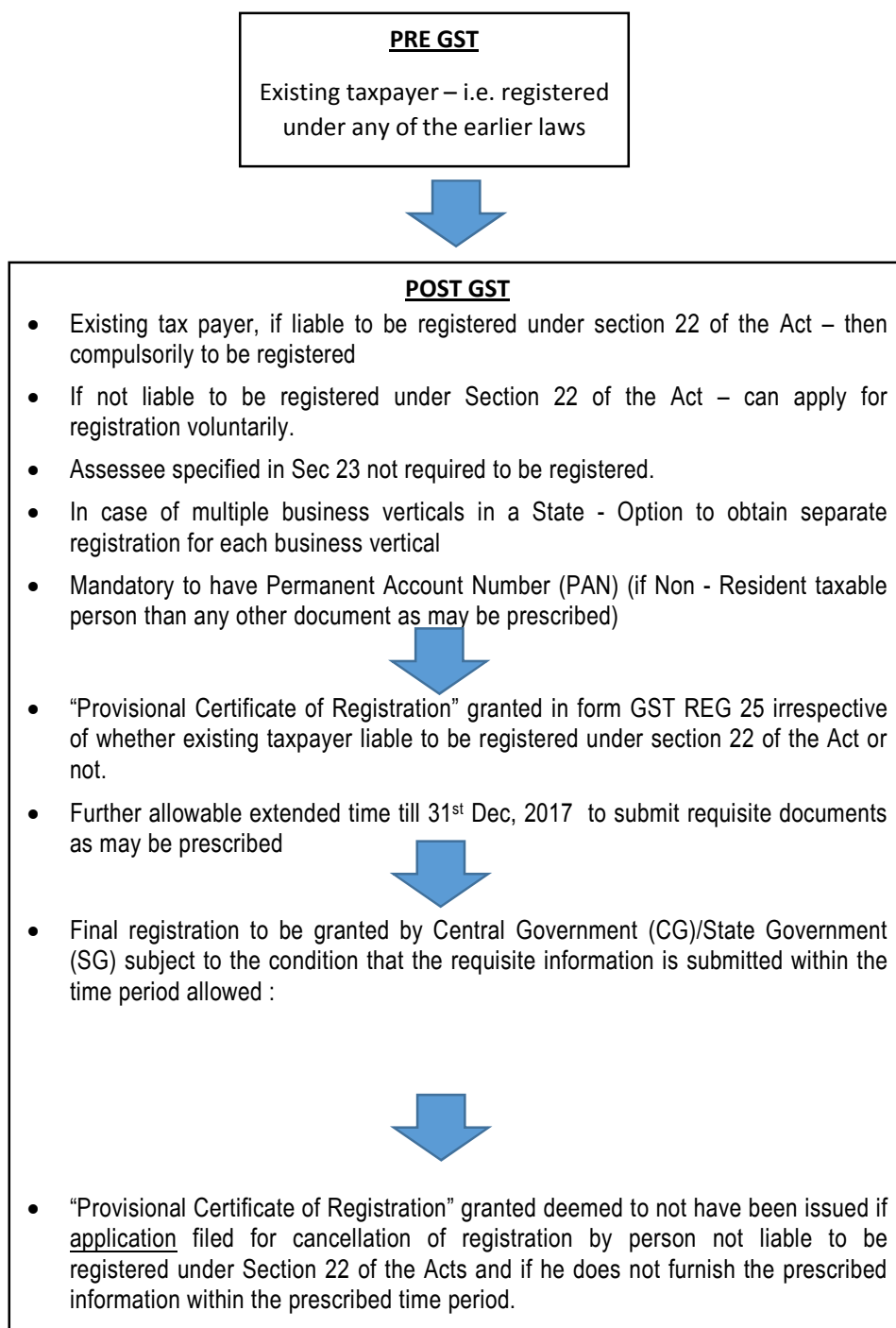
However, this restriction regarding the holding the stock received from outside the state is not applicable in the case of persons opting to pay tax under Section 10 by filing Form GST CMP-03

- (xii) A Special Economic Zone Unit or a Special Economic Zone Developer shall make a separate application for registration as a business vertical distinct from its other units located outside the SEZ.
- (xiii) Person desiring multiple business vertical registration must also follow the above steps of migrating to GST and then apply for separate registration of the other business vertical. In case one line of business is exempt and another taxable, it is not possible to obtain business vertical registration for the taxable business only and to leave the exempt business from registration and thereby from compliances requirements (including reverse charge). Business vertical registration refers to the 'subsequent' registration of a taxable person who is registered in the first place.

### **139.3 Comparative review**

This provision is broadly comparable to the provisions relating to migration of registrations from the erstwhile Sales Tax to the Value Added Tax at the time of introduction of VAT law, in 2004/2005.

**Pictorially, an analysis of this transitional provision can be presented as follows:**



**139.4 Issues / Concerns:**

- a. Correction of incomplete/ incorrect migration process: A sizeable number of taxpayers were unable to complete the migration process due to GST portal glitches / IT related issues and some taxpayers have migrated with incorrect data (i.e. instead of Company PAN the Director PAN has been considered for migration) etc. In these cases, assesseees have opted for a new registration and the same has been issued towards the end of July 2017 or in the subsequent months. On account of this, input tax credits are unable to be claimed by the assesseees till the date of registration. Further, since the returns would be filed only subsequent to the date of registration, the returns would not be filed by such suppliers and the corresponding credits will not be eligible in the hands of the recipients.

**139.5 FAQs**

- Q1. What is the criteria for issuing provisional registration?  
Ans: Every person registered under any of the earlier laws and having a valid PAN will be issued a certificate of registration, provisionally.
- Q2. When is the final registration certificate issued replacing the provisional one?  
Ans: The holder of the provisional certificate is required to furnish application in form GST REG 26 within a period of three months, along with all documents as mentioned in form REG 26.
- Q3. What happens if the prescribed documents are not furnished within the prescribed time?  
Ans: If the person fails to furnish the prescribed information/documents within the specified time, the certificate of registration provisionally issued may be cancelled.
- Q4. Whether the GST Registration for existing registered dealer shall be taken by submission of required documents or will it be done automatically?  
Ans: Requisite data has to be submitted on GSTN portal and only then registration will be granted. A provisional registration will be granted which will be made final upon submission of additional information/documents after the appointed date. Refer Rule 24 of CGST Rules 2017
- Q5. Can a person who is registered under the earlier law opt out of GST voluntarily?  
Ans: Yes, by making an application in Form GST REG 29 within 30 days from appointed date, a person can opt out of GST. Refer Rule 24(4) of CGST Rules, 2017.
- Q6. What will happen to the provisional registration if the person claims to be not liable for registration under GST?  
Ans: The provisional certificate shall be deemed to have not been issued if the said registration is cancelled in pursuance of an application filed by such person stating that he was not liable to registration.
- Q7. What will be the position of the provisional registration of a composite dealer? Will he remain as composite dealer even after the appointed day?

Ans: No. Even existing composite taxpayer has to specifically apply for composition tax within 30 days from the appointed date and the receipt of provisional certificate will not be considered as automatic transition to composite scheme.

Q8. Can a VAT dealer opt for composition scheme after the time prescribed?

Ans: If a registered taxable person does not opt to pay tax under composition scheme within the specified time, he shall be liable to pay tax under regular scheme.

Q9. What happens if the tax payer has distinct VAT registrations in the same State?

Ans: The transitional provisions will allot only one registration certificate in each state based on single PAN even though such person had multiple registrations in the state. He can have distinct registrations in the same State by way of an option only if the business units qualify as business verticals under the GST law.

Q10. What happens to the distinct registrations obtained under the Central Excise and Service Tax laws for the different business premises and units in the same state?

Ans: All business units/ premises registered either under the Central Excise or Service Tax law will be consolidated into a single CGST registration for that State, unless these units qualify as distinct business verticals under the GST law.

Q11. If a person is operating in different states, with the same PAN number, whether he can operate with single registration?

Ans: No. Every person who is liable to take a Registration will have to get registered separately for each of the States where he has a business operation and is liable to pay GST in terms of sub-section (1) of section 22 of the CGST/SGST Act.

### 139.6 MCQs

Q1. Should an existing tax payer surrender his registration certificate for obtaining the GST registration?

- (a) Yes, all registration certificates shall be surrendered;
- (b) No. Provisional registration is automatic;
- (c) Migrated to provisional registration only on verification of documents;
- (d) No. Final registration is automatic.

Ans: (b) No. Provisional registration is automatic

Q2. Is PAN mandatory for migration to provisional GST registration?

- (a) Yes
- (b) No
- (c) PAN application is sufficient
- (d) Exempted may be given by the proper officer

Ans: (a) Yes

Q3. Should the composition dealer under the old law require to obtain final GST registration?

- (a) Yes, mandatory for all composition dealers
- (b) Yes, subject to his turnover crossing the threshold under GST
- (c) No, the old number will continue
- (d) No, will be governed by old law.

Ans: (b) Yes, subject to his turnover crossing the threshold under GST

#### Statutory Provisions

Section	Particulars
140 (1)	Carry forward of tax credit claimed in the tax returns
140 (2)	Carry forward of unavailed tax credit in relation to capital goods
140 (3)	Carry forward of tax credit by a registered person, who was not liable to be registered under the erstwhile law like dealing in exempted goods under erstwhile law but the same has become liable under GST.
140 (4)	Carry forward of tax credit by a registered person, who was engaged in the manufacture of taxable as well as exempted goods or provision of taxable as well as exempted service but which are liable to tax under GST.
140 (5)	Tax credit in respect of inputs or input services received on or after the appointed day but the duty or tax in respect of which has been paid by the supplier under the erstwhile law.
140 (6)	Carry forward of tax credit by a registered person, who was either paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the erstwhile law.
140 (7)	Tax credit on account of any services received prior to the appointed day by an ISD.
140 (8)	Carry forward of tax credit in case of service provider registered on centralised basis
140 (9)	Tax credit reversed due to non-payment of the consideration within a period of three months under Finance Act, 1994
140 (10)	The amount of credit under sub-sections (3), (4) and (6) shall be calculated in such manner as may be prescribed.



**140(1)-Amount of CENVAT credit carried forward in the return allowed as input tax credit.**

*A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, the amount of CENVAT credit carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the erstwhile law in such manner as may be prescribed.*

*Provided that the registered person shall not be allowed to take credit in the following circumstances, namely:—*

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

**Extract of the CGST Rules, 2017****117. Tax or duty credit carried forward under any existing law or on goods held in stock on the appointed day.-**

- (1) Every registered person entitled to take credit of input tax under section 140 shall, within ninety days of the appointed day, submit a declaration electronically in FORM GST TRAN-1, duly signed, on the common portal specifying therein, separately, the amount of input tax credit <sup>1</sup>[of eligible duties and taxes, as defined in Explanation 2 to section 140] to which he is entitled under the provisions of the said section:*

*Provided that the Commissioner may, on the recommendations of the Council, extend the period of ninety days by a further period not exceeding ninety days.*

*Provided further that where the inputs have been received from an Export Oriented Unit or a unit located in Electronic Hardware Technology Park, the credit shall be allowed to the extent as provided in sub-rule (7) of rule 3 of the CENVAT Credit Rules, 2004.*

- (2) Every declaration under sub-rule (1) shall-*
- (a) in the case of a claim under sub-section (2) of section 140, specify separately the following particulars in respect of every item of capital goods as on the appointed day*
    - (i) the amount of tax or duty availed or utilized by way of input tax credit under each of the existing laws till the appointed day; and*
    - (ii) the amount of tax or duty yet to be availed or utilized by way of input tax credit under each of the existing laws till the appointed day;*
  - (b) in the case of a claim under sub-section (3) or clause (b) of sub-section (4) or sub-*

section (6) or sub-section (8) of section 140, specify separately the details of stock held on the appointed day;

(c) in the case of a claim under sub-section (5) of section 140, furnish the following details, namely:-

- (i) the name of the supplier, serial number and date of issue of the invoice by the supplier or any document on the basis of which credit of input tax was admissible under the existing law;
- (ii) the description and value of the goods or services;
- (iii) the quantity in case of goods and the unit or unit quantity code thereof;
- (iv) the amount of eligible taxes and duties or, as the case may be, the value added tax [or entry tax] charged by the supplier in respect of the goods or services; and
- (v) the date on which the receipt of goods or services is entered in the books of account of the recipient.

(3) The amount of credit specified in the application in **FORM GST TRAN-1** shall be credited to the electronic credit ledger of the applicant maintained in **FORM GST PMT-2** on the common portal.

(4) (a)(i) A registered person who was not registered under the existing law shall, in accordance with the proviso to sub-section (3) of section 140, be allowed to avail of input tax credit on goods (on which the duty of central excise or, as the case may be, additional duties of customs under sub-section (1) of section 3 of the Customs Tariff Act, 1975, is leviable) held in stock on the appointed day in respect of which he is not in possession of any document evidencing payment of central excise duty.

(ii) The input tax credit referred to in sub-clause (i) shall be allowed at the rate of sixty per cent. on such goods which attract central tax at the rate of nine per cent. or more and forty per cent. for other goods of the central tax applicable on supply of such goods after the appointed date and shall be credited after the central tax payable on such supply has been paid:

*Provided that where integrated tax is paid on such goods, the amount of credit shall be allowed at the rate of thirty per cent. and twenty per cent. respectively of the said tax;*

(iii) The scheme shall be available for six tax periods from the appointed date.

(b) The credit of central tax shall be availed subject to satisfying the following conditions, namely:-

(i) such goods were not unconditionally exempt from the whole of the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985 or were not nil rated in the said Schedule;

- (ii) the document for procurement of such goods is available with the registered person;
- (iii) The registered person availing of this scheme and having furnished the details of stock held by him in accordance with the provisions of clause (b) of sub-rule (2), submits a statement in **FORM GST TRAN 2** by 31st March 2018, or within such period as extended by the Commissioner, on the recommendations of the Council, for each of the six tax periods during which the scheme is in operation indicating therein, the details of supplies of such goods effected during the tax period;
- (iv) the amount of credit allowed shall be credited to the electronic credit ledger of the applicant maintained in **FORM GST PMT-2** on the common portal; and
- (v) the stock of goods on which the credit is availed is so stored that it can be easily identified by the registered person.

#### **120A. Revision of declaration in FORM GST TRAN-1**

Every registered person who has submitted a declaration electronically in **FORM GST TRAN-1** within the time period specified in rule 117, rule 118, rule 119 and rule 120 may revise such declaration once and submit the revised declaration in **FORM GST TRAN-1** electronically on the common portal within the time period specified in the said rules or such further period as may be extended by the Commissioner in this behalf.

#### **Relevant circulars, notifications, clarifications, flyers issued by Government: -**

1. Chapter Twenty of the compilation of the GST Flyers titled 'Transition Provisions under GST, as issued by the CBIC (erstwhile CBEC).
2. Order No. 9/2017-GST dated 15.11.2017 regarding extension of time limit for submitting the declaration in FORM GST TRAN-1.
3. Order No. 10/2017-GST dated 15.11.2017 regarding extension of time limit for submitting the revised declaration in FORM GST TRAN-1.
4. Circular No. 33/07/2018-GST dated 23.02.2018 regarding non-utilization of disputed credit carried forward and non-transition of blocked credits.
5. Order No. 1/2018-GST dated 28.03.2018 regarding extension of filing Form GST-TRAN-2 till 30.06.2018.
6. Circular No. 39/13/2018-GST dated 03.04.2018 regarding setting up of an IT Grievance Redressal Mechanism to address the grievances of taxpayers due to technical glitches on the GST Portal
7. Circular No. 42/16/2018-GST dated 13/04/2018 regarding clarification on procedure for recovery of arrears under the existing law and reversal of inadmissible input tax credit

**Related provisions of the Statute**

Section	Description
Section 2(107)	Meaning of taxable person
Section 2(46)	Definition of Electronic Credit Ledger
Section 16 to 21	Input tax credit
Section 2(48)	Meaning of Existing law

**140.1.1 Introduction**

This transition provision enables a registered person to carry forward unutilized input credit under the CENVAT Credit Rules, 2004 / State Tax laws, as applicable.

**140.1.2 Analysis**

The amount of any input credit carried forward in a return, which is unutilized under the erstwhile tax regime may be carried forward into the GST regime except in the case of a person who opts to pay tax under composition scheme in a GST regime.

The said credit will be allowed to be carried forward to the GST regime, if the following conditions are satisfied:

- (1) The said credit is admissible as input tax credit under the provisions of the CGST Act;
- (2) The registered person has furnished all the returns required under the erstwhile law for the period of six months immediately preceding the appointed date.
- (3) Input tax credit does not relate to goods manufactured and cleared under exemption notifications as are notified by the Government.
- (4) Input tax credit carried forward will not be allowed if such credit relates to goods manufactured and cleared under exemption notifications as notified by the government. No such list of notification are identified by the Government.

**Note:**

The CENVAT credit of central excise duty or service tax wrongly carried forward as transitional credit shall be recovered as central tax liability to be paid using electronic credit ledger or electronic cash ledger of the registered person, and the same shall be recorded in Part II of the Electronic Liability Register (FORM GST PMT-01). (Circular No. 42/16/2018-GST dated 13/04/2018)

Rule 117(1) prescribes the manner of claiming transition credit by filing the prescribed information on the Common Portal which is provided below:

Particulars	CGST
Credit to be carried forward	CENVAT credit
Relevant law	CENVAT Credit Rules, 2004

Particulars	CGST
Laws to be subsumed and the relevant credit	Central Excise Service tax
Input Tax Credit to be carried forward	<ul style="list-style-type: none"> <li>— Central Excise paid on 'inputs' /capital goods</li> <li>— Countervailing duty paid on 'inputs'/capital goods</li> <li>— Special Additional Duty paid on 'inputs' /capital goods in case of manufacturers</li> <li>— Service tax paid on 'input services' – both direct or reverse charge</li> </ul>
Conditions	<ul style="list-style-type: none"> <li>— The said credit is admissible as input tax credit under the provisions of the CGST Act ;</li> <li>— The registered person has furnished all the returns required under the erstwhile law for the period of six months immediately preceding the appointed date;</li> <li>— The said credit does not relate to goods manufactured and cleared under such exemption notifications as are notified by the Government;</li> <li>— Must have been reflected as input credit carried forward in the return filed for the last month / period under the erstwhile law, viz., last monthly return or quarterly return or the half yearly return, as the case may be.</li> </ul>
Form in which the credit would be availed under the GST Law	Would be available as a credit in the CGST Electronic Credit Ledger of the tax payer.
Procedure for claiming the credit [Rule 117(1)]	<ul style="list-style-type: none"> <li>i) Submit declaration in Form GST TRAN1 electronically;</li> <li>ii) Due date for filing TRAN-1 is within 90 days of the appointed day; (The Commissioner may extend the period of 90 days by a further period of not exceeding 90 days).</li> <li>iii) Accordingly, the Commissioner has extended date of filing Form GST TRAN-1 to 27.12.2017 vide order No. 9/2017-GST dated 15.11.2017.</li> <li>iv) Form GST TRAN-1 may be revised once within the prescribed time limit [Rule No. 120A].</li> <li>v) By order No.10/2017-GST dated 15.11.2017, the Commissioner has extended the time limit for revision to 27.12.2017.</li> </ul>

**Note:**

- Similarly, State VAT credits can also be claimed as transitional credit under this sub-section. Attention is invited to the fact that the definition of input tax credit under the various State VAT laws may vary and the reader should be cautious about the eligibility of the various State taxes paid as transitional credits. For e.g. In the State of Gujarat, entry tax paid on causing entry of goods into a local area for trading is eligible as input tax credit at the point of sale, whereas, such entry tax paid in the State of Karnataka is not eligible as input tax credit.
- Some taxpayers could not complete the filing of Form GST TRAN-1 as they could not digitally authenticate the Form GST TRAN-1 on account of IT related glitches. As a result, a large number of such Form GST TRAN-1s were stuck in the system. Consequentially, the taxpayers are unable to file their Form GSTR 3B monthly returns too. The GSTN has identified such taxpayers who could not file TRAN-1 on the basis of electronic audit trail and enabled them file it by 30th April 2018 and GSTR 3B returns, stuck on this account, by 31.05.2018 (*Circular No. 39/13/2018-GST dated 03.04.2018*). *Late fee for filling such GSTR-3B has also been waived by notification no. 22/2018 – Central Tax dated 14<sup>th</sup> May 2018*. The Bombay HC has further extended the date of filing Form GST TRAN-1 by 10 days to 10.05.2018.
- The Government has further clarified that CENVAT credit that has been credited to the Electronic Credit Ledger is not available for utilization towards GST liabilities where, the CENVAT credit is held as inadmissible vide an adjudication order or Order-in-Appeal as on 01.07.2017 until such order is in existence. If utilized, the same liable to recovery with interest and penalty. (*Circular No. 33/07/2018-GST dated 23.02.2018*)

**Illustration 1:** GST is applicable from 1<sup>st</sup> July, 2017 and the amount of credit as per the return for the period ending 30th June, 2017 is as follows:

Particulars of Input tax Credit	Credit amount as per return
Central Excise	200,000
Service Tax	100,000
Education Cess	10,000
Secondary and Higher Education Cess	5,000
Krishi Kalyan Cess	5,000
Swachh Bharat Cess	5000
Additional Duty u/s 3(1) of CTA – CVD	40,000
Additional Duty u/s 3(5) of CTA – SAD	30,000
Input Tax Credit under VAT	50,000
Total	445,000

What will be the amount of CGST to be brought forward as per the GST Law as on 1<sup>st</sup> July, 2017?

**Ans.** The amount of CGST to be brought forward on 1<sup>st</sup> July, 2017 will be calculated as follows:

**A. If the tax payer is a Manufacturer**

CGST Components	CGST Value
Central Excise	200,000
Service Tax	100,000
Education Cess	-
Secondary and Higher Education Cess	-
Additional Duty u/s 3(1) of CTA	40,000
Additional Duty u/s 3(5) of CTA	30,000
Krishi Kalyan Cess	-
<b>Total CGST</b>	<b>370,000</b>

**Note:**

1. Swachh Bharat Cess and Krishi Kalyan Cess will not be allowed to be carried forward.
2. Input credit under VAT will not be allowed to be carried forward as CGST, but allowed as SGST.
3. Credit of EC and SHEC shall not be allowed to be carried forward.

**Explanation:**

For the purposes of this Chapter, the expressions “capital goods”, “Central Value Added Tax (CENVAT) Credit”, “first stage dealer”, “second stage dealer” or “manufacture” shall have the same meaning as respectively assigned to them in the Central Excise Act, 1944 (1 of 1944) or the rules made thereunder.

Considering the above explanation, the term CENVAT Credit shall have the same meaning as has been assigned under the provisions of Central Excise Act, 1944 or rules made thereunder. In view of Rule 3 of CENVAT Credit Rules, 2004, the term ‘CENVAT Credit’ also includes Krishi Kalyan Cess. Accordingly, on a combined reading of aforesaid Explanation and Rule 3 of CENVAT Credit Rules, 2004, it appears that Credit of KKC may be carried forward. However, at the same time it will be pertinent to highlight that there is a restriction that credit of KKC can be utilized for payment of KKC only and since such KKC is not being separately levied under GST, thus the availment of same can be doubtful.

The Government, it appears is inclined to take a view that since KKC, Edu. Cess and SHE Cess do not form part of “eligible duties and taxes”, such credits would not be eligible as transitional credits in terms of Explanation 1 to Section 140 of the CGST Act, 2017. It is relevant to note that the phrase ‘eligible duties and taxes’ is not applicable to credits carried forward in the last return (Explanation 1 to Section 140 of the CGST Act, 2017).

Even Authority for Advance ruling of Maharashtra in case of Kansai Narolac Paints Ltd have held that KKC credit as on 30.06.2017 as shown in service tax return will not be considered as admissible input tax credit. (Reference: Advance ruling No. GST-ARA-18/2017-18/B-25 Mumbai dated 05/04/2018.)

Nevertheless, the twitter comments and the transitional credit verification checklists shared with the taxpayers by the Government state that KKC, Edu. Cess and SHE Cess are not eligible as transitional credit. The CENVAT response on the twitter handle of Government w.r.t. eligibility of KKC is provided below:



**GST@Gol** ✓

@askGST\_Gol

Follow



## KKc credit not available after 30th June

**MoHiT PoRwAL** @porwalmohit

@askGST\_Gol what will the position of credit available towards Krishi Kalyan Cess as on 30 June 2017?

Source: [https://twitter.com/askGST\\_Gol/status/885325386715774976](https://twitter.com/askGST_Gol/status/885325386715774976)

Thus, in view of the aforesaid interpretations being considered by various experts, registered persons who were registered under erstwhile laws who were required to file their last returns under those laws may take note that the closing balance of credit in the said last returns will only be available to be brought forward into GST regime. It appears there is a good argument against bifurcating this brought forward balance of credit into the various sources – ED, ST, KKC, SBC, EC, SHEC – as all of them as ‘CENVAT Credit’ according to the last returns under the earlier laws. Caution is advisable in view of the implications of the alternate view being taken by the tax administration.



**B. If the tax payer is a Service Provider**

CGST Components	CGST Value
Central Excise	200,000
Service Tax	100,000
Education Cess	-
Secondary and Higher Education Cess	-
Krishi Kalyan Cess	-
Additional Duty u/s 3(1) of CTA-CVD	40,000
<b>Total CGST</b>	<b>3,40,000</b>

**Note:**

1. Service Provider not entitled to avail credit of SAD, Swachh Bharat Cess.
2. Additional Duty u/s 3(1) of CTA – CVD will be available if it is paid on import purchase of specified goods.
3. Credit of EC and SHEC shall not be allowed to be carried forward.

**Issues / Concerns:**

- a. Availability of credit on KKC, Edu. Cess and SHE Cess: There is certain amount of ambiguity in the law as to whether transitional credit of KKC, Edu. Cess and SHE Cess would be eligible as transition credits in the hands of the taxpayers. The twitter comments and the transitional credit verification checklists shared with the taxpayers by the Government state that KKC, Edu. Cess and SHE Cess are not eligible as transitional credit as the same are not covered under the meaning of 'Eligible duties and taxes'. This is despite the fact that the applicability of Explanation 2 to Section 140 of the CGST Act, 2017 has not been extended to transitional credits claimed under Section 140(1) of the CGST Act, 2017.
- b. Availment of credit of taxes paid after due date under earlier laws: In many cases, taxpayers have filed belated service tax returns / paid taxes belatedly along with the applicable interest and late fee. Even in such cases, the credit of taxes paid under reverse charge mechanism after 6th July, 2017 is not available to the assesseees. This is highly unfair to the taxpayers, especially since the compensation to the Government by way of interest and late fee has been remitted.
- c. Availment of credit of excess taxes paid under earlier laws: There is no provision under the GST law to claim credit of excess service tax paid under Rule 6(3) & Rule 6(4A) of the Service Tax Rules, 1994. Rule 6(3) deals with claim of credit of excess service tax paid where services have subsequently not provided wholly / partly or in case of deficiency of services. Rule 6 (4A) deals with adjustment of excess service tax paid against the liability for the succeeding month / quarter.

- d. Unutilized cash balance in PLA under Central Excise Law: Many of the taxpayers registered under the Central Excise Law carry a huge amount of unutilized balance of credit in the PLA Account as on 30th June, 2017. However, currently no provision exists for utilization / carry forward of the same in the GST Law.
- e. Omission to claim such Cenvat credit through TRAN-1 will leave taxpayer with no option but to forgo such credit.

**140.1.3 FAQ**

- Q1. A person who is registered under service tax as well as under Central Excise and having unavailed CENVAT credit in central excise return, has not filed his service tax returns. Whether he can carry forward the unavailed CENVAT credit as per the last central excise return to GST regime?

Ans: No. Credit cannot be taken unless he has furnished all the returns required under the erstwhile law for the period of six months immediately preceding the appointed date.

**Statutory Provisions**

**140(2). Credit of unavailed CENVAT credit in respect of capital goods, not carried forward in a return, shall be allowed.**

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

*Provided that the registered person shall not be allowed to take credit unless the said credit was admissible as CENVAT credit under the existing law and is also admissible as input tax credit under this Act.*

*Explanation - For the purposes of this sub-section, the expression "unavailed CENVAT credit" means the amount that remains after subtracting the amount of CENVAT credit already availed in respect of capital goods by the taxable person under the existing law from the aggregate amount of CENVAT credit to which the said person was entitled in respect of the said capital goods under the existing law.*

**Extract of the CGST Rules, 2017 – The extract of the relevant rules have been provided below the Statutory Provisions of Section 140(1) of the CGST Act, 2017 supra.**

**Related provisions of the Statute**

Section of CGST	Description
Section 2(46)	Definition of 'Electronic Credit Ledger'
Section 16 – 21	Manner of taking input tax credit
Section 79	Recovery of tax
Section 2(48)	Definition of Existing law
Central Tax Rules 117(1) & (2)	Tax or duty credit carried forward
Central Tax Rule 120A	Revision of declaration in TRAN-1

**140.2.1 Introduction**

This transition provision enables a person to avail CENVAT credit of the balance amount (unavailed portion) in respect of capital goods, that has not been availed under the erstwhile laws. The unavailed portion of credit relating to capital goods under the erstwhile laws not carried forward through a return can be availed, provided such credits are admissible under the GST laws.

**140.2.2 Analysis**

A registered person (except person opting for payment of taxes under the composition scheme) shall be allowed to take the amount of CENVAT Credit on capital goods not carried forward in the return. However, the said credit should be admissible under the erstwhile law as well as under the provisions of the CGST Act. Rule 117(2) of CGST Rules, 2017 requires the information to be submitted in FORM GST TRAN-1 regarding the amount tax or duty availed and yet to be availed till the appointed day.

“Unavailed CENVAT credit” means the amount that remains after subtracting the amount of CENVAT credit already availed in respect of capital goods by the taxable person under the erstwhile law from the aggregate amount of CENVAT credit to which the said person was entitled to, in respect of the said capital goods under the erstwhile law.

- Under the CENVAT Credit Rules, 2004, in respect of eligible capital goods, credit is required to be claimed in 2 parts of 50% each. Credit to the extent of 50% maximum of the central excise duty paid ought to be claimed in the same financial year in which the capital goods are received and the balance 50% can be claimed in any subsequent years.
- Further, it needs to be noted that the capital goods referred above, means the goods as defined under Clause (a) of Rule 2 of CENVAT Credit Rules, 2004 and under GST Laws.

**Eg 1:** A manufacturer purchased a capital asset worth ₹ 11,25,000 (including excise duty of ₹ 1,25,000) on 5<sup>th</sup> May, 2017. In the month of June, 2017, he could avail CENVAT Credit to the extent of 50% only i.e. ₹ 62,500. The unavailed CENVAT Credit on capital goods as on 1<sup>st</sup>

July, 2017 (appointed day) will be ₹ 125,000 – 62,500 = ₹ 62,500, which he will be eligible to claim under section 140(2).

**Eg 2:** CENVAT Credit on Capital Goods used outside the factory of manufacturer is not allowable<sup>2</sup>. So, it will not be admissible as input tax credit in the GST Law either.

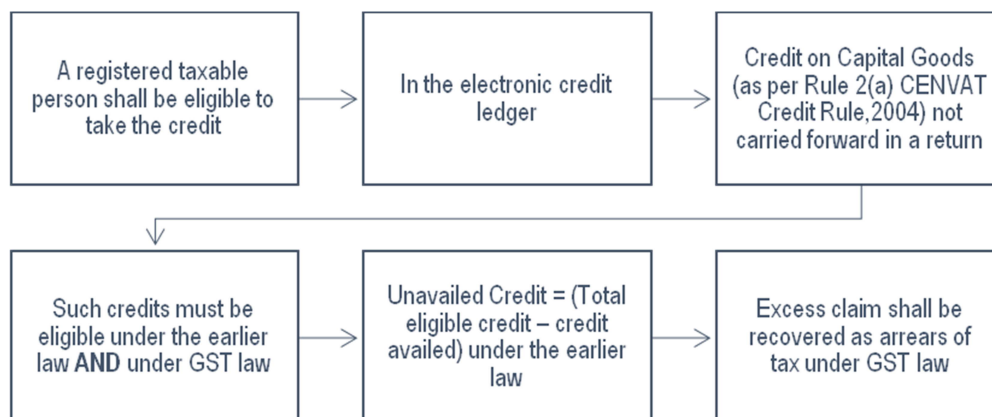
In terms of Rule 117 of CGST Rules, 2017 particulars relating to every item of capital goods in respect of tax/duty availed or utilised by way of credit under the erstwhile law shall be indicated. Similar details in respect of unavailed portion under the erstwhile laws shall also be stated. The details, conditions and documentation are as follows:

Particulars	CGST
Credit to be carried forward	CENVAT credit
Relevant law	CENVAT Credit Rules, 2004
Details of credit to be carried forward	<ul style="list-style-type: none"> <li>— Central Excise paid on 'capital goods'</li> <li>— Countervailing duty paid on 'capital goods'</li> <li>— Special Additional Duty paid on 'capital goods'</li> </ul>
Conditions	<ul style="list-style-type: none"> <li>— Should qualify for eligible input credit under both, the erstwhile law and the GST law</li> <li>— Would be in respect of input credit which is not carried forward in the return filed for the last period under the erstwhile law</li> </ul>
Form in which the credit would be availed under the GST law	— Would be available as a balance in the CGST electronic credit ledger of the tax payer.
Procedure for claiming the credit [Rule 117(1) & (2)]	<ul style="list-style-type: none"> <li>(i) Submit declaration in Form GST TRAN1 electronically;</li> <li>(ii) Due date for filing TRAN-1 is within 90 days of the appointed day; (The Commissioner may extend the period of 90 days by a further period of not exceeding 90 days).</li> <li>(iii) Accordingly, the Commissioner has extended date of filing Form GST TRAN-1 to 27.12.2017 vide order No. 9/2017-GST dated 15.11.2017.</li> <li>(iv) Form GST TRAN-1 may be revised once within the prescribed time limit [Rule No. 120A].</li> <li>(v) By order No.10/2017-GST dated 15.11.2017, the Commissioner has extended the time limit for revision to 27.12.2017.</li> </ul>

<sup>2</sup> Madras Cement v. CCE (2003) 158 ELT 293 = 56 RLT 978 (CESTAT 3 member bench)

It must be clearly understood that CENVAT Credit can only be availed as CGST Credit in the respective Electronic Credit Ledger.

Pictorially this provision can be depicted as follows:



#### 140.2.3 Issues / Concerns:

- Traders and manufacturers availing SSI exemption under the earlier laws: Traders and manufacturers availing SSI exemption under the erstwhile laws were not eligible for the CENVAT credit as they were not discharging excise duty on the final products. Such persons, who are now registered persons under the GST regime would not be eligible for availment of the credit on capital goods purchased before 01st July, 2017 which will lead to credit loss for such assesseees. The situation is further worsened as Section 140(3) of the CGST Act, 2017 which provides for claim of credit on goods held as on 30th June, 2017 does not provide for carry forward of credit of taxes paid on capital goods.
- New Company incorporations: There may arise a situation wherein a Company was incorporated in May 2017 but was not granted registration by the VAT department or was unable to register with VAT department till 30.06.2017. Upon purchase of capital goods by the said Company, the credit of VAT paid on such goods would not be available as the Company is unregistered. As such, the Company would not be able to avail the credit of VAT paid on purchase of such capital goods, as the amount of VAT paid would not be reflected in the returns furnished under the earlier law and hence, cannot be carried forward as transitional credit under the GST law.
- Omission to claim CENVAT Credit: In certain cases, taxpayers may have omitted to claim CENVAT Credit on capital goods in the year of purchase. The CENVAT Credit rules has a remedy to claim the CENVAT credit within 1 year from the date of invoice. In the absence of such a provision for transitional credit, such taxpayers would not be able to claim credits on such capital goods.

**Statutory Provisions****140(3). Credit of eligible duties in respect of inputs held in stock allowed in certain situations**

*A registered person, who was not liable to be registered under the existing law, or who was engaged in the manufacture of exempted goods or provision of exempted services, or who was providing works contract service and was availing of the benefit of Notification No. 26/2012-Service Tax, dated 20.06.2012 or a first stage dealer or a second stage dealer or a registered importer, or a depot of a manufacturer, shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions, namely:-*

- (i) such inputs and / or goods are used or intended to be used for making taxable supplies under this Act;*
- (ii) the said registered person is eligible for input tax credit on such inputs under this Act;*
- (iii) the said registered person is in possession of invoice and/or other prescribed documents evidencing payment of duty under the existing law in respect of such inputs;*
- (iv) such invoices and /or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day; and*
- (v) the supplier of services is not eligible for any abatement under the Act:*

*Provided that where a registered person, other than a manufacturer or a supplier of services, is not in possession of an invoice or any other documents evidencing payment of duty in respect of inputs, then such registered person shall, subject to such conditions, limitations and safeguards as may be prescribed, including that the said taxable person shall pass on the benefit of such credit by way of reduced prices to the recipient, be allowed to take credit at such rate and in such manner as may be prescribed.*

*Explanation. —The expression “eligible duties” means—*

- (i) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957;*
- (ii) the additional duty leviable under sub-section (1) of section 3 of the Customs Tariff Act, 1975;*
- (iii) the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, 1975*
- (iv) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978;*
- (v) the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985;*
- (vi) the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985; and*

(vii) the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001,  
in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day

**Extract of the CGST Rules, 2017 – The extract of the relevant rules have been provided below the Statutory Provisions of Section 140(1) of the CGST Act, 2017 supra.**

**Related provisions of the Statute**

Section	Description	Remarks
Section 2(46) CGST Law	Definition of 'Electronic Credit Ledger'	Input tax credit will be taken in this document.
Section 2(108) CGST Law	Definition of Taxable supply	Only inputs intended to be used for taxable supplies are allowed as credit.
Section 16 to 21 CGST Law	Input tax credit	This is for determining the admissibility of Input tax credit under the GST law
Section 79 CGST Law	Recovery of tax	For recovery of arrears of tax under GST for demand arising from proceedings under earlier law
Rule 9(1) CENVAT Credit Rules 2004	Documents and Accounts	Contains the list of documents on the basis of which CENVAT Credit can be availed
Rule 2(d) CENVAT Credit Rules 2004	Definition of exempted goods	One of the possible pre-conditions in respect of category of person is engaged in manufacture/sale of exempted goods
Proviso to Rule 4(7) CENVAT Credit Rules 2004	Time limit for admissibility of CENVAT Credit	Similar time limit prescribed as one of the conditions for availment of credit under GST law
Rule 9 Central Excise Rules 2002	Registration under Central Excise	One of the possible preconditions in respect of category of persons is non-registration in earlier law.
Section 69(1) and Rule 4 Finance Act 1994 & Service Tax Rules	Registration under Service Tax	One of the possible preconditions in respect of category of persons is non-registration in earlier law.

**Relevant circulars, notifications, clarifications, flyers issued by Government: -**

1. Chapter Twenty of the compilation of the GST Flyers titled 'Transition Provisions under GST, as issued by the CBIC (erstwhile CBEC).
2. Order No. 9/2017-GST dated 15.11.2017 regarding extension of time limit for submitting the declaration in FORM GST TRAN-1.
3. Order No. 10/2017-GST dated 15.11.2017 regarding extension of time limit for submitting the *revised* declaration in FORM GST TRAN-1.
4. Order No. 1/2018-GST dated 28.03.2018 regarding extension of filing Form GST-TRAN-2 till 30.06.2018.
5. Circular No. 39/13/2018-GST dated 03.04.2018 regarding setting up of an IT Grievance Redressal Mechanism to address the grievances of taxpayers due to technical glitches on the GST Portal
6. Circular No. 42/16/2018-GST dated 13/04/2018 regarding clarification on procedure for recovery of arrears under the existing law and reversal of inadmissible input tax credit

**140.3.1 Introduction**

This transition provision sets out the conditions and procedure for availing input credit in respect of stock held on appointed day by certain registered persons under the GST Law. Inputs which are held in stock and inputs contained in semi-finished / finished goods held in stock which were for manufacture of exempted goods under the earlier law have also been dealt with. Registration under the GST law is mandatory to claim such credits.

**140.3.2 Analysis**

The following persons shall be entitled to take credit of eligible duties and taxes on inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the date on which this provision is made effective:

- not liable to be registered under the earlier law, or
- was engaged in the manufacture of exempted goods, or
- was engaged in the provision of exempted services, or
- was providing works contract service and was availing the benefit of notification No. 26/2012-Service Tax, dated 20.06.2012, or
- a first stage dealer or a second stage dealer or a registered importer or a depot of a manufacturer

The credit shall be allowed to the aforesaid taxable persons subject to the following conditions:

- Such inputs and/or goods are used or intended to be used for making taxable supplies under CGST Act.



- He is eligible for input tax credit on such inputs under CGST Act.
- He is in possession of invoice and/or other prescribed documents evidencing payment of duty under the earlier law in respect of such inputs,
- Which were issued not earlier than twelve months immediately preceding the date on which these provisions come into effect.
- That the supplier of services is not eligible for any abatement under the CGST Act.
- In terms of Rule 117(2)(b) of the CGST Rules, 2017 the application in Form GST TRAN-01 shall specify separately the details of stock held on the appointed day..

Availability of Credit to Trader who is not in possession of invoice evidencing payment of Central Excise Duty

- As per proviso to sub section (1), credit may be allowed to a trader even if he is not in a possession of such invoice/document disclosing payment of duty/tax.
- However, in such cases the person will have to follow the conditions specified below:-
- Credit shall be allowed at the rate of 40% (when GST Rate is less than 18%)/ 60% (when GST Rate is 18% or more), of the central tax applicable on supply of such goods after the appointed date and shall be credited after the central tax payable on such supply has been paid. This situation arises when invoice is raised under the erstwhile tax regime and supply happens in a GST regime.

Type of Supply from such Stock	Rate of Tax applicable	Quantum of credit* allowed
Intra-State Outward Supply	CGST @ 9% or more CGST @ below 9%	60% of the CGST paid 40% of the CGST paid
Inter-State Outward Supply	IGST @ 18% or more IGST @ below 18%	30% of the IGST paid 20% of the IGST paid

*Amount shall be credited after the CGST payable on such supply has been paid (Rule 117(4)(a) of CGST)*

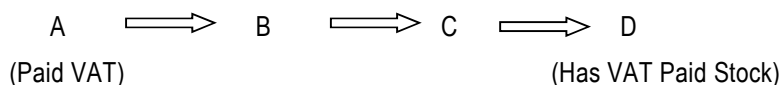
The SGST Law of respective States also contain similar provisions, providing that a registered person, holding stock of goods which have suffered tax at the first point of their sale in the State and the subsequent sales of which are not subject to tax in the State, can avail credit on goods held in stock on the appointed day in respect of which he is not in possession of any document evidencing payment of VAT in accordance with the proviso to sub-section (3) of section 140.

Type of Supply from such Stock	Rate of Tax applicable	Quantum of credit*
Intra-State Outward Supply	SGST @ 9% or more SGST @ below 9%	60% of the SGST paid 40% of the SGST paid
Inter-State Outward Supply	IGST @ 18% or more IGST @ below 18%	30% of the IGST paid 20% of the IGST paid

\* Amount shall be credited after the SGST payable on such supply has been paid (Rule 117(4)(a) of SGST)

**Example:**

Let us take an example of a trader 'D', who is the final dealer in the chain of supply.



'D' holds the duty paid stock but does not have the duty paying documents for the same

In this case, 'D' can claim credit of such duty paid goods under Rule 117(4)(a) of SGST

- Such goods were not wholly exempt from duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985 or were not nil rated.
- The registered person is in possession of documents relating to procurement of goods.
- The stock of goods on which the credit is availed must be stored in a way that it can be easily identified.
- The scheme shall be available for six tax periods from the appointed date
- Registered person availing this scheme must furnish the details of stock held by him and submit a statement in FORM GST TRAN 2 at the end of each of the six tax periods during which the scheme is in operation indicating the details of supplies of such goods effected during the tax period. By Order No. 1/2018-CT dated 28.03.2018, the due date for filing Form GST TRAN-2 for all months (July 2017 to December 2017) is extended to 30.06.2018.
- The amount of credit allowed shall be credited to the electronic credit ledger.
- Eligible Duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day on which the CGST Act comes into force shall include the laws cited in the Section supra

*Explanation*

The expressions "Central Value Added Tax (CENVAT) credit" "first stage dealer", "second stage dealer", or "manufacture" shall have the same meaning assigned to them in the Central Excise Act, 1944 or the rules made there under.

Particulars	CGST
Credit to be carried forward	CENVAT credit
Relevant law	CENVAT Credit Rules, 2004
Specified duties which would be allowed as transitional credit	<ul style="list-style-type: none"> <li>— Central Excise paid on 'inputs' specified in schedules I and II of CETA, 1985</li> <li>— Countervailing duty paid on 'inputs' under Customs Tariff Act</li> <li>— Special Additional Duty paid on 'inputs'</li> <li>— National Calamity Contingent Duty paid on 'inputs'</li> <li>— AED paid under AED (Textile &amp; Textile Articles) Act, 1978 on 'inputs'</li> <li>— AED paid under AED (Goods of Special Importance) Act, 1957 on 'inputs'</li> </ul>
Procedure for claiming the credit [Rule 117(1) (2) & (4) ]	<ul style="list-style-type: none"> <li>(i) Submit declaration in Form GST TRAN-1 electronically;</li> <li>(ii) Due date for filing TRAN-1 is within 90 days of the appointed day; (The Commissioner may extend the period of 90 days by a further period of not exceeding 90 days).</li> <li>(iii) Accordingly, the Commissioner has extended date of filing Form GST TRAN-1 to 27.12.2017 vide order No. 9/2017-GST dated 15.11.2017.</li> <li>(iv) Form GST TRAN-1 may be revised once within the prescribed time limit [Rule No. 120A].</li> <li>(v) By order No.10/2017-GST dated 15.11.2017, the Commissioner has extended the time limit for revision to 27.12.2017.</li> <li>(vi) Submit statement in FORM GST TRAN-2 at the end of each of the tax periods during which the scheme is in operation.</li> <li>(vii) By Order No. 1/2018-CT dated 28.03.2018, the due date for filing Form GST TRAN-2 for all months (July 2017 to December 2017) is extended to 30.06.2018.</li> <li>(viii) Amount of credit shall be credited to Electronic Credit Ledger maintained in the common portal in FORM GST PMT-2.</li> </ul>

It must be clearly understood that CENVAT Credit can only be availed as CGST Credit in the Electronic Credit Ledger. Details of stock held on the appointed date is required to be reported on the Common Portal.

It is important to note that use of the word 'goods' while referring to semi-finished and finished 'goods' in stock appears to restrict credit under section 140(3) only to 'movable' items of inventory. As a result, works contractors carrying WIP in the form of incomplete building or road or other immovable structure may not be allowed transition credit. There are two alternatives that may be considered (a) to pursue transition credit even in respect of such WIP citing the reference to 'goods' as being unintended error that undermines the substantive benefit sought to be allowed by the main provision or (b) accelerate the billing in respect of all WIP so as to discharge taxes under the earlier laws and pass on credit, where possible, to the customer (refer discussion under section 142(11) in respect of levy of taxes under earlier laws).

Similar provisions in the respective SGST Act may be followed in respect of credit of SGST.

### Credit of eligible duties and taxes on input held in stock

#### 140.3.3

Person eligible for input tax credit	Credit available on	Conditions
<ul style="list-style-type: none"> <li>Person not liable to be registered under the earlier law</li> </ul>	<ul style="list-style-type: none"> <li>Inputs held in stock and inputs contained in semi-finished goods or finished goods held in stock as on appointed day</li> </ul>	<ul style="list-style-type: none"> <li>Goods must be used for taxable supply</li> </ul>
<ul style="list-style-type: none"> <li>Person engaged in manufacture/ sale of exempted goods, provision of exempted services</li> </ul>	<ul style="list-style-type: none"> <li>Above benefit not available for input services</li> </ul>	<ul style="list-style-type: none"> <li>Eligible to take the credit under GST law</li> </ul>
<ul style="list-style-type: none"> <li>Person providing works contract service and availing abatement under notification no. 26/2012</li> </ul>	<ul style="list-style-type: none"> <li>Such credit can be taken in the electronic credit ledger</li> </ul>	<ul style="list-style-type: none"> <li>Such person should be in possession of invoice or other prescribed document</li> </ul>
<ul style="list-style-type: none"> <li>First/ Second stage dealer,</li> </ul>		<ul style="list-style-type: none"> <li>Invoice or other document should be within 12 months from the appointed day</li> </ul>
<ul style="list-style-type: none"> <li>importer or</li> </ul>		<ul style="list-style-type: none"> <li>Excess claims will be recovered as arrears of tax under GST law</li> </ul>
<ul style="list-style-type: none"> <li>a depot of a manufacturer</li> </ul>		

**Issues / Concerns:**

- a. Availability of transitional credit to manufacturers / service provider: It appears that the provision is discriminatory when it seeks to deny the benefit of the above transitional credit to manufacturers/ service providers as even such taxpayers may have purchased goods from a non-excise dealer and hence, would not be in a possession of duty paying document in respect of the stock held. This would adversely impact the margins of the assessee, depending on the quantum of such stock.  
  
For e.g.: Printing services are taxable under the GST laws as a 'supply of service'; however, no transitional credit would be available to such service provider under proviso to Section 140(3) of CGST Act, 2017 in case he has procured the goods i.e. paper of printing from the trader on which VAT /CST was charged under the erstwhile laws.
- b. Credit of eligible duties and taxes in respect of inputs held in stock for a works contractor: The above provision does not contemplate a situation where a service provider engaged in providing works contract services does not avail the benefit of Notification No. 26/2012 dated. 20th June, 2012 and is discharging service tax in terms of Rule 2A of the Service Tax (Determination of Value) Rules, 2006 on the service portion derived under the deduction method or percentage method prescribed therein.
- c. Availment of credit in relation to transitional stocks held with the branch: Suppose, ABC Ltd is a registered importer having its head office at Haryana and a branch at Odisha. The head office had sent goods to the branch office prior to the appointed day under a declaration of Form F. While filing the GST TRAN 1, for the stocks lying with the branch, whether the branch will be eligible to get the credit of all the taxes paid at the time of import on the basis of documents possessed / addressed to the Head office and the Form F. Alternatively, whether the branch will be eligible for availment of deemed credit on such transaction on the account of non-possession of duty paying documents.
- d. Availment of credit on invoices not older than 12 months from the appointed day: There may arise a situation where stocks held on the appointed day (either as goods or work-in-progress) contain goods which has been purchased prior to twelve months preceding the appointed day (especially in case of long term contracts/ works contracts wherein the contracts are in progress for more than a year). Disallowance of credit paid on inputs in such cases will result in financial hardship to the assessee. The provision of deemed credit does not have any such 12 months' period but is applicable only to assesses other than manufacturers and service providers.
- e. In fact, this provision would apply to the leasing industry, as well, which necessarily implies that no such credit can be availed on capital goods.
- f. Input tax credit can not be availed through TRAN-2 in case of failure to show such stocks in TRAN-1 as stock held in stock without duty paying document.

**Statutory Provisions****140(4) Credit of eligible duties and taxes in respect of inputs held in stock allowed in certain situations**

*A registered person, who was engaged in the manufacture of taxable as well as exempted goods under the Central Excise Act, 1944 or provision of taxable as well as exempted services under Chapter V of Finance Act, 1994, but which are liable to tax under this Act shall be entitled to take, in his electronic credit ledger,*

- (a) the amount of CENVAT credit carried forward in a return furnished under the existing law by him in accordance with the provisions of sub-section (1); and*
- (b) the amount of CENVAT credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day, relating to such exempted goods or services, in accordance with the provisions of sub-section (3).*

*Explanation. —The expression “eligible duties” means—*

- (i) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957;*
- (ii) the additional duty leviable under sub-section (1) of section 3 of the Customs Tariff Act, 1975;*
- (iii) the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, 1975*
- (iv) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978;*
- (v) the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985;*
- (vi) the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985; and*
- (vii) the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001,*

*in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day*

**Extract of the CGST Rules, 2017 – The extract of the relevant rules have been provided below the Statutory Provisions of Section 140(1) of the CGST Act, 2017 supra.**

**Relevant provisions of the Statute**

Section of CGST	Description
Section 2(46)	Definition of ‘Electronic Credit Ledger’
Section 16 to 21	Manner of taking input tax credit

Section of CGST	Description
Section 79	Recovery of tax
Central Tax Rules 117(1) & (2)	Tax or duty credit carried forward
Central Tax Rule 120A	Revision of declaration in TRAN-1

#### 140.4.1 Introduction

This transition provision permits for availment of input credit by a registered person who was engaged in the manufacture of taxable as well as exempted goods under the Central Excise Act, 1944 or engaged in provision of taxable as well as exempted services under Chapter V of Finance Act, 1994.

#### 140.4.2 Analysis

This provision is applicable only for inputs (not capital goods) held in stock or in respect of inputs contained in semi-finished goods or finished goods held in stock on the appointed day on 'ELIGIBLE DUTIES and the amount of CENVAT credit carried forward in a return furnished under the erstwhile law by him.

This section mirrors the provisions of section 140(1) and 140(3) in respect of goods that were not taxable under the earlier law and become taxable in GST.

The definition of 'Eligible Duties' as stated in explanation 1 to Section 140 (10) cited supra is applicable here.

The claim of transitional credit under this Section is subject to the following conditions:

- (i) The person must be a registered person under the GST Laws.
- (ii) The taxable person must have been engaged in the manufacture of taxable as well as exempted goods under the Central Excise Act, 1944 or provision of taxable as well as exempted services under Chapter V of Finance Act, 1994.
- (iii) In terms of Sub Rule 2(b) of the Transition Provision Rules the application in Form GST TRAN -01 shall specify separately the details of stock held on the appointed day up to 6 tax periods indicating the details of supplies effected during each tax period.

The details of credit availment is as follows:

Particulars	CGST
Credit to be carried forward	<p>Amount of CENVAT credit carried forward in a return furnished under earlier law in terms of section 140(1)</p> <p>Amount of CENVAT credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day, relating to exempted goods or services, in terms of section 140(3). Reference may be made in Section 140(3) for better understanding.</p>

Particulars	CGST
Relevant law	CENVAT Credit Rules, 2004
Form in which the credit would be available under the GST law	<ul style="list-style-type: none"> <li>- Would be available as a balance in the electronic credit ledger of the tax payer.</li> </ul>
Procedure for claiming the credit [Rule 117(1) & (2)]	<ul style="list-style-type: none"> <li>(i) Submit declaration in Form GST TRAN1 electronically;</li> <li>(ii) Due date for filing TRAN-1 is within 90 days of the appointed day; (The Commissioner may extend the period of 90 days by a further period of not exceeding 90 days).</li> <li>(iii) Accordingly, the Commissioner has extended date of filing Form GST TRAN-1 to 27.12.2017 vide order No. 9/2017-GST dated 15.11.2017.</li> <li>(iv) Form GST TRAN-1 may be revised once within the prescribed time limit [Rule No. 120A].</li> <li>(v) By order No.10/2017-GST dated 15.11.2017, the Commissioner has extended the time limit for revision to 27.12.2017.</li> </ul>

**Statutory Provisions****140(5). Credit of eligible duties and taxes in respect of inputs or input services during transit**

*A registered person shall be entitled to take, in his electronic credit ledger, credit of eligible duties and taxes in respect of inputs or input services received on or after the appointed day but the duty or tax in respect of which has been paid by the supplier under the existing law, subject to the condition that the invoice or any other duty or tax paying document of the same was recorded in the books of accounts of such person within a period of thirty days from the appointed day:*

*Provided that the period of thirty days may, on sufficient cause being shown, be extended by the commissioner for a further period not exceeding thirty days.*

*Provided Further that said registered person shall furnish a statement, in such manner as may be prescribed, in respect of credit that has been taken under this sub-section.*

*Explanation 2. —The expression “eligible duties and taxes” means—*

- (i) *the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957;*
- (ii) *the additional duty leviable under sub-section (1) of section 3 of the Customs Tariff Act, 1975;*



(iii)	<i>the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, 1975;</i>
(iv)	<i>the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978;</i>
(v)	<i>the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985;</i>
(vi)	<i>the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985;</i>
(vii)	<i>the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001; and</i>
(viii)	<i>the service tax leviable under section 66B of the Finance Act, 1994,</i>
<i>in respect of inputs and input services received on or after the appointed day.</i>	

**Extract of the CGST Rules, 2017 – The extract of the relevant rules have been provided below the Statutory Provisions of Section 140(1) of the CGST Act, 2017 supra.**

#### Relevant provisions of the Statute

Section of CGST	Description
Section 2 (46)	Definition of 'Electronic Credit Ledger'
Section 16 to 21	Manner of taking input tax credit
Section 79	Recovery of tax
Central Tax Rules 117(1), (2c),	Tax or duty credit carried forward
Central Tax Rules 120A	Revision of declaration in TRAN-1
Central Tax Rules 121	Recovery of credit wrongly availed.

#### 140.5.1 Introduction

This transition provision sets out the conditions and procedure for availing input credit in case of transactions that are spread over the transition period.

#### 140.5.2 Analysis

(i) In any given business scenario, it is possible that invoices are raised in the erstwhile tax regime and applicable taxes are also remitted under the erstwhile laws. However, inputs or input services in respect of such transactions are received in a GST regime. This provision alleviates the difficulty in availing credits in such instances. In order to avail such credits in the Electronic Credit Ledger the following conditions need to be satisfied:

(a) Invoices/duty paid documents must be recorded in the books within 30 days from the appointed date which may be extended by the commissioner for another 30 days on showing sufficient cause.

- (b) The recipient of inputs or input services must furnish a statement as follows:

In terms of Rule 117(2)(c) the said taxable person shall furnish the following details, vide FORM GST TRAN-1.

- (i) A statement indicating the name and address of the supplier together with invoice details.
- (ii) Description, quantity and value of goods or services.
- (iii) The amount of taxes, duties, VAT, Entry tax charged by the supplier.
- (iv) The date at which receipt of goods or services are entered in the books of the recipient.

The provision is a saving clause in respect of 'goods in transit'.

#### Issues / Concerns:

- a. Transitional provision for service tax payable on receipt basis: Assume a situation where services were provided under the earlier law and an option to pay service tax on receipt basis was exercised. Owing to the aforesaid provisions, the receipts of money on / after 01st July, 2017 would be liable to service tax in the hands of the assessee as he is required to pay tax on receipt basis. If service tax is leviable on such transactions, GST will not be leviable in terms of Section 142(11)(b) of CGST Act, 2017. Further, if service tax is leviable on the same, how is the assessee expected to declare the same in the ST-3 returns, as the ST-3 returns for the period of July 2017 and onwards were not operational.
- b. Taxes paid under earlier laws but bill has been received after appointed day: The aforesaid provision does not cover cases where the service is provided / goods are received on / before 30th June, 2017 and the invoice is dated on / before 30th June, 2017 but the invoice is received after 01st July, 2017.
- c. Capital goods in transit as on the appointed date: The aforesaid provision does not allow availment of credit of duties and taxes in respect of capital goods received on or after the appointed day but the duty or tax in respect of which has been paid by the supplier under the erstwhile law i.e. capital goods-in-transit. In such a scenario, Excise Duty and VAT paid on the procurement of the capital goods will form a part of cost for the taxpayer.

#### Statutory Provisions

##### **140(6). Credit of eligible duties and taxes on inputs held in stock to be allowed to a registered person switching over from composition scheme**

*A registered person, who was either paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the existing law, shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions, namely:*

- (i) such inputs or goods are used or intended to be used for making taxable supplies under this Act;
- (ii) the said registered person is not paying tax under section 10;
- (iii) the said registered person is eligible for input tax credit on such inputs under this Act;
- (iv) the said registered person is in possession of invoice or other prescribed documents evidencing payment of duty under the existing law in respect of inputs; and
- (v) such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day.

*Explanation.* —The expression “eligible duties” means—

- (i) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957;
- (ii) the additional duty leviable under sub-section (1) of section 3 of the Customs Tariff Act, 1975;
- (iii) the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, 1975
- (iv) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978;
- (v) the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985;
- (vi) the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985; and
- (vii) the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001,

*in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day*

**Extract of the CGST Rules, 2017 – The extract of the relevant rules have been provided below the Statutory Provisions of Section 140(1) of the CGST Act, 2017 *supra*.**

**Relevant provisions of the Statute**

Section of CGST	Description
Section 2( 46)	Definition of ‘Electronic Credit Ledger’
Section 10	Composition Dealer
Section 16 to 21	Manner of taking input tax credits
Rule 117( 2) (b)	Transition Provision Rules under GST Laws
Central Tax Rules 117(1)	Tax or duty credit carried forward

Section of CGST	Description
Central Tax Rules 120A	Revision of declaration in TRAN-1
Central Tax Rules 121	Recovery of credit wrongly availed.

#### 140.6.1 Introduction

This transition provision sets out the conditions and procedure for availing input credit by a registered person who is switching over from composition scheme (paying tax at fixed rate or fixed amount) under the erstwhile laws to a regular scheme under the GST law.

#### 140.6.2 Analysis

This provision is applicable only for inputs (not capital goods) held in stock or in respect of inputs contained in semi-finished goods or finished goods held in stock on the appointed day on 'ELIGIBLE DUTIES'. The claim of transitional credit under this section is subject to the following conditions:

- (i) The person must be a registered person under the erstwhile law as well as GST Laws.
- (ii) He should have opted for payment of tax at a fixed rate or fixed amount in lieu of tax payable under the erstwhile law. Eg. Compounded Levy Scheme under central excise in case of aluminium/steel patts/pattis, special service tax rates in case of insurers carrying on life insurance business, persons providing services in relation to purchase/sale of foreign currency including money changers
- (iii) Specified duties paid on 'inputs' would be allowed as input tax credit, in his Electronic Credit Ledger.
- (iv) The person should opt for payment of tax under the regular scheme under the GST law (cannot be a composition taxpayer u/s 10 of CGST Law).
- (v) The relevant inputs should be held in stock on the date of introduction of GST.
- (vi) Inputs may take any of the following forms –
  - (i) inputs as such (in the same form as it was procured / received – may be raw materials, consumables, packing materials, traded goods etc.),
  - (ii) may be contained in WIP or semi-finished goods or
  - (iii) may be contained in the finished goods.
- (vii) Such inputs must be used or intended to be used for making taxable supplies under the GST Laws.
- (viii) Such goods should qualify as eligible inputs under the GST law.
- (ix) The registered person should be in possession of the invoice and such other documents (as may be prescribed) that shall satisfy the following conditions:

- (a) The invoice / other document should evidence the payment of duty / tax on such goods.
- (b) The invoice should not be more than 12 months prior to the date of introduction of GST.
- (x) In terms of Rule 117(2) of CGST Rules, 2017 the application in FORM GST TRAN-1 shall specify separately the details of stock held on the appointed day.

**Statutory provisions****140(7). Credit distribution of service tax by Input Service Distributor.**

*Notwithstanding anything to the contrary contained in this Act, the input tax credit on account of any services received prior to the appointed day by an Input Service Distributor shall be eligible for distribution as credit under this Act even if the invoices relating to such services are received on or after the appointed day.*

**Extract of the CGST Rules, 2017 – The extract of the relevant rules have been provided below the Statutory Provisions of Section 140(1) of the CGST Act, 2017 supra.**

**Relevant provisions of the Statute**

Section	Description	Remarks
Section 2(61)	Definition of Input Service Distributor	To be aware of the meaning of Input Service Distributor under the GST law
Section 2(102)	Definition of Service	It is imperative to know the meaning of service to determine as to what will be distributed under the GST law
Section 20	Manner of distribution of Input Tax Credit by ISD	Section 20 acts as an extension of section 140(7). The eligibility of the credit is discussed as per Section 140(7) whereas the manner of distribution is under section 20.

**140.7.1 Introduction**

- (i) This provision has an overriding effect over all other provisions under the GST law.
- (ii) This provision is applicable when:
  - (a) The services are received by the Input Service Distributor before the date of applicability of GST and
  - (b) Tax on such services have not yet been distributed by the Input Service Distributor on the date of applicability of GST.
  - (c) Invoices relating to such services are received on or after the appointed date.

- (iii) Such services will be eligible for distribution as credit under the GST law.
- (iv) This provision will be applicable irrespective of the date of receipt of invoice by the Input Service Distributor.

#### 140.7.2 Analysis

**Input Service Distributor:** This term has been defined under Section 2(61) of the CGST Law to mean “an office of the supplier of goods or services or both which receives tax invoices issued under section 31 towards the receipt of input services and issues a prescribed document for the purposes of distributing the credit of central tax, State tax, integrated tax or Union territory tax paid on the said services to a supplier of taxable goods or services or both having the same Permanent Account Number as that of the said office.”

Explanation. - For distributing the credit of CGST (SGST in State Acts) and / or IGST or UTGST, Input Service Distributor shall be deemed to be a supplier of services.

**Services:** This term has been defined under Section 2(102) of the CGST law to mean “anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged.”

**Date of receipt of invoice is immaterial:** In respect of the services received by the Input Service Distributor before the date of applicability of GST, the invoice can be received by the Input service distributor:

- (a) either before the date of applicability of GST; or
- (b) on the date of applicability of GST
- (c) after the date of applicability of GST

This section seeks to cover all the cases.

**Date of receipt of services is crucial:** For the purposes of this section, it is important that the underlying services must have been received prior to the appointed date.

**Distribution of credit under GST Law:** If any input service distributor:

- receives services before the date of applicability of GST; and
- such services are yet to be distributed on the date of applicability of GST, for want of invoice
- then irrespective of the date of the receipt of invoices by the Input Service Distributor
- the distribution of credit will be as per the GST law.

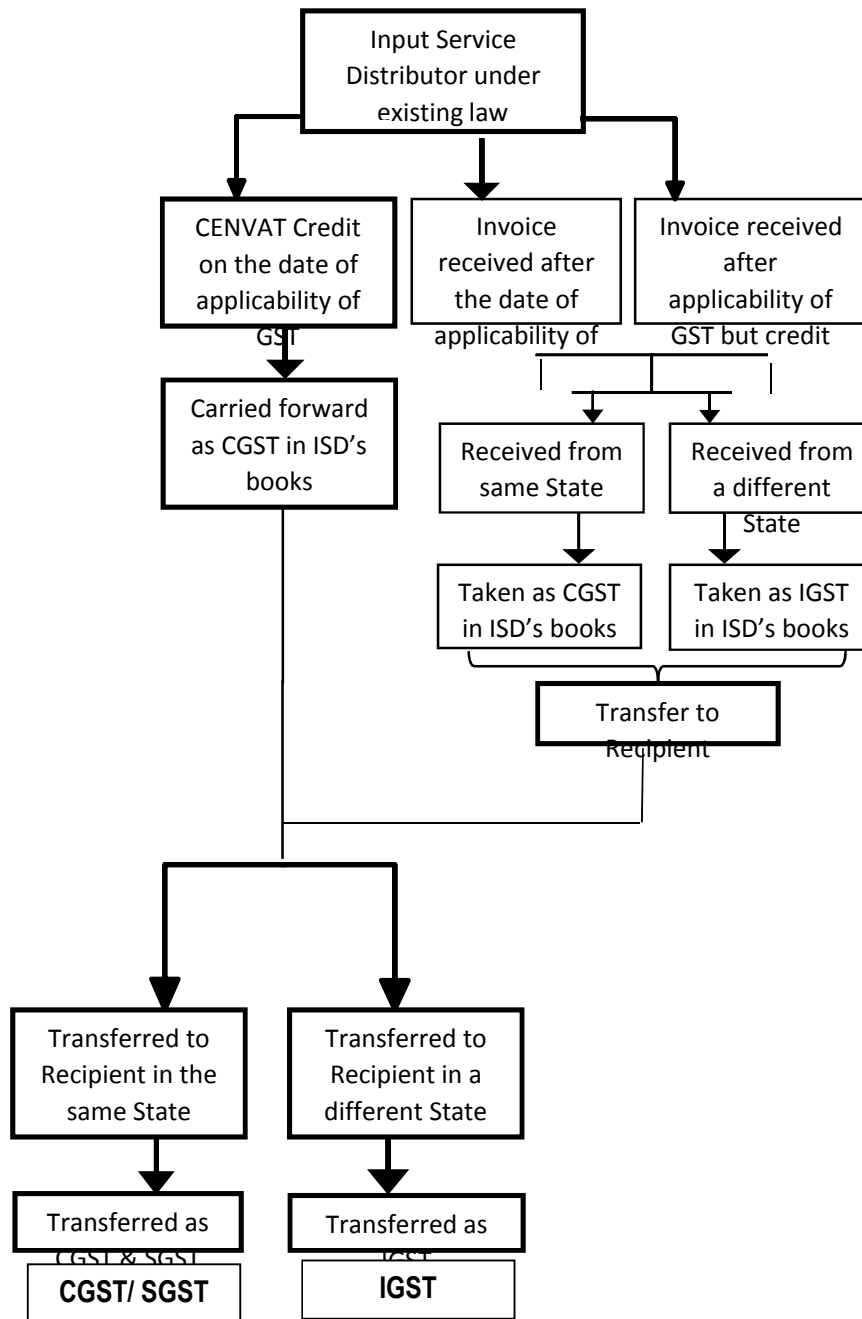
**Manner of distribution of credit by Input Service Distributor:** Section 20 of the CGST law provides the manner in which the credit will be distributed. Following are the key points for consideration:

- If the invoice is received by the Input Service Distributor before the date of applicability of GST, he can distribute the CENVAT Credit under the old law and carry forward this credit as CGST on the date of applicability of GST under section 140(1) of the CGST law. If he distributes the credit on or after the applicability of GST, he can take it as CGST or IGST depending on the nature of supply being intra State or inter-state respectively.
- If the invoice is received by the Input Service Distributor on or after the date of applicability of GST, he can distribute the credit in the form of CGST or IGST depending on the nature of supply being intra State or inter-state.
- If the Input Service Distributor and the recipient of credit are located in two different States, then the input tax credit of both CGST and IGST will be distributed as IGST.
- If the Input Service Distributor and the recipient of credit are located in the same State, then the input tax credit of both CGST and IGST will be distributed as CGST.

#### **140.7.3 Comparative Review**

This is a transitional provision for converging the provisions of the earlier law with the GST law. As this provision is temporary and only for the transition period, there are no comparative provisions in the earlier law which can be relatable to this section.

**Analysis of this transitional provision can be presented in the following flowchart:**





**Statutory provisions****140(8). Provision for transfer of unutilized CENVAT Credit by a registered person having centralized registration under the earlier law**

*Where a registered person having centralized registration under the existing law has obtained a registration under this Act, such person shall be allowed to take, in his electronic credit ledger, credit of the amount of CENVAT credit carried forward in a return, furnished under the existing law by him, in respect of the period ending with the day immediately preceding the appointed day in such manner as may be prescribed:*

*Provided that if the registered person furnishes his return for the period ending with the day immediately preceding the appointed day within three months of the appointed day, such credit shall be allowed subject to the condition that the said return is either an original return or a revised return where the credit has been reduced from that claimed earlier:*

*Provided further that the registered person shall not be allowed to take credit unless the said amount is admissible as input tax credit under this Act:*

*Provided also that such credit may be transferred to any of the registered persons having the same Permanent Account Number for which the centralized registration was obtained under the existing law.*

**Extract of the CGST Rules, 2017 – The extract of the relevant rules have been provided below the Statutory Provisions of Section 140(1) of the CGST Act, 2017 supra.**

**Relevant provisions of the Statute**

Section of CGST	Description
Section 2( 46)	Definition of 'Electronic Credit Ledger'
Section 16 to 21	Manner of taking input tax credit
Rule 117( 2)	Transition Provision Rules under GST Laws
Central Tax Rules 117(1)	Tax or duty credit carried forward
Central Tax Rules 120A	Revision of declaration in FORM GST TRAN-1
Central Tax Rules 121	Recovery of credit wrongly availed.

**140.8.1 Analysis**

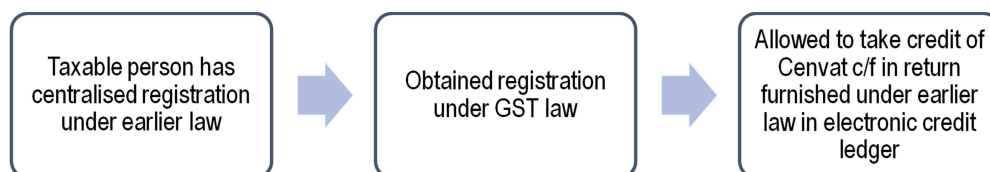
Under the erstwhile law where centralized registration is obtained and credit is lying in balance, it is provided that:

- Credit balance may be taken and carried forward into the GST regime
- Such credit transfer will require filing of a return within 3 months under the old law
- Credit is required to be eligible under the GST law

- Credit is permitted to be transferred to other locations of the person which qualify as taxable persons in GST having the same PAN.

It is interesting that the provision does not lay down any criteria for such transfer of credit between various locations of the person and this is a welcome measure as part of the transition steps.

#### Transfer of unutilised CENVAT credit by a person having centralised registration



#### Note:

1. Only those credits which are admissible under GST laws will be allowed
2. Credit may be transferred to any registered person having the same PAN for which centralised registration was obtained under erstwhile law

In terms of Rule 117(2) of the CGST Rules 2017 the application in FORM GST TRAN-1 shall specify the said transactions.

#### Statutory Provisions

##### **140(9) Reclaiming CENVAT credit reversed due to non-payment of consideration**

*Where any CENVAT credit availed for the input services provided under the existing law has been reversed due to non-payment of the consideration within a period of three months, such credit can be reclaimed subject to the condition that the registered person has made the payment of the consideration for that supply of services within a period of three months from the appointed day.*

**Extract of the CGST Rules, 2017 – The extract of the relevant rules have been provided below the Statutory Provisions of Section 140(1) of the CGST Act, 2017 supra.**

##### **140.9.1 Introduction**

This transition provision has been introduced with a view to enable the availment of credit in cases where CENVAT credit has been reversed in terms of second proviso to rule 4(7) of the CENVAT Credit Rules, 2004. In terms of the said proviso, CENVAT credit is reversed in case of input services, the payment of consideration for which is not made within a period of 3 months from the date of invoice/challan etc. Subsequently, such credit is allowed as and when the payment is made.

##### **140.9.2 Analysis**

This Section would apply in the following circumstances:

- (i) The CENVAT credit had been reversed by the manufacturer or the service provider in terms of second proviso to Rule 4(7) of the CENVAT Credit Rules, 2004.
- (ii) Such payment is then made after the appointed day.
- (iii) The payment is made within 3 months from the appointed day.

It provides that where the above conditions are fulfilled, the credit shall be allowed as CGST credit.

For the period ending with the day immediately preceding the appointed day, if the registered person files an original/revised return within 3 months of the appointed day.

#### Statutory Provisions

Section	Particulars
141(1)	No tax payable if input removed to a job worker for further processing, testing etc. prior to the appointed day returned within a period of 6 months or extended period for further 2 months.
141(2)	No tax payable if semi-finished goods that had been removed to any other premises for carrying out certain manufacturing processes prior to the appointed day returned within a period of 6 months or extended period for further 2 months.
141(3)	No tax payable on manufactured excisable goods removed without payment of duty for carrying out tests etc. not amounting to manufacture as per erstwhile law prior to the appointed day returned within a period of 6 months or extended period for further 2 months.
141(4)	No tax payable under sub-section (1)/ (2) or (3) if the manufacturer and the job-worker declare the details of the inputs or goods held in stock.

#### 141 Transitional provisions relating to job work

- (1) *Where any inputs received at a place of business had been removed as such or removed after being partially processed to a job worker for further processing, testing, repair, reconditioning or any other purpose in accordance with the provisions of existing law prior to the appointed day and such inputs are returned to the said place on or after the appointed day, no tax shall be payable if such inputs, after completion of the job work or otherwise, are returned to the said place within six months from the appointed day:*

*Provided that the period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:*

*Provided further that if such inputs are not returned within the period specified in this sub-section, the input tax credit shall be liable to be recovered in accordance with the provisions of clause (a) of sub-section (8) of section 142.*

- (2) *Where any semi-finished goods had been removed from the place of business to any other premises for carrying out certain manufacturing processes in accordance with the provisions of existing law prior to the appointed day and such goods (hereafter in this section referred to as "the said goods") are returned to the said place on or after the appointed day, no tax shall be payable, if the said goods, after undergoing manufacturing processes or otherwise, are returned to the said place within six months from the appointed day:*

*Provided that the period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:*

*Provided further that if the said goods are not returned within the period specified in this sub-section, the input tax credit shall be liable to be recovered in accordance with the provisions of clause (a) of sub-section (8) of section 142*

*Provided also that the manufacturer may, in accordance with the provisions of the existing law, transfer the said goods to the premises of any registered person for the purpose of supplying therefrom on payment of tax in India or without payment of tax for exports within the period specified in this sub-section.*

- (3) *Where any excisable goods manufactured at a place of business had been removed without payment of duty for carrying out tests or any other process not amounting to manufacture, to any other premises, whether registered or not, in accordance with the provisions of existing law prior to the appointed day and such goods, are returned to the said place on or after the appointed day, no tax shall be payable if the said goods, after undergoing tests or any other process, are returned to the said place within six months from the appointed day:*

*Provided that the period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:*

*Provided further that if the said goods are not returned within the period specified in this sub-section, the input tax credit shall be liable to be recovered in accordance with the provisions of clause (a) of sub-section (8) of section 142:*

*Provided also that the manufacturer may, in accordance with the provisions of the existing law, transfer the said goods from the said other premises on payment of tax in India or without payment of tax for exports within the period specified in this sub-section.*

- (4) *The tax under sub-sections (1), (2) and (3) shall not be payable, only if the manufacturer and the job-worker declare the details of the inputs or goods held in stock by the job-worker on behalf of the manufacturer on the appointed day in such form and manner and within such time as may be prescribed.*

**Extract of the CGST Rules, 2017****119. Declaration of stock held by a principal and job-worker.-**

*Every person to whom the provisions of section 141 apply shall, within the period specified in rule 117 or such further period as extended by the Commissioner, submit a declaration electronically in **FORM GST TRAN-1**, specifying therein, the stock of the inputs, semi-finished goods or finished goods, as applicable, held by him on the appointed day.*

**Relevant provisions of the Statute**

Section	Description
Section 2(68)	Definition of 'Job work'
Explanation to Chapter XX	Definition of 'Manufacturer' to be understood in terms of the Central Excise Law
Section 2(85)	Definition of 'Place of Business'
Section 142(8)(a)	Recovery of any amount in pursuance of assessment or adjudication proceedings under the existing laws
Section 79	Recovery of amount payable to Government
Rule 117	Time limit for filing FORM GST TRAN-1
Rule 119	Declaration of stock held by
Rule 120A	Revision of declaration in FORM GST TRAN-1
Section 143	Jobwork

**141(1) Inputs removed for job work and returned on or after the appointed day****141.1.1 Introduction**

This transition provision is with respect to inputs removed as such or after partial processing from a place of business for the purposes of carrying out any processing, repair, reconditioning or for any other purposes under the erstwhile laws but are returned / returnable after the date of implementation of GST.

**141.1.2 Analysis**

- In case inputs removed by a Principal to a Job Worker's premises that are returned to the Principal within 6 months (or within an extended period of further 2 months), no tax shall be payable. However, if the inputs are not returned within 6 months or such extended period of 2 months, then the input tax credit availed by the Principal shall be recovered as arrears of tax under CGST Law and no input tax credit of such tax paid shall be allowed under the CGST Law.
- Rule 119 prescribes that every Principal and the Job Worker shall file a declaration in FORM GST TRAN-1 specifying the stock held at job worker's premises. The time limit for furnishing the above declaration in TRAN-1 has been prescribed in Rule 117.

- **Eg 1:** A manufacturer had removed inputs worth ₹ 5,00,000 on 1st January, 2017 for job work. On 10th December, 2017, the inputs are returned by the job worker. Since, the inputs are returned within 6 months from the date of applicability of GST, no tax will be payable.
- **Eg 2:** In Eg 1 above, if the goods are not returned by the job worker within the period of 6 months from the applicability of GST i.e. by 31st December, 2017, then the input tax credit shall be liable to be recovered in terms of section 142 (8)(a); i.e., the input tax credit shall be liable to be recovered as an arrear of tax under the CGST Act and the amount so recovered shall not be admissible as input tax credit.

#### Inputs removed for Job work and returned on or after the appointed day

Tax not payable when	Tax payable when and by whom	Applicability of exemption
<div data-bbox="418 905 646 1073">Goods were removed/dispatched as such or after partial processing for job work under the earlier law prior to appointed day</div> <div data-bbox="418 1104 646 1272">Such goods are returned within 6 months or within the extended period (2 months) from the appointed day to the said place of business</div>	<div data-bbox="719 905 946 999">Goods are liable for payment of taxes under GST; and</div> <div data-bbox="719 1020 946 1104">Such goods are returned after 6 months from the appointed day</div> <div data-bbox="719 1125 946 1272">If goods are not returned within 6 months or extended period, input tax credit availed in respect of inputs removed will be recovered from the Principal</div>	<div data-bbox="1019 905 1247 1272">Principal and Job Worker should declare details of inputs held in stock by the Job Worker on behalf of the sender on the appointed day</div>

#### Issues / Concerns:

- Cases where CENVAT credit already reversed under earlier law: These transitional provisions do not cover those situations where goods are received back after the appointed date in respect of which CENVAT credit is already reversed prior to appointed date.

#### Statutory Provisions

**141(2) Semi-finished goods removed for job work and returned on or after the appointed day**

*Extract of the CGST Rules, 2017 – The extract of the relevant rules have been provided below the Statutory Provisions of Section 141(1) of the CGST Act, 2017 supra.*

**141.2.1 Introduction**

This transitional provision is with respect to semi-finished goods which were dispatched from a place of business for job work (for the purpose of carrying out any manufacturing processes) under the erstwhile laws but are returned / returnable after the date of implementation of GST.

**141.2.2 Analysis**

- In case Semi-finished goods removed by a Principal to a Job Worker's premises that are returned to the Principal within 6 months (or within an extended period of further 2 months), no tax shall be payable. However, if the semi-finished goods are not returned within 6 months or such extended period of an additional 2 months then the input tax credit availed by the Principal shall stand reversed under the erstwhile law or recovered as arrears under the CGST Law.
- Rule 119 prescribes that every principal and the job worker shall file a declaration in FORM GST TRAN-1 specifying the stock held at job worker's premises. The time limit for furnishing the above declaration in TRAN-1 has been prescribed in Rule 117.
- The manufacturer may, instead of bringing the said goods back to his place of business, transfer the said goods to the premises of any registered person for the purpose of supplying there from to places within India or for exports. The premises of any registered person may include premises like bonded warehouses where to goods manufactured can be removed from the place of manufacture without payment of excise duty by complying with the relevant provisions of the Central Excise Law. If the supplies from those premises are made within India, tax shall be paid on such supplies. If the said goods are exported no tax need to be paid on such supplies.

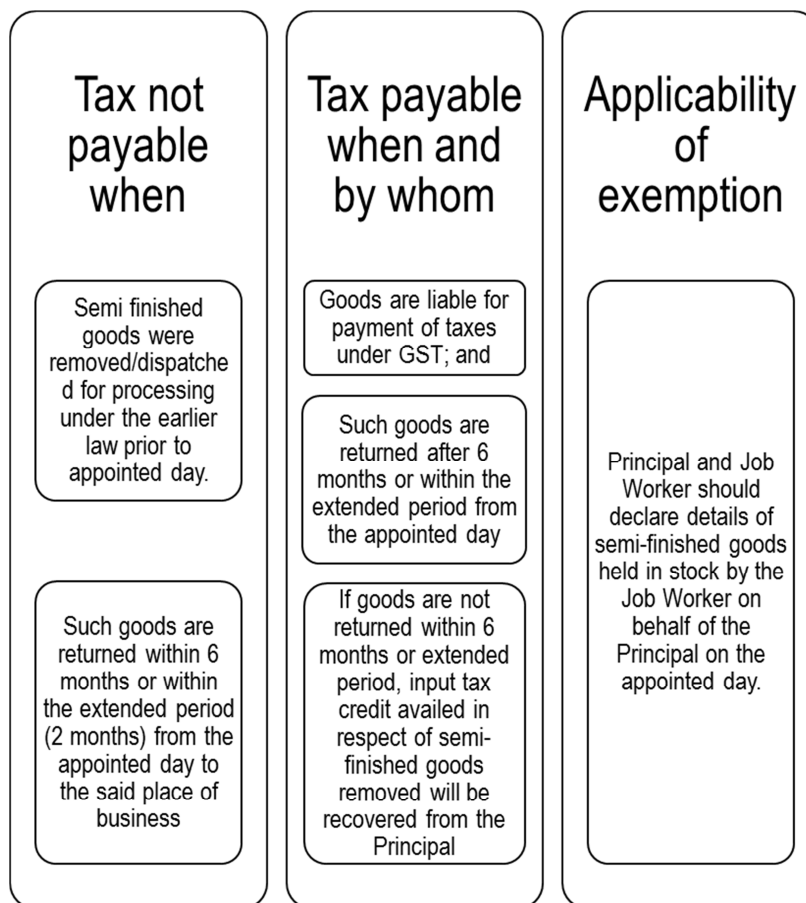
**Eg 1:** A manufacturer had removed semi-finished goods worth ₹ 5,00,000 on 1<sup>st</sup> January, 2017 for further processing. GST. On 10<sup>th</sup> October, 2017, these goods are returned by the job worker. Since the goods are returned within 6 months from the date of applicability of GST, no tax will be payable.

**Eg 2:** In Eg 1 above, if the goods are not returned by the job worker within the period of 6 months from the applicability of GST i.e. till 31<sup>st</sup> December, 2017, then the input tax credit shall be liable to be recovered in terms of section 142 (8)(a); i.e., the input tax credit shall be liable to be recovered as an arrear under the CGST Act.

**Eg 3:** In Eg 1 above, assume that the goods are directly transferred to a registered taxable person within 6 months from the applicability of GST i.e. till 31<sup>st</sup> December, 2017. In this case, tax will be payable under GST if the goods there from are supplied in India and tax will not be payable if the same is exported.

**The analysis of above provision in a pictorial form is summarised as follows:**

Semi-finished goods removed for Job work and returned on or after the appointed day

**Statutory Provision**

**141.3 Finished goods removed for carrying out certain processes and returned on or after the appointed day**

**Extract of the CGST Rules, 2017 – The extract of the relevant rules have been provided below the Statutory Provisions of Section 141(1) of the CGST Act, 2017 supra.**

**141.3.1 Introduction**

This transition provision is with respect to excisable goods manufactured and removed from a place of business without payment of duty for the purposes of carrying out any tests or any other process and which are returned / returnable after the date of implementation of GST.

**141.3.2 Analysis**

- Excisable goods are manufactured and removed from the place of business without payment of duty for carrying out tests or any other process (not amounting to



manufacture), to any other premises, whether registered or not, in terms of the earlier law prior to the appointed day. Subsequently such goods, are returned to the said place of business on or after the appointed day, then no tax shall be payable if the said goods, after undergoing the process, are returned to the said place within 6 months from the appointed day.

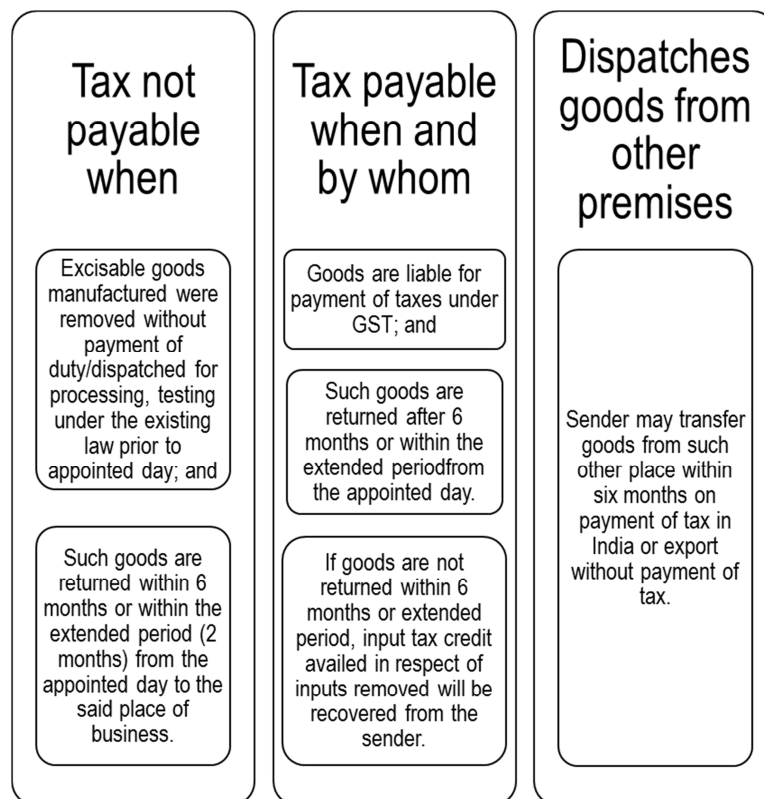
- The period of 6 months may be extended by the Commissioner for a further period not exceeding 2 months.
- If the said goods are not returned within 6 months or extended period, from the appointed day, the input tax credit shall be liable to be recovered under the erstwhile law. If the input tax credit is not recovered under the erstwhile law, it will be recovered as an arrear under the CGST Act.
- The manufacturer may, in terms of the provisions of the earlier law, transfer the said goods from the premises of the job worker on payment of tax if the supplies are made within India or without payment of tax for exports. The premises of the same registered person refers to premises like bonded warehouses to where goods manufactured can be removed from the place of manufacture without payment of excise duty by complying with the relevant provisions of the Central Excise Law. If the transfer from those premises are made within India, tax shall be paid on such transfers. If the said goods are exported no tax need to be paid on such transfers.

**Eg 1:** A manufacturer had removed finished goods worth ₹ 5,00,000 on 1<sup>st</sup> January, 2017 for testing. On 20<sup>th</sup> November, 2017, these goods are returned by the person after testing. Since the goods are returned within 6 months from the date of applicability of GST, no tax will be payable.

**Eg 2:** In Eg 1 above, assume that the goods are not returned directly from the premises of the tester within 6 months from the applicability of GST i.e. till 31<sup>st</sup> December, 2017. In this case, input tax credit shall be liable to be recovered in terms of section 142(8)(a).

**The analysis of above provision in a pictorial form is summarised as follows:**

Finished goods removed for carrying out certain processes and returned on or after the appointed day



This provision stipulates that immunity from paying tax under section 141(1), 141(2) and 141(3) is available only if both the manufacturer and the job worker declare the details of inputs or goods held in stock by the job worker on behalf of the manufacturer.

#### 141.3.4 FAQs

- Q1. Can the benefit of sub sections 1, 2 & 3 be availed even if the date of removal of inputs, semi-finished goods or finished goods is falling beyond one year before the appointed date?
- Ans. Yes. There are no restrictions in Sec 141 regarding the time period before the appointed date within which the date of removal of goods removed should fall in order to avail the benefit of Sec 141. The restriction regarding the time limit is only in respect of receiving back of the goods to the place of business from where those goods were originally removed.

**Statutory Provisions**

<b>Section</b>	<b>Particulars</b>
142(1)	Refund of duty on any goods on which duty had been paid under the existing law at the time of removal thereof
142(2)(a)	The price of any goods or services or both is revised upwards on or after the appointed day, shall be deemed to be an outward supply made under this Act
142(2)(b)	The price of any goods or services or both is revised downwards on or after the appointed day, shall be deemed to be in respect of outward supply made under this Act
142(3)	Every claim for refund filed before, on or after the appointed day, under the existing law, shall be disposed of in accordance with the provisions of existing law
142(4)	Every claim for refund filed after the appointed day for refund of any duty or tax paid under existing law in respect of the goods or services exported before or after the appointed day shall be disposed of in accordance with the provisions of existing law
142(5)	Every claim of refund of tax filed after the appointed date paid under the existing law in respect of services not provided
142(6)(a)	Every proceeding of appeal, review or reference relating to a CLAIM for CENVAT credit initiated whether before, on or after the appointed day under the existing law
142(6)(b)	Every proceeding of appeal, review or reference relating to RECOVERY for CENVAT credit initiated whether before, on or after the appointed day under the existing law
142(7)(a)	Every proceeding of appeal, review or reference relating to any output duty or tax liability initiated whether before, on or after the appointed day under the existing law and if any amount becomes recoverable from the claimant
142(7)(b)	Every proceeding of appeal, review or reference relating to any output duty or tax liability initiated whether before, on or after the appointed day under the existing law, and any amount found to be admissible to the claimant
142(8)(a)	In pursuance of an assessment or adjudication proceedings instituted, whether before, on or after the appointed day, under the existing law, any amount of tax, interest, fine or penalty becomes RECOVERABLE from the person.

142(8)(b)	In pursuance of an assessment or adjudication proceedings instituted, whether before, on or after the appointed day, under the existing law, any amount of tax, interest, fine or penalty becomes REFUNDABLE to the taxable person.
142(9)(a)	Where any return, furnished under the existing law, is revised after the appointed day and if, pursuant to such revision, any amount is found to be recoverable or any amount of CENVAT credit is found to be inadmissible
142(9)(b)	Where any return, furnished under the existing law, is revised after the appointed day but within the time limit specified for such revision under the existing law and if, pursuant to such revision, any amount is found to be refundable or CENVAT credit is found to be admissible
142(10)	Goods or services or both supplied (in pursuance of a contract entered into prior to the appointed day) i.e., ongoing contracts on or after the appointed day shall be liable to tax
142(11)(a)	No tax shall be payable on goods under this Act to the extent the tax was leviable on the said goods under the Value Added Tax Act of the State
142(11)(b)	No tax shall be payable on services under this Act to the extent the tax was leviable on the said services under Chapter V of the Finance Act, 1994
142(11)(c)	Where tax was paid on any supply both under the Value Added Tax and under Chapter V of the Finance Act, 1994, tax shall be leviable under this Act to the extent of supplies made after the appointed day i.e., supply of goods or services or both supplied after the appointed day
142(12)	Any goods sent on approval basis, not earlier than six months before the appointed day, are rejected and returned to the seller on or after the appointed day
142(13)	No deduction of tax at source under section 51 shall be made by the deductor on sale made under existing law which is subject to TDS and has also issued an invoice before the appointed day – Section 142(13)

**142(1) Duty paid Goods returned to the place of business on or after the appointed day**

*Where any goods on which duty, if any, had been paid under the existing law at the time of removal thereof, not being earlier than six months prior to the appointed day, are returned to any place of business on or after the appointed day, the registered person shall be eligible for refund of the duty paid under the existing law where such goods are returned by a*

*person, other than a registered person, to the said place of business within a period of six months from the appointed day and such goods are identifiable to the satisfaction of the proper officer.*

*Provided that if the said goods are returned by a registered person, the return of such goods shall be deemed to be a supply.*

### 142.1.1 Introduction

This transitional provision provides for refund of duties paid on goods under erstwhile law when returned to the place of business.

### 142.1.2. Analysis

This section provides for refund in respect of sales returns, viz., where the sale was under the erstwhile law and the return is under the GST law. The section provides that the person receiving the said goods back under the GST regime would be eligible to refund of the duty paid under the erstwhile law at the time of removal of goods, if the person returning the goods is not a registered person, return of goods by a person registered would tantamount to be a deemed supply.

This provision would be applicable in the following circumstances:

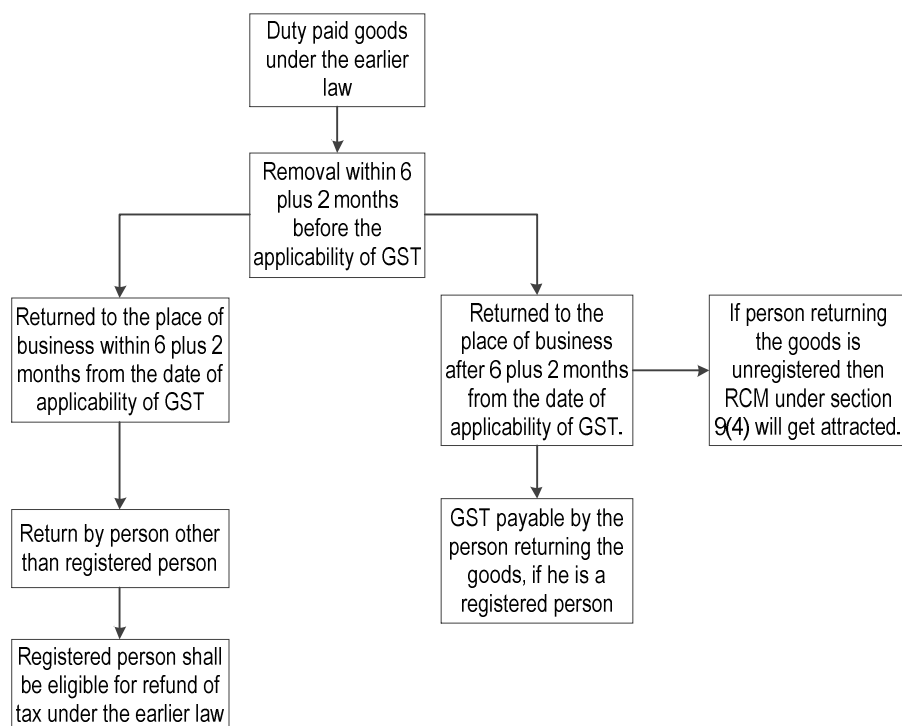
- (i) **Duty was paid at the time of removal:** Central Excise duty, should have been paid when the goods were removed/sold under the erstwhile law.
- (ii) **Sales return should be to any place of business:** While the law provides that the return can be to any place of business (in the same state by a person other than a registered person) and not necessarily to the same place of business from where it was removed, it is essential that the return should be to the same taxable person.
- (iii) Return of goods by a registered person shall be deemed to be a supply of goods.
- (iv) **Time period:** The Section provides for time lines for both, the removal and the return.
  - (a) **Removal:** It should have taken place not earlier than 6 months from the date of introduction of GST.
  - (b) **Return:** It should be within 6 months from the date of introduction of GST.

If the goods are not returned within the time line, the supplier shall not be eligible for the said refund.

- (v) Also, please note that similar provision would find place in the SGST Act so that the full incidence of GST flows to these transaction.

**Eg 1:** A manufacturer had removed goods for sale worth ₹ 5,00,000 on 1<sup>st</sup> March, 2017 after paying the necessary duty under Central Excise law. These goods are also taxable under GST. GST applicable from 1<sup>st</sup> July, 2017. On 10<sup>th</sup> July, 2017, goods worth ₹ 1,00,000 are returned by the buyer. Since, the goods are returned within 6 months from the date of applicability of GST, the supplier shall be eligible for refund of Central Excise Duty paid by him.

The analysis of above provision in a pictorial form is summarised as follows:



### Statutory Provisions

#### **142(2) Issue of supplementary invoices, debit or credit notes where price is revised in pursuance of a contract**

- (a) Where, in pursuance of a contract entered into prior to the appointed day, the price of any goods or services or both is revised upwards on or after the appointed day, the registered person who had removed or provided such goods or services or both shall issue to the recipient a supplementary invoice or debit note, containing such particulars as may be prescribed, within thirty days of such price revision and for the purposes of this Act such supplementary invoice or debit note shall be deemed to have been issued in respect of an outward supply made under this Act.
- (b) Where, in pursuance of a contract entered into prior to the appointed day, the price of any goods or services or both is revised downwards on or after the appointed day, the registered person who had removed or provided such goods or services or both may issue to the recipient a credit note, containing such particulars as may be prescribed, within thirty days of such price revision and for the purposes of this Act such credit note shall be deemed to have been issued in respect of an outward supply made under this Act:

*Provided that the registered person shall be allowed to reduce his tax liability on account of issue of the credit note only if the recipient of the credit note has reduced his input tax credit corresponding to such reduction of tax liability.*

### 142.1.1 Introduction

This is a transition provision with respect to **goods or services or both** in respect of which there is either an upward or a downward revision of price under a contract which was entered into prior to the date of introduction of GST.

### 142.1.2 Analysis

In cases where there is a price revision, either upward or downward, the CGST Act provides that the amount to the extent of such revision is deemed to be an outward supply under the CGST Act. Consequently, all the CGST provisions including issue of invoices (debit or credit notes) and payment of taxes would apply to such revision. This would apply to the provisions of supply of goods and services, respectively.

This provision would apply as follows:

- (i) **For upward revisions:** The taxable person shall issue a supplementary invoice or a debit note within 30 days from the date of such revision.

The amount of tax involved therein would be deemed to be the tax payable on such supplies under the CGST Act.

It would be deemed to be a supply in the month in which the supplementary invoice / debit note is issued and the provisions relating to disclosure in the return and payment of tax would apply accordingly.

The supplementary invoice / debit note would have to comply with the requirements as prescribed under the CGST Act.

**Eg 1:** A contract for supply of manpower was entered on 10<sup>th</sup> June, 2017 for ₹ 5,00,000. Due to certain re-negotiations, this price was revised to ₹ 5,50,000 on 15<sup>th</sup> July, 2017. The supplier should issue a supplementary invoice/debit note for ₹ 50,000 within 30 days of 15<sup>th</sup> July, 2017 i.e. 15<sup>th</sup> August, 2017. This supplementary invoice/debit note will be assumed to be for outward supply of ₹ 50,000 with GST charged on the same

- (ii) **For downward revisions:** The taxable person shall issue a credit note within 30 days from the date of such revision.

In terms of the credit note, the supplier of goods would be allowed to reduce the tax liability as if the adjustment is under the CGST Act.

It would be deemed that the credit note is issued in respect of an outward supply made under the GST Law and the provisions relating to disclosure in the return and adjustment to tax would apply accordingly. The adjustment of reduction in the tax liability would be allowed only if the recipient of the credit note also reduces his input credit correspondingly.

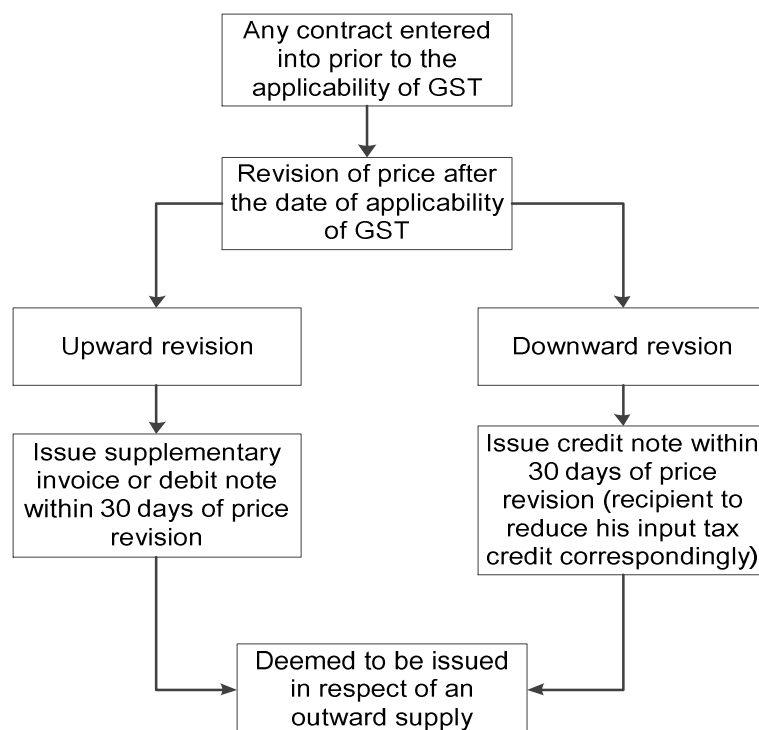
The credit note would have to comply with the requirements as prescribed under the CGST Act.

**Eg 2:** A contract for supply of manpower was entered on 10<sup>th</sup> June, 2017 for ₹ 5,00,000. Due to certain re-negotiations, this price was revised downwards to ₹ 4,00,000 on 15<sup>th</sup> July, 2017. The supplier should issue a credit note for ₹ 100,000 within 30 days of 15<sup>th</sup> July, 2017 i.e. 15<sup>th</sup> August, 2017. This credit note will be assumed to be for outward supply of ₹ 1,00,000 and accordingly the tax liability would be reduced. However, the said reduction shall be allowed only if the recipient of the credit note has reduced his corresponding input tax credit.

### 142.1.3 Comparative review

Rule 6(3) of Service Tax Rules, 1994: Where an assessee has issued an invoice or received any payment, against a service to be provided which is not so provided by him either wholly or partially for any reason (or when the invoice amount is re-negotiated due to deficient provision of service, or any terms contained in a contract) **the assessee may take the credit of such excess service tax paid by him**, if the assessee has refunded the payment or part received for the service provided or has issued a credit note for the value of the service not so provided to the person to whom an invoice had been issued.

The analysis of above provision in a pictorial form is summarised as follows:





**Statutory Provisions****142(3) Refund claims for amount paid under existing law to be disposed of under existing law**

*Every claim for refund filed by any person before, on or after the appointed day, for refund of any amount of CENVAT credit, duty, tax or interest or any other amount paid under the existing law, shall be disposed of in accordance with the provisions of existing law and any amount eventually accruing to him shall be paid in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944:*

*Provided that where any claim for refund of CENVAT credit is fully or partially rejected, the amount so rejected shall lapse:*

*Provided further that no refund claim shall be allowed of any amount of CENVAT credit where the balance of the said amount as on the appointed day has been carried forward under this Act.*

**142(4) Refund claims filed after the appointed day for goods cleared or services Provided and exported before or after the appointed day to be disposed of under existing law**

*Every claim for refund filed after the appointed day for refund of any duty or tax paid under existing law in respect of the goods or services exported before or after the appointed day, shall be disposed of in accordance with the provisions of existing law:*

*Provided that where any claim for refund of CENVAT credit is fully or partially rejected, the amount so rejected shall lapse:*

*Provided Further that no refund claim shall be allowed of any amount of CENVAT credit where the balance of the said amount as on the appointed day has been carried forward under this Act.*

**142.3.1. Introduction**

This transition provision is with respect to

- Refund claims/applications under the erstwhile law.
- Refund claims/applications under the erstwhile laws filed after the appointed day for the goods or services exported before or after the appointed day.

It provides that the claim for such refund should be processed as prescribed under the relevant erstwhile law.

**142.3.2. Analysis**

The section provides that where any person has made an application for refund of CENVAT credit, duty, tax or interest paid, the same would have to be processed in terms of the provisions contained in the respective erstwhile laws. The provisions of GST law would have no bearing on the same.

Therefore, refund application under the erstwhile laws can continue to be filed under this section, even after the introduction of GST.

It also provides the following:

- (i) The refund, if allowed, would accrue in cash under the erstwhile law and would not be credited to the electronic credit ledger or electronic cash ledger.
- (ii) The refund if rejected, fully or partially would lapse.
- (iii) No refund claim shall be allowed of any amount of CENVAT credit where the balance of the said amount as on the appointed day has been carried forward under this Act.

**Eg 1:** An export manufacturer files a claim for refund of ₹ 5,00,000 on 15<sup>th</sup> June, 2017. The refund claim will be processed under the provision of the earlier law i.e. Central Excise law itself. If the refund is considered as admissible by the Department, then the same will be paid in cash subject to the Doctrine of Unjust Enrichment.

**Eg 2:** If the refund claim is rejected, then the amount so rejected will lapse and would not be available as credit.

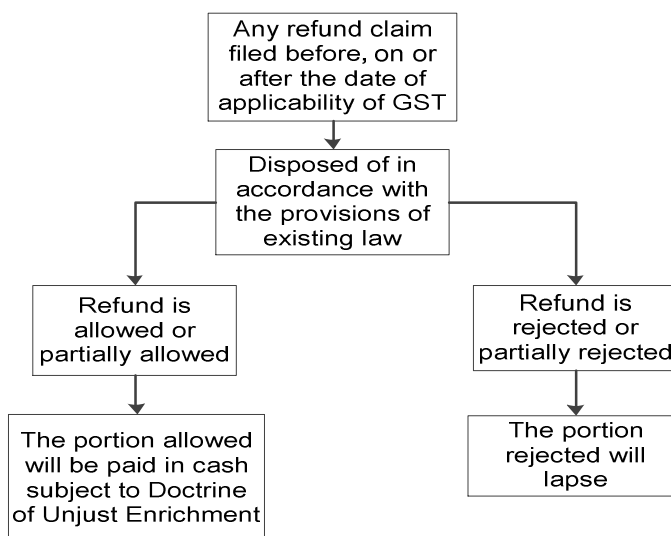
#### 142.4.1. Analysis

The section provides that every claim for refund of any duty or tax paid under erstwhile law, filed after the appointed day, for the goods or services exported before or after the appointed day, shall be disposed of in accordance with the provisions of the erstwhile law.

It also provides the following:

- (i) The refund, if rejected, fully or partially would lapse.
- (ii) No refund claim shall be allowed of any amount of CENVAT credit / input tax credit where the balance of the said amount as on the appointed day has been carried forward under this Act.

Analysis of this transition provision can be presented through a flowchart as under:



#### Issues / Concerns:

- a. Lapse of Refund claims filed and rejected under earlier law: Lapse of fully or partially rejected CENVAT Credit, will put the assessee in a financial hardship in many cases considering the quantum of refund claim on a case-to-case basis. Currently, the law does not provide for giving an opportunity of being heard and/or filing of appeal against such rejection to the assessee.

#### Statutory provisions

**142(5) Refund claims filed after the appointed day for payments received and tax deposited before the appointed day in respect of services not provided.**

*Every claim filed by a person after the appointed day for refund of tax paid under the existing law in respect of services not provided, shall be disposed of in accordance with the provisions of existing law and any amount eventually accruing to him shall be paid in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of subsection (2) of section 11B of the Central Excise Act, 1944*

#### Relevant provisions of the Statute

Statute	Section	Description
Central Excise Act, 1944	Section 11B (2)	Provision for unjust enrichment

#### 142.5.1 Introduction

This transition provision is with respect to refund claims in respect of services not provided, filed after the appointed day.

**142.5.2 Analysis**

The section provides that every claim for refund of any tax deposited under the erstwhile law in respect of **services not provided**, filed after the appointed day, shall be disposed of in accordance with the provisions of the erstwhile law and any amount eventually accruing to him shall be paid in cash.

**Statutory provisions****142(6) Claim of CENVAT credit to be disposed of under the existing law**

- (a) *Every proceeding of appeal, review or reference relating to a claim for CENVAT credit initiated whether before, on or after the appointed day under the existing law shall be disposed of in accordance with the provisions of existing law, and any amount of credit found to be admissible to the claimant shall be refunded to him in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 and the amount rejected, if any, shall not be admissible as input tax credit under this Act:*

*Provided that no refund shall be allowed of any amount of CENVAT credit where the balance of the said amount as on the appointed day has been carried forward under this Act.*

- (b) *every proceeding of appeal, review or reference relating to recovery of CENVAT credit initiated whether before, on or after the appointed day, under the existing law shall be disposed of in accordance with the provisions of existing law, and if any amount of credit becomes recoverable as a result of such appeal, review or reference, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.*

**142.6.1 Introduction**

This transition provision is with respect to claim of CENVAT Credit initiated under the erstwhile law and disposal of appeals, reviews or reference proceedings pertaining thereto.

**142.6.2 Analysis**

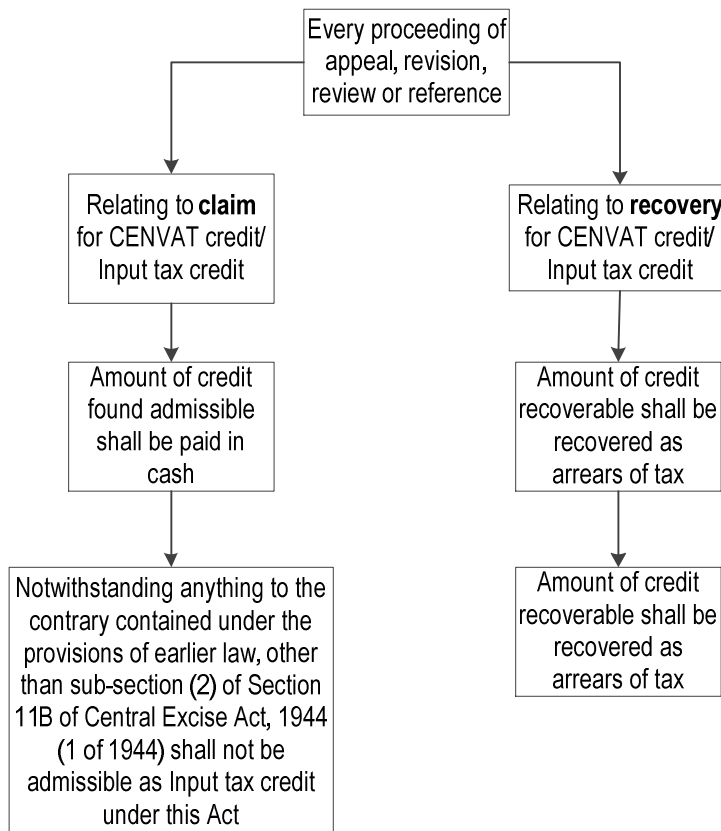
The Section applies where any matter in respect of CENVAT credit is pending in an appeal or review or reference under any of the erstwhile laws.

It provides that the provisions of CGST would have no bearing on the same and should be dealt with in accordance with the provisions of erstwhile laws as follows:

- **If the input credit are finally allowed:** A refund would accrue to the claimant in cash.
- **If the input credit is disallowed:** It would become recoverable as an arrear of tax under the CGST.

— The amount so recovered would not be allowed as input tax credit under the CGST law.

**Analysis of this transitional provision can be presented as a flowchart as under:**



#### Statutory provision

##### **142(7) Finalization of proceedings relating to output duty or tax liability**

- (1) Every proceeding of appeal, review or reference relating to any output duty or tax liability initiated whether before, on or after the appointed day under the existing law, shall be disposed of in accordance with the provisions of the existing law, and if any amount becomes recoverable as a result of such appeal, review or reference, the same shall, unless recovered under the existing law, be recovered as an arrear of duty or tax under this Act and amount so recovered shall not be admissible as input tax credit under this Act.
- (2) Every proceeding of appeal, review or reference relating to any output duty or tax liability initiated whether before, on or after the appointed day under the existing law, shall be disposed of in accordance with the provisions of the existing law, and any amount found to be admissible to the claimant shall be refunded to him in cash,

*notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 and the amount rejected, if any, shall not be admissible as input tax credit under this Act.*

- 142(8)** (a) *where in pursuance of an assessment or adjudication proceedings instituted, whether before, on or after the appointed day, under the existing law, any amount of tax, interest, fine or penalty becomes recoverable from the person, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act;*
- (b) *where in pursuance of an assessment or adjudication proceedings instituted, whether before, on or after the appointed day, under the existing law, any amount of tax, interest, fine or penalty becomes refundable to the taxable person, the same shall be refunded to him in cash under the said law, notwithstanding anything to the contrary contained in the said law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 and the amount rejected, if any, shall not be admissible as input tax credit under this Act.*

#### 142.8.1 Introduction

This transition provision is with respect to output tax / duty liabilities pending in appeal, review, or reference proceedings under any of the erstwhile law.

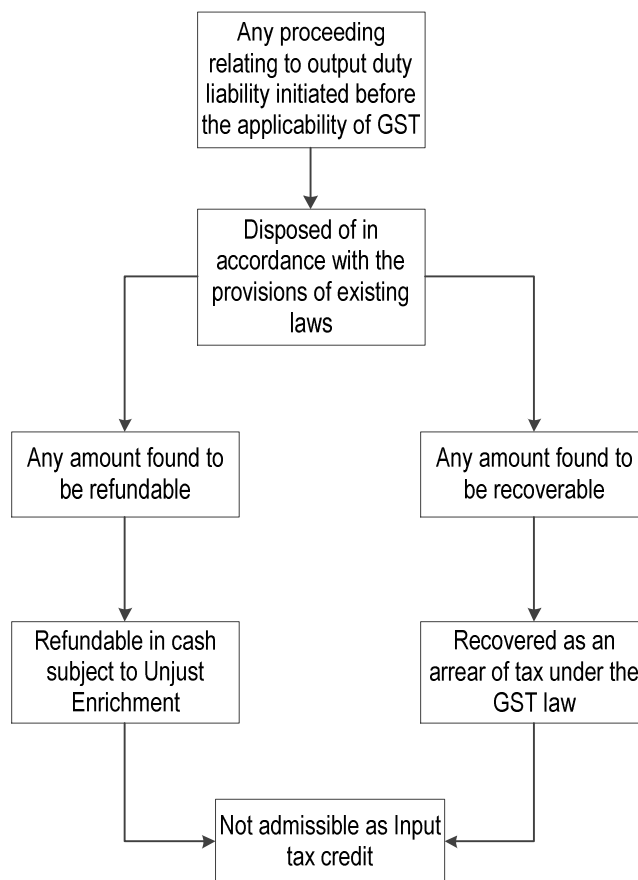
#### 142.8.2 Analysis

The section applies where any matter in respect of output tax / duty liabilities are pending in appeal, review or reference proceedings under any of the erstwhile law.

It provides as follows:

- **If the output liability is finally payable:** It should be recovered as an arrear of tax under CGST Act. In terms of Circular No. 42/16/2018-GST dated 13/04/2018, Such liability is to be paid through the utilization of amounts available in the electronic credit ledger or electronic cash ledger of the registered person, and the same shall be recorded in Part II of the Electronic Liability Register (FORM GST PMT-01).
- The amount so recovered would not be allowed as input tax credit under the CGST laws.
- **If the output liability is finally allowable to the claimant:** It would accrue to the claimant as refund in cash under the erstwhile law. If any amount is rejected, the same shall not be available as input tax credit under CGST.

**Analysis of this transition provision can be presented in the following flowchart:**



### Statutory Provisions

#### **142(9) Treatment of the amount recovered or refunded pursuant to revision of returns**

- (a) Where any return, furnished under the existing law, is revised after the appointed day and if, pursuant to such revision, any amount is found to be recoverable or any amount of CENVAT credit is found to be inadmissible, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.
- (b) Where any return, furnished under the existing law, is revised after the appointed day but within the time limit specified for such revision under the existing law and if, pursuant to such revision, any amount is found to be refundable or CENVAT credit is found to be admissible to any taxable person, the same shall be refunded to him in cash under the existing law, notwithstanding anything to the contrary contained in the said law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 and amount rejected, if any, shall not be admissible as input tax credit under this act.

**142.9.1 Introduction**

This transition provision deals with a situation where tax becomes payable or refundable by virtue of revision of returns under erstwhile law.

**142.9.2 Analysis**

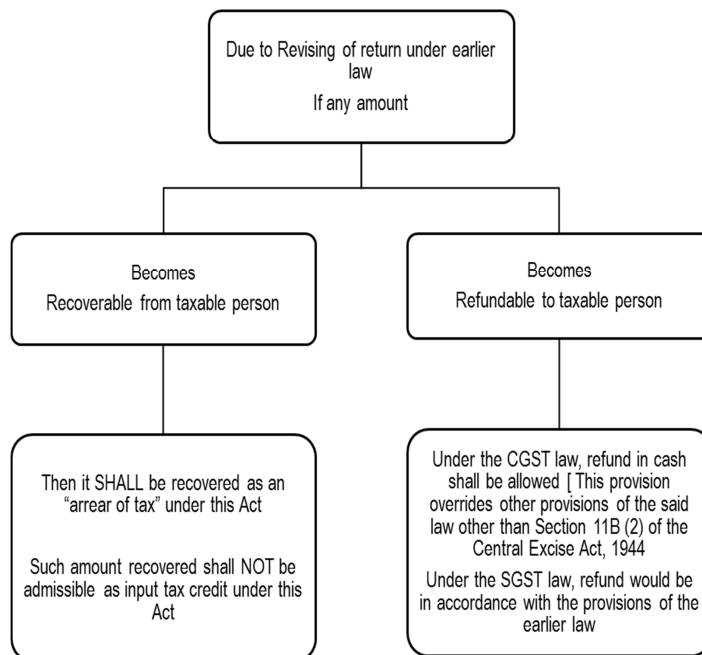
This Section applies where any return is revised under the erstwhile laws by virtue of which any amount becomes payable by or refundable to, the taxable person. This could arise due to any of the following reasons:

- (i) Short payment of output tax liability (payable);
- (ii) Excess payment of output tax liability (refundable);
- (iii) Short claim of CENVAT credit (refundable);
- (iv) Excess claim of CENVAT credit (payable);

The Section specifies that:

- **If any amount is recoverable:** It should be recovered as an arrear of tax under the CGST Act. The amount so recovered would not be allowed as input tax credit.
- **If the amount is allowable as refund:** It would accrue to the claimant as cash refund under the erstwhile law.

**Analysis of this transitional provision can be presented in the following flowchart:**





**Payment of central excise duty & service tax on account of returns filed for the past period (Circular No. 42/16/2018-GST dated 13/04/2018):**

The registered person may file Central Excise / Service Tax return for the period prior to 1<sup>st</sup> July, 2017 by logging onto [www.aces.gov.in](http://www.aces.gov.in) and make payment relating to the same through EASIEST portal ([cbec-easiest.gov.in](http://cbec-easiest.gov.in)), as per the practice prevalent for the period prior to the introduction of GST.

However, with effect from 1<sup>st</sup> of April, 2018, the return filing shall continue on [www.aces.gov.in](http://www.aces.gov.in) but the payment shall be made through the ICEGATE portal. As the registered person shall be automatically taken to the payment portal on filing of the return, the user interface remains the same for him.

**Statutory Provisions****142 (10) Treatment of long term contracts**

*Save as otherwise provided in this Chapter, the goods or services or both supplied on or after the appointed day in pursuance of a contract entered into prior to the appointed day shall be liable to tax under the provisions of this Act.*

**142.10.1 Introduction**

This transitional provision deals with long term contracts.

**142.10.2 Analysis**

It provides that in respect of a contract entered into prior to GST regime, the goods or services or both which are supplied on or after the introduction of GST would be liable to tax under the GST Act to the extent the supply takes place after introduction of GST.

Even if the construction contract or works contract is entered into prior to the date of introduction of GST, the contracts would be taxable under the GST Act.

Eg 1: A contract for a painting job was entered on 19<sup>th</sup> June, 2017. The job is performed from 10<sup>th</sup> July, 2017 to 30<sup>th</sup> July, 2017. The said supply will be taxable under GST law.

**Statutory Provisions****142(11) Progressive or periodic supply of goods or services**

- (a) *notwithstanding anything contained in section 12, no tax shall be payable on goods under this Act to the extent the tax was leviable on the said goods under the Value Added Tax Act of the State;*
- (b) *notwithstanding anything contained in section 13, no tax shall be payable on services under this Act to the extent the tax was leviable on the said services under Chapter V of the Finance Act, 1994;*
- (c) *where tax was paid on any supply both under the Value Added Tax Act and under Chapter V of the Finance Act, 1994, tax shall be leviable under this Act and the*

*taxable person shall be entitled to take credit of value added tax or service tax paid under the existing law to the extent of supplies made after the appointed day and such credit shall be calculated in such manner as may be prescribed.*

#### Extract of the CGST Rules, 2017

##### 118. Declaration to be made under clause (c) of sub-section (11) of section 142.

*Every person to whom the provision of clause (c) of sub-section (11) of section 142 applies, shall within [the period specified in rule 117 or such further period as extended by the Commissioner]63, submit a declaration electronically in **FORM GST TRAN-1** furnishing the proportion of supply on which Value Added Tax or service tax has been paid before the appointed day but the supply is made after the appointed day, and the Input Tax Credit admissible thereon.*

#### Relevant provisions of the Statute:

Section	Description
Section 2(28)	Definition of consideration
Section 12	Time of supply of goods
Section 13	Time of supply of services

#### 142.11.1 Introduction

This transition provision deals with transactions which have suffered tax (Value Added Tax or Service Tax) because consideration was received under the earlier law, whereas the supply is made after the date of introduction of GST.

#### 142.11.2 Analysis

##### I. No CGST shall be levied on:

**1. Goods**, to the extent tax was leviable under the Value Added Tax Act of the state; Considering the non-obstante clause, it is provided that even though any of the ingredients of supply prescribed in section 12 occur after the appointed date, if VAT was lawfully levied (even if not yet paid), VAT alone will be leviable and not GST.

**2. Service**, to the extent Service Tax was leviable on the said service.

In short, GST shall not be levied on a supply to the extent Value Added Tax or Service Tax, as the case may be, was leviable on the said supply.

Eg: Advance of ₹ 1,00,000/- was received on 10th June, 2017 for service to be rendered in July, 2017. The invoice for the service was raised for ₹ 1,50,000/- on 31st July, 2017. GST shall be levied only on ₹ 50,000/-.

Relying upon the salutary principles contained in section 6 of the General Clauses Act regarding the force and power of 'repeal and saving' clause in any legislation, it would

be appropriate to mention the results of application of that law in certain situations:

- (i) Where services have been rendered under the earlier law and invoice has also been issued under the earlier law and tax duly levied on provision of service but the payment of this tax was required on 'receipt basis', service tax will continue to be paid as and when outstanding receivables are realized. Tax once levied cannot be levied again (as GST) merely because the service tax was 'lawfully' not payable until realization.
- (ii) Where services have been reference under the earlier law but invoice for the same has not been issued and is permitted to be issued within 30 days from the date of completion of service, when the invoice is actually issued, service tax alone ought to be applied. This invoice will not be covered by section 140(5) as the invoice has not been issued before the appointed date. Also the service tax charged will not be available to claim as a refund under 142(3) to 142(8). These reasons do not justify levy of GST on the services already provided.
- (iii) Where services (liable to reverse charge or partial reverse charge) have been rendered along with invoice duly issued prior to the appointed date but the tax (on reverse charge basis) has been paid in July 2017, this tax is not available as transition credit to the recipient (making reverse charge payment of tax) as it would not be included as CENVAT credit in the last ST3 (to be filed by 15 Aug 2017) and therefore not be covered within section 140(1). Had the service tax (on reverse charge basis) been paid before the appointed date (by sufficient planning), the same would have been included in the transition credit under section 140(1). Also, refund of such taxes paid are not covered by sections 142(3) to 142(8) although it can be attempted under the earlier law itself.

To address the above issue, the CBEC has issued Circular 207/5/2017- Service Tax dated 28<sup>th</sup> September, 2017, clarifying that such credit arising as consequence of payment of service tax on reverse charge basis after 30<sup>th</sup> June, 2017 shall be indicated in Part I of form ST 3 in entries I3.1.2.6, I3.2.2.6 and I3.3.2.6. The circular also provided for revision of form ST 3 already filed by the assessee to include the said entries.

- II. Where tax was paid under both Value Added Tax Act and under Finance Act, 1994, viz., Construction service, works contract or supply of food/beverages, Tax shall be leviable under CGST Act on the supplies effected after the appointed day and the Value Added Tax or Service Tax shall be admitted as credit to the taxable person.

Eg: Contract entered in March, 2017 for ₹ 1,00,00,000/-. Advance received till 30<sup>th</sup> June, 2017 amounts to ₹ 10,00,000/-. Value Added Tax of ₹ 40,000/- and Service Tax of ₹ 60,000/- have been paid on the said advance. GST shall be levied on ₹ 1,00,00,000/- as per Sec 13 of the CGST Act. The value added tax and service tax paid shall be allowed as credit under the erstwhile law in the manner as may be prescribed.

- III. Supplies liable to both VAT as well as ST are provided for in this clause. For eg. Works contracts, Hoteliers when the time of supply under CGST Act applies. The differential tax under GST and those already paid under erstwhile law will become payable. Credit of tax already paid must not be understood as 'input tax credit' as defined u/s 2(63). This is an apparent conflict but not so u/s 140(5) of the CGST Act which needs to be reconciled. The said credit pertains to the credit under erstwhile laws and the same shall be available as credit under erstwhile laws.

Rule 118 of CGST Rules, 2017 provides for declaration of proportion of supply on which value added tax or service tax has been paid before the appointed day but the supply is made after the appointed day and the input tax credit applicable there on in FORM GST TRAN-1. It is important to note that if taxes already paid have been charged to the customer (who may have even taken credit), this provision would not apply because credit cannot be allowed to the customer as well as to the supplier under this provision.

The absence of non-obstante clause in this provision indicates that taxes paid under the earlier law must be without being leviable under those laws. This is because tax once levied and assessed under the earlier laws must only be paid and cannot be abrogated by the repeal. And most certainly not get levied again under the new law. For this reason, it is opined that, even transactions such as works contract or supply of food, would be saved by clauses (a) and (b) operating jointly if taxes were lawfully levied under the earlier laws. And clause (c) comes into operation only when taxes have been paid in advance of levy actually attracting under the earlier laws.

#### Issues / Concerns:

- a. RCM services under the earlier laws: Where the vendor has raised the invoice for the services (such as manpower or works contract service on which reverse charge is applicable) rendered in the month of June 2017 and the payment to the vendor is made in the month of September 2017, the nature of tax to be paid is not clear i.e. whether to pay service tax or GST in the instant case, since the services were provided under the service tax law and the payment is made under the GST law

#### Statutory Provisions

##### **142(12) Taxability of supply of goods sent on approval basis.**

*Where any goods sent on approval basis, not earlier than six months before the appointed day, are rejected or not approved by the buyer and returned to the seller on or after the appointed day, no tax shall be payable thereon if such goods are returned within six months from the appointed day:*

*Provided that the said period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:*

*Provided further that the tax shall be payable by the person returning the goods if such goods are liable to tax under this Act, and are returned after a period specified in this subsection:*

*Provided also that tax shall be payable by the person who has sent the goods on approval basis if such goods are liable to tax under this Act, and are not returned within a period specified in this sub-section.*

#### Extract of the CGST Rules, 2017

##### **120. Details of goods sent on approval basis.**

*Every person having sent goods on approval under the existing law and to whom sub-section (12) of section 142 applies shall, within [the period specified in rule 117 or such further period as extended by the Commissioner]65, submit details of such goods sent on approval in **FORM GST TRAN-1**.*

#### **142.12.1 Introduction**

This transition provision covers the goods sent on approval basis under erstwhile law returned to the supplier within a period of 6 months from the appointed day or extended period and beyond.

#### **142.12.2 Analysis**

No CGST shall be payable for goods sent on approval basis, returning to the supplier due to rejection or non-approval by the buyer within a period of 6 months or the extended period of 2 months. However, tax shall be payable by the person returning the goods as well as by the person sending the goods if the goods are returned after the period of six months and such goods are liable to tax under the CGST Law.

#### **142.12.3 Time period:**

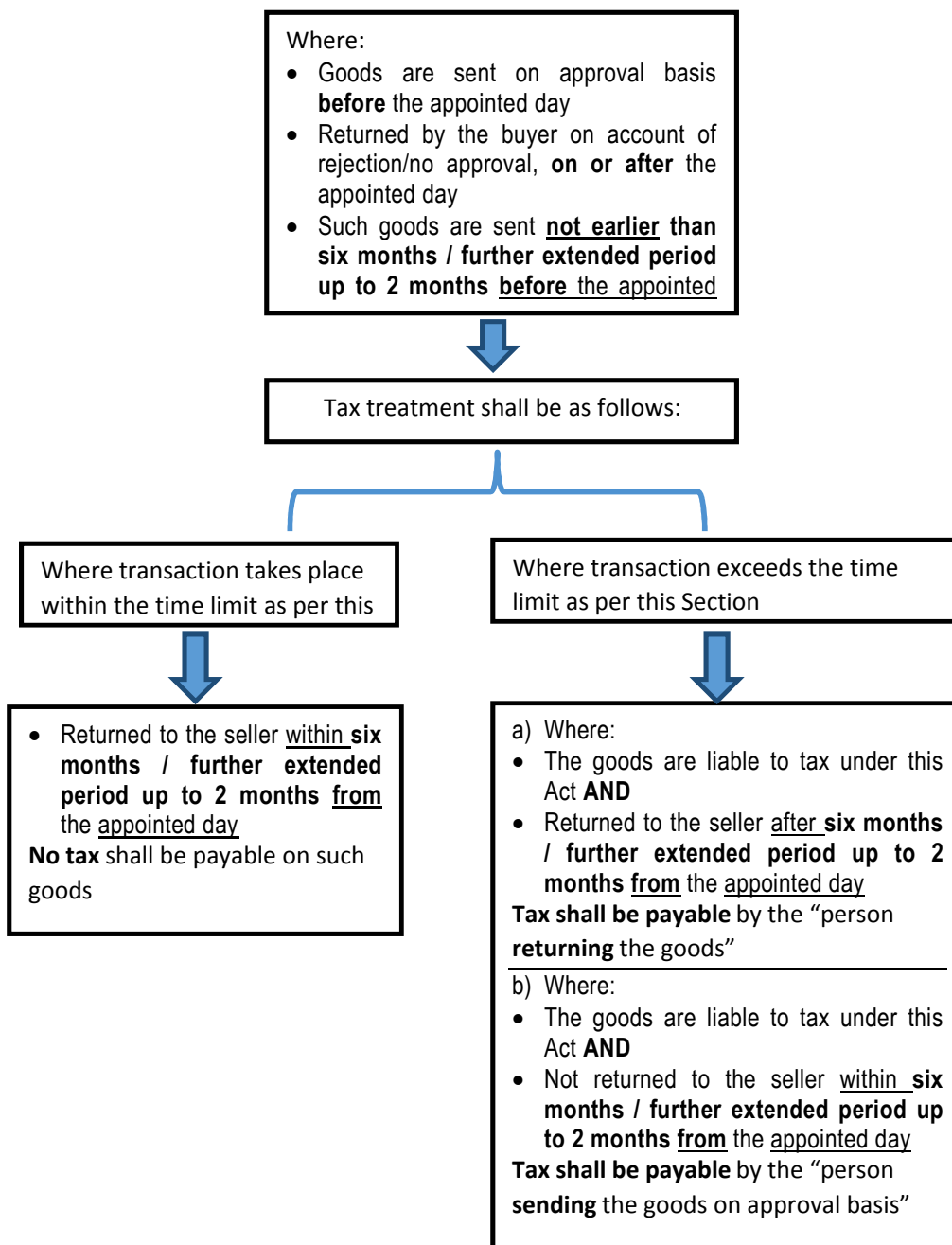
- (a) **Sending of goods:** It should have taken place not earlier than 6 months prior to the appointed day.
- (b) **Return of goods:** It should be within 6 months from the appointed day or as extended by the commissioner by a period not exceeding two months on sufficient causes being shown.

If goods are returned after the said period, CGST shall be paid by the person returning the goods.

If the goods are not returned within the period specified, the person who has sent the goods on approval shall pay GST on the said goods. This shall be available as credit to the purchaser of the goods.

In case of sale of approval prior to appointed date, the details of goods so sent on approval basis are to be declared in FORM GST TRAN -1 to be filed within time limit as prescribed. (Before 27<sup>th</sup> Dec, 2017, vide order No.9/2017-GST dt. 15/11/2017, by the Commissioner.)

Flowchart analysing the transitional provisions in Section 142(12).



**Statutory Provisions****142(13) Supply of goods in respect of which tax is to be deducted at source.**

*Where a supplier has made any sale of goods in respect of which tax was required to be deducted at source under the any law of a State or Union Territory relating to Value Added Tax and has also issued an invoice for the same before the appointed day, no deduction of tax at source under section 51 shall be made by the deductor under the said section where payment to the said supplier is made on or after the appointed day.*

**142.13.1 Introduction**

This transition provision is in respect of TDS under Section 51. It is a transitional provision to ensure that there is no double deduction of tax at source due to introduction of GST.

**142.13.2 Analysis**

This Section would apply in the following circumstances:

- (i) The supplier had sold any goods under the erstwhile law; and
- (ii) TDS applies on such transactions under erstwhile law; and
- (iii) The supplier had issued the invoice before the appointed day;
- (iv) Payment is made to the supplier after the appointed day.

It provides that merely because payment is made to the supplier after the date of introduction of GST, the TDS provisions under Section 51 of the CGST Act will not apply. In other words, no tax shall be deductible under CGST Act at the time of making payment to the supplier.

**Related provisions of the Statute**

Statute	Section	Description
CGST	Section 51	Tax deduction at source

## Chapter–XXI

### Miscellaneous

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Sections	Rules
143. Job work procedure	122. Constitution of the Authority
144. Presumption as to documents in certain cases	123. Constitution of the Standing Committee and Screening Committee
145. Admissibility of micro films, facsimile copies of documents and computer printouts as documents and as evidence	124. Appointment, salary, allowances and other terms and conditions of service of the Chairman and Members of the Authority
146. Common Portal	125. Secretary to the Authority
147. Deemed exports	126. Power to determine the methodology and procedure
148. Special procedure for certain processes	127. Duties of the Authority
149. Goods and services tax compliance rating	128. Examination of application by the Standing Committee and Screening Committee
150. Obligation to furnish information return	129. Initiation and conduct of proceedings
151. Power to collect statistics	130. Confidentiality of information
152. Bar on disclosure of information	131. Cooperation with other agencies or statutory authorities
153. Taking assistance from an expert	132. Power to summon persons to give evidence and produce documents
154. Power to take samples	133. Order of the Authority
155. Burden of proof	134. Decision to be taken by the majority
156. Persons deemed to be public servants	135. Compliance by the registered person
157. Protection of action taken under this Act	136. Monitoring of the order
158. Disclosure of information by a public servant	137. Tenure of Authority
159. Publication of information in respect of persons in certain cases	
160. Assessment proceedings, etc., not to	



be invalid on certain grounds	
161. Rectification of errors apparent on the face of record	
162. Bar on jurisdiction of Civil Courts	
163. Levy of fee	
164. Power of Government to make rules	
165. Power to make regulations	
166. Laying of rules, regulations and notifications	
167. Delegation of powers	
168. Power to issue instructions or directions	
169. Service of notice in certain circumstances	
170. Rounding off of tax, etc.	
171. Anti-profiteering measure	
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173. Amendment of Act 32 of 1994	
174. Repeal and saving	

### Statutory Provisions

#### 143. Job Work Procedure

- (1) *A registered person (hereafter in this section referred to as the “principal”) may under intimation and subject to such conditions as may be prescribed, send any inputs or capital goods, without payment of tax, to a job worker for job work and from there subsequently send to another job worker and likewise, and shall, —*
- (a) *bring back inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within one year and three years, respectively, of their being sent out, to any of his place of business, without payment of tax;*
- (b) *supply such inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within one year and three years, respectively, of their being sent out from the place of business of a job worker on payment of tax within India, or with or without payment of tax for export, as the case may be:*

*Provided that the principal shall not supply the goods from the place of business of a job worker in accordance with the provisions of this clause unless the said principal declares the place of business of the job worker as his additional place of business except in a case—*

- (i) where the job worker is registered under section 25; or*
  - (ii) where the principal is engaged in the supply of such goods as may be notified by the Commissioner.*
- (2) The responsibility for keeping proper accounts for the inputs or capital goods shall lie with the principal.*
- (3) Where the inputs sent for job work are not received back by the principal after completion of job work or otherwise in accordance with the provisions of clause (a) of sub-section (1) or are not supplied from the place of business of the job worker in accordance with the provisions of clause (b) of sub-section (1) within a period of one year of their being sent out, it shall be deemed that such inputs had been supplied by the principal to the job worker on the day when the said inputs were sent out.*
- (4) Where the capital goods, other than moulds and dies, jigs and fixtures, or tools, sent for job work are not received back by the principal in accordance with the provisions of clause (a) of sub-section (1) or are not supplied from the place of business of the job worker in accordance with the provisions of clause (b) of sub-section (1) within a period of three years of their being sent out, it shall be deemed that such capital goods had been supplied by the principal to the job worker on the day when the said capital goods were sent out.*
- (5) Notwithstanding anything contained in sub-sections (1) and (2), any waste and scrap generated during the job work may be supplied by the job worker directly from his place of business on payment of tax, if such job worker is registered, or by the principal, if the job worker is not registered.*

*Explanation. —For the purposes of job work, input includes intermediate goods arising from any treatment or process carried out on the inputs by the principal or the job worker.*

<b>Section or Rule (CGST / SGST)</b>	<b>Description</b>
Section 2(19)	Definition of Capital Goods
Section 2(52)	Definition of Goods
Section 2(68)	Definition of Job-work
Section 2(88)	Definition of Principal
Section 2(94)	Definition of Registered Person
Section 19	Taking input tax credit in respect of inputs sent for job work

**Relevant circulars, notifications, clarifications issued by Government:**

1. Notification No. 09/2017 – Central Tax dated 28.06.2017 Seeks to appoint 01.07.2017 as the date on which the provisions of this Section are effective.
2. Notification No.07/2017 - Integrated Tax dated:14/09/2017 grants Exemption from registration to Job-workers making Inter-State Supply of services to a Registered Person from the requirement of obtaining registration.
3. Notification No.20/2017 - Central Tax (Rate) Dated 22/08/2017 lays down the GST Rate on Job work for textile & textile products, printing service of books, newspapers to be 5%
4. Notification No.46/2017 - Central Tax (Rate) Dated 14/11/2017 lays down that the GST Rate on Job work on “Handicrafts Goods” to be Reduced to 5%
5. Circular 38/2018 dtd:26.03.2018 clarifies certain issues in relation to a Job work

**143.1. Introduction**

This section provides for a special procedure to exempt supplies from payment of GST by a principal to a job worker and return from a job worker to a principal subject to certain conditions and procedures.

In a business scenario, it may not be possible for an industry to carry out all processes of manufacturing the product within its own premises. In such an eventuality, the manufacturing unit will have to get the work done i.e. processing of the raw materials or intermediate product from other businesses. The process performed by a person on the goods belonging to another registered person is commonly understood as Job Work.

**Meaning of job work and job worker:** Section 2(68) of CGST Act, 2017 defines the meaning of the term ‘job work’. In terms of the said provision, it means a person undertaking any treatment or processing of goods belonging to another registered person. Any person who executes such job work will be considered as “Job worker”. As per the Section 2(68) the Job worker may or may not be registered but the principal is required to be registered.

This definition is much wider than the one provided in the Notification No. 214/86 – CE dated 23rd March, 1986 as amended, wherein job-work has been defined in such a manner so as to ensure that the activity of job-work must amount to manufacture. However, the definition of job-work under GST laws reflects the change in basic scheme of taxation relating to job-work.. Works such as fabrication, repair, etc which are not related to manufacture also gets included under the term “job work”.

**143.2. Analysis****Definition of Job-work**

The definition of job work contains three important phrases, namely:

- **treatment or process** – there is no indication here that the result of the treatment or

process must be manufacture; that is, the emergence of a distinct new product. This implies that whether or not the treatment or process results in manufacture, the treatment or process *per se* will always be treated as a supply of services when read along with paragraph 3, schedule II of the CGST Act viz., any treatment or process which is applied to another person's goods is a supply of services. However, irrespective of whether the treatment or process amounts to manufacture resulting in a distinct new product the process would amount to job work. Therefore, the services provided by the job-worker will be classified under HSN 9988 and treated as supply of services;

- **goods belonging to another person** – The basic requirement that could be considered, is that, on the one hand this requirement ought not to be understood that 100% of the goods required for the treatment or process must necessarily be provided by the principal and on the other hand it cannot be satisfied where non-essential or ancillary goods alone are provided by the principal and yet attempt to operate under the job work model. A reasonable approach demands that at least one, if not more, of the primary material must be provided by the principal where the intention is to secure the services of – treatment or process – offered by the job worker to be expended on these primary materials of the principal. The transaction would not fail to be a job work when the job worker adds his own material, whether secondary or ancillary, but in addition to the primary material provided by the principal. And a case where all goods other than the primary material are provided by the principal, care needs to be taken in making the decision as to whether it qualifies for the facility under section 143 and no one-fits-all answer should be attempted in this case;
- **such person being a registered person** – this is very interesting that unless the principal is himself already registered, the entire transaction will fail to be job work. In other words, job work will be job work only if the principal is registered and if the principal is unregistered then, job work will merely be work. And the classification available for job work under HSN 9988 will not be available and other classification as appropriate to the processed goods will need to be followed.

#### **Sending of inputs or capital goods to job worker**

This provision enables a **registered person** to send inputs / capital goods under intimation and subject to such conditions as may be prescribed to a job worker without payment of tax. It is clarified vide Circular No. 38/2018 dated 26.03.2018 that the details of job-work challans filed in Form GST ITC – 04 will itself serve as an intimation as envisaged under Section 143(1). On this basis, it could be inferred that non-declaration of job-work challans erroneously could be termed as non-intimation and accordingly, the exemption claimed under Section 143(1) shall be denied. In such a scenario, the goods sent to job-worker will qualify as supply and the principal would be liable to pay GST along with interest.

It is further clarified that the principal shall issue the challan in triplicate in terms of Rule 45 and Rule 55 for sending the goods for job-work and send two copies of the challan with the

goods to a job-worker. The goods can be returned by the job-worker along with one challan and the job worker will retain the other. In case goods are sent from one job-worker to another, either the job-worker or the principal may issue a separate challan or alternatively, the original challan issued by the principal can be endorsed. It shall be noted here that the goods if sent in piecemeal, the job-worker shall issue a separate challan for returning the goods or to send it to another job-work.

Rule 55 of CGST Rules, 2017 provides that transaction of goods sent for job work can be without an invoice, but a proper delivery challan containing specific details must be issued while sending goods to the job worker. serial number of such delivery challan shall also be provided in Table No. 13 of GSTR -1.

The Circular referred to above has also clarified that the principal shall issue an invoice on the date on which the time period of one year / three years has lapsed and shall declare such invoice in the return filed for such tax period. It is further clarified that the date of sending the goods shall be termed as the date of supply and accordingly, the principal should pay the tax along with interest.

The details of the Delivery Challan shall be as follows:

- (i) date and number of the delivery challan,
- (ii) name, address and GSTIN of the consigner, if registered,
- (iii) name, address and GSTIN or UIN of the consignee, if registered,
- (iv) HSN code and description of goods,
- (v) quantity (provisional, where the exact quantity being supplied is not known),
- (vi) taxable value,
- (vii) tax rate and tax amount – central tax, State tax, integrated tax, Union territory tax or cess, where the transportation is for supply to the consignee,
- (viii) place of supply, in case of inter-State movement, and
- (ix) signature.

The delivery challan shall be prepared in triplicate, in case of supply of goods, in the following manner: –

- (a) the original copy being marked as ORIGINAL FOR CONSIGNEE;
- (b) the duplicate copy being marked as DUPLICATE FOR TRANSPORTER; and
- (c) the triplicate copy being marked as TRIPLICATE FOR CONSIGNER.

Where goods are being transported on a delivery challan in lieu of invoice, the principal should declare the details of goods and generate an e-way bill for movement of goods.

### Receipt of inputs or capital goods from the job worker after completion of job work or otherwise

After the processing of goods or otherwise, the goods may be dealt with in any of the following manner by the principal within One year/Three Year-

- (a) Brought back to any place of business without payment of tax and thereafter supplied,
  - (i) Within India on payment of tax,
  - (ii) For export - with or without payment of tax,
- (b) Supply from the place of business of job worker –
  - (i) Within India on payment of tax,
  - (ii) For export - with or without payment of tax,

### Direct Supply of goods from job worker

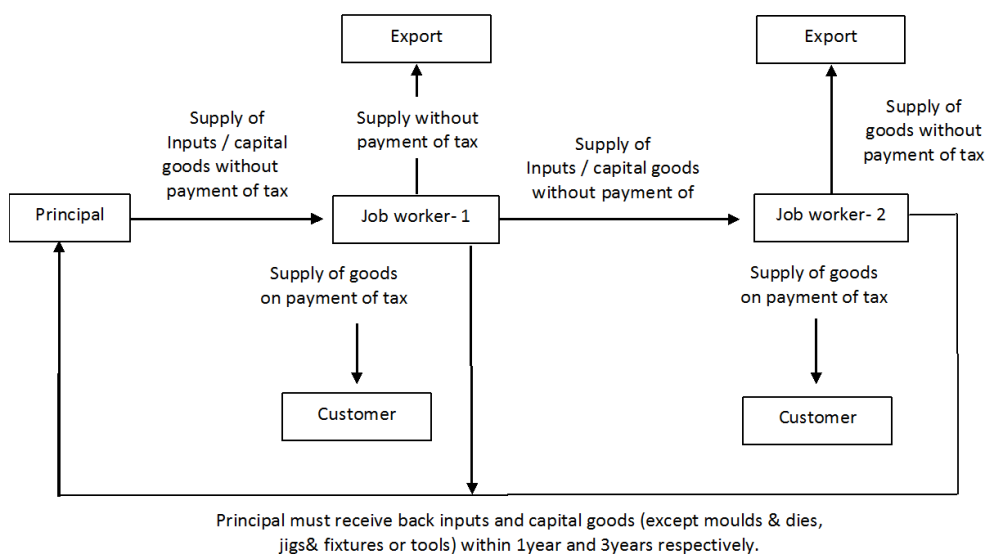
The goods can be supplied directly from the place of business of job worker by the principal only when the principal declares the place of business of the job worker as his additional place of business. However, the exceptions are -

- (i) If job worker is registered under Section 25;
- (ii) The principal is engaged in the supply of notified goods.

### Responsibility for accountability of Inputs/ Capital Goods

The principal is responsible and accountable for keeping proper accounts of the inputs or capital goods and for all the transactions between him and the job worker.

The above chain can be represented as under:



**Inter-State job-work**

Job-work activity can be undertaken in inter-State trade as 'issue' of inputs and capital goods to job worker which is exempt from payment of tax irrespective of whether the job-worker is located within the State or otherwise. Therefore, whether the job worker is located in a different State/UT as that of the Principal does not alter the operation of section 143. One of the additional features is that the Principal is permitted to supply the processed goods directly from the premises of the job worker provided that 'the location of the job worker is included as an additional place of business' of the Principal. Where the principal being registered in one State and the job worker is located in another State, such a principal will not be able to satisfy the above condition to be allowed to make supplies directly from the premises of the job worker. This is due to the fact that the principal is not a registered person in the State where the job worker is located although he may otherwise be registered in his own State. Accordingly, if the principal desires to directly supply processed goods from the premises of the job worker located in a State different from the State where the principal is registered, the principal will not be permitted to avail this facility allowed by section 143. Accordingly, goods sent on job-work to another State can be further supplied after job-work, from the premises of such job-worker only if the job-worker is registered and not otherwise.

For example, if the principal registered in Hosur, Tamil Nadu, purchases a chassis from a factory in Hosur and sends the same to a job worker in Amritsar, Punjab for carrying out body building works on the chassis to manufacture a bus; and then, if the principal finds a customer in Chandigarh, it would not be economical to bring the finished bus all the way back to Tamil Nadu (to satisfy the requirement of section 143) and send the bus back to customer in Chandigarh. For this reason, if the principal desires to directly supply the finished bus from the job worker's premises in Punjab directly to the customer in Chandigarh, it would not be possible as the principal cannot include Amritsar in his registration obtained in Tamil Nadu. The principal has no option but to bring the bus all the way back and send it again. Alternatively, the supply can be effected from the premises of job-worker (Amritsar) if such job-worker seeks registration.

**Inputs sent to Job Worker not received back within one year**

As per section 143(3), where the inputs sent for job-work are not received back by the "principal" after completion of "job-work or otherwise" or are not supplied from the place of business of the job worker as aforesaid within a period of one year of their being sent out, it shall be deemed that such inputs had been supplied by the principal to the job-worker on the day when the said inputs were sent out. Hence, the Principal would be liable to pay GST along with interest from the date inputs were sent out.

**Capital Goods Sent to Job Worker not received back within three years**

As per section 143(4), where the capital goods, other than moulds and dies, jigs and fixtures, or tools, sent for job-work are not received back by the "principal" or are not supplied from the place of business of the job worker as aforesaid within a period of three years of their being sent out, it shall be deemed that such capital goods had been supplied by the principal to the

job-worker on the day when the said capital goods were sent out. Hence, the Principal would be liable to pay GST along with interest from the date capital goods were sent out.

In this regard, the Circular referred to above clarifies that the principal shall issue an invoice on the expiry of one year (inputs) / three years (capital goods) and declare such invoice in the return filed for such month. Since, it is deemed to be a supply effected on the date of sending the goods to the job-worker, the tax shall be paid along with applicable interest.

It is also important to note that the requirement of bringing back the goods sent to the job worker is not applicable on moulds and dies, jigs and fixtures, or tools. Hence such items may remain with the job worker.

#### **Waste and Scrap generated at Job workers' premises**

As per section 143(5), any waste and scrap generated during the job work may be supplied by the job worker directly from his place of business on payment of tax if such job worker is registered, or by the principal, if the job worker is not registered. Aspects relating to taking input tax credit in respect of inputs/capital goods sent for job-work have been specifically dealt in Section 19, which provides that the credit of taxes paid on inputs or capital goods can be taken in the specified manner.

#### **Application of certain provisions of CGST Act, 2017 under IGST Act, 2017**

As per section 20 of the IGST Act, the provisions relating to job work would also be applicable to the IGST Act.

#### **143.3. Comparative review**

The term 'job work' has not been defined in the Central Excise Act or Customs Act but the same has been provided for in Notification No 214/86 C.E. dated 25.03.1986 and CENVAT Credit Rules, 2004.

#### **143.4.Related provisions**

In section 143 there is no specific reference to any other sections but there are other provisions where section 143 has been referred to:

Section / Rule / Form	Description	Remarks
Sub-section (68) of Section 2	Job work definition	The job work has been defined to mean undertaking any treatment or process on goods belonging to another registered person.
Section 19	Taking ITC in respect of inputs and capital goods sent for Job work	The condition and procedure has been prescribed.
Section 22 – Explanation (ii)	Registration	Aggregate turnover of the registered job worker does not include the turnover of the Principal



**143.5. Issues and concerns**

Interest on reversal of ITC: if goods sent for job work not received within in a specified period - the principal to retain ITC on goods sent to job work provided, they are received back within a specified period. Else, the section requires reversal of ITC on expiration of such periods, and permits re-availing of the same when the goods are finally received

**143.6. FAQs**

Q1. Who shall undertake responsibility for keeping proper accounts under this provision and in case of contraventions?

Ans. The principal would undertake the primary responsibility and accountability of the goods including payment of taxes if any.

Q2. Can goods be supplied from job worker's place?

Ans. Yes, this provision allows supply of goods from job worker's premises but only on payment of taxes within India and without payment of taxes for export.

Q3. Whether any time period has been prescribed within which inputs have to be returned to principal?

Ans. Yes, inputs are to be returned to Principal or supplied from the place of business of job worker within one year of their being sent out.

Q4. Whether there is any time limit for capital goods also?

Ans. Yes, capital goods, other than moulds and dies, jigs and fixtures, or tools sent for job work, are to be returned to Principal or supplied from the place of business of job worker within three years of their being sent out.

Q5. Under what circumstances can the principal directly supply goods from the premises of job worker without declaring the premises of job worker as his additional place of business?

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

Q6. Is a job worker required to take registration?

Ans. Yes, as job work is a service, the job worker would be required to obtain registration if his aggregate turnover exceeds the prescribed threshold (i.e Rs. 20 lac ).

Q7. Whether intermediate goods can also be sent for job work?

Ans. Yes. The term inputs, for the purpose of job work, includes intermediate goods arising from any treatment or process carried out on the inputs by the principal or job worker.

Q8. Are provisions of job work applicable to all categories of goods?

Ans. No. The provisions relating to job work are applicable only when registered taxable person intends to send taxable goods. In other words, these provisions are not specifically applicable to exempted or non-taxable goods or when the sender is a person other than registered taxable person.[sending exempted or non-taxable goods by a Registered person can also be undertaken u/s143 as per my understanding]

Q9. Should job worker and principal be in same State or Union territory?

Ans. No this is not necessary as provisions relating to job work have been adopted in the IGST Act as well as in UTGST Act and therefore job-worker and principal can be located either in same State or in same Union Territory or in different States or Union Territories.

Q10. As per Section 143, Principal have to intimate to proper officer regarding goods sent for Job work without payment of Tax. What is the process to send this intimation?

Ans: Filling of form ITC-04 will serve as the intimation as envisaged under section 143 of the CGST Act, 2017.

#### 143.6 MCQs

Q1. The inputs and/ or capital goods may be sent by .....to job worker under intimation and subject to such conditions as may be prescribed.

- (a) Taxable person
- (b) Unregistered taxable person
- (c) Registered person

Ans. (c) Registered person

Q2. The job workers are allowed to send such goods to other

- (a) Manufacturers
- (b) Traders
- (c) Job workers
- (d) All of the above

Ans. (c) Job workers

Q3. Who will undertake responsibility and accountability for any contravention under this section?

- (a) Principal
- (b) Manufacturer
- (c) Job worker
- (d) No body

Ans. (a) Principal

Q4. What is the time limit within which inputs return to principal?

- (a) 365 days (One Year)
- (b) 180 days
- (c) 270 days
- (d) 2 years

Ans. (a) 365 days (One Year)

Q5. What is the time limit within which Capital goods have to be returned to principal?

- (a) One Years
- (b) Two Years
- (c) Three years
- (d) None of above

Ans. (c) Three years

Q6. What is the time limit to receive back the tools and dies or jigs and fixtures sent to job worker's place?

- (a) 1year
- (b) 3years
- (c) 5years
- (d) No time limit specified under GST

Ans. (d) No time limit specified under GST

Q7. Can principal take input tax credit on the inputs and/or capital goods sent directly to jobworker?

- (a) Yes
- (b) No
- (c) Yes subject to section 143
- (d) ITC on capital goods sent directly to job-worker's premise is not eligible unless the same is received in the premises of the principal

Ans (c) Yes subject to section 143

Q8. Which section specifies the conditions to be fulfilled for claiming ITC on inputs and/or capital goods sent to job-worker?

- (a) 19
- (b) 55
- (c) 143

(d) 177

Ans. (a) 19

Q9. Will the inputs and/or capital goods supplied from the job-worker's premises be considered for calculating the aggregate turnover of the job-worker?

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

Ans. (b) No

Q10. Which form is required to be filled quarterly by principal stating details of challans issued for job work?

- (a) ITC-01
- (b) ITC-02
- (c) ITC-03
- (d) ITC-04

Ans. (d) ITC-04

Q11. How frequently ITC-04 needs to be filled by Principal in a year?

- (a) Monthly
- (b) Quarterly
- (c) Half yearly
- (d) Annually

Ans. (b) Quarterly

#### Statutory provisions

##### **144. Presumption as to documents in certain cases**

*Where any document —*

- (i) *is produced by any person under this Act or any other law for the time being in force; or*
- (ii) *has been seized from the custody or control of any person under this Act or any other law for the time being in force; or*
- (iii) *has been received from any place outside India in the course of any proceedings under this Act or any other law for the time being in force,*

*and such document is tendered by the prosecution in evidence against him or any other person who is tried jointly with him, the court shall—*

- (a) *unless the contrary is proved by such person, presume—*
- (i) *the truth of the contents of such document;*
  - (ii) *that the signature and every other part of such document which purports to be in the handwriting of any particular person or which the court may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is in that person's handwriting, and in the case of a document executed or attested, that it was executed or attested by the person by whom it purports to have been so executed or attested;*
- (b) *admit the document in evidence notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence.*

**145. Admissibility of micro films, facsimile copies of documents and computer printouts as documents and as evidence**

- (1) *Notwithstanding anything contained in any other law for the time being in force, —*
- (a) *a micro film of a document or the reproduction of the image or images embodied in such micro film (whether enlarged or not); or*
  - (b) *a facsimile copy of a document; or*
  - (c) *a statement contained in a document and included in a printed material produced by a computer, subject to such conditions as may be prescribed; or*
  - (d) *any information stored electronically in any device or media, including any hard copies made of such information,*
- shall be deemed to be a document for the purposes of this Act and the rules made thereunder and shall be admissible in any proceedings thereunder, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.*
- (2) *In any proceedings under this Act or the rules made thereunder, where it is desired to give a statement in evidence by virtue of this section, a certificate, —*
- (a) *identifying the document containing the statement and describing the manner in which it was produced;*
  - (b) *giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer,*
- shall be evidence of any matter stated in the certificate and for the purposes of this sub section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.*

**Related provisions of the Statute**

Section or Rule	Description
Section 2(41)	Definition of Document
Section 35	Accounts and records
Section 67	Power of inspection, search and seizure

**145.1 Introduction**

Both the sections i.e. Section 144 dealing with "Presumption as to Documents in Certain Cases" and Section 145 dealing with "Admissibility of micro films, facsimile copies of documents and computer printouts as documents and evidence" are analysed together.

**145.2 Analysis**

As per the Webster Dictionary presumption means "a belief that something is true even though it has not been proved". Presumption, is an inference of fact drawn from other known facts, unless there is contrary evidence. Matters that need to be proved are those that are disputed. In other words, matters that are not disputed need not be proved. Proof varies in the degree of evidentiary value available to establish their existence or absence. More serious a matter, more persuasive should be the evidence. Contemporaneous documents, events and records score high in evidentiary value due to their generation in the ordinary course of transactions. Special evidence produced needs to first pass the test of admissibility and then pass the test of adequacy of what they stand to evidence.

This presumption is rebuttable, since, any contrary evidence provided by the assessee, negates such presumption and such presumption is not a conclusive evidence. The words "shall presume" in the Act suggest that the judge cannot refuse to draw the presumption. Presumption does not mean assumption. Presumption only means that the authority may proceed expecting the thing required to be presumed to be true. That is, the authority may proceed on the supposition that the thing exists, unless disproved. Evidence produced to the contrary can displace this presumption. But evidence is that which produces a persuasion in the mind about the existence or absence of the thing that it evidences. Evidence produced that is incompatible with the innocence of the circumstances of its generation is not satisfactory. That nothing has not been satisfactorily proved, does not mean that anything has been disproved. Only when the thing has been satisfactorily established not to exist can it be said that it has been disproved. In other words, not approved is the failure to prove and disprove is a success to prove the contrary.

In general, practice the onus of proving relevance and genuineness of documents produced as evidence is on the person producing the said documents. This chapter deals with documents produced as evidence by the prosecution. Further, this section has placed the onus of proving the contrary on the assessee i.e. the assessee has to prove that the documents provided by prosecution are not proper evidence.

Balance of probability is where the existence of a thing is admitted by substandard and circumstantial evidence that leans in favor of likelihood and not beyond reasonable doubt. The degree of proof required under the GST Laws, in matters relating to prosecution is beyond reasonable doubt and not merely the likelihood of offense. However, in matters invoking penalty, balance of probability may be applied.

Plausible explanation is not possible explanation. The reasons attributed for the failure to comply with GST law or for the delay in filing appeal within the time prescribed or any other similar matter, the 'standard of proof' is guided by the nature of wrongdoing being inquired. Plausible is possible coupled with probability in the circumstances of the case. The dismissal of evidence in one proceeding cannot expunge "that evidence" for all proceedings. For example, where income tax assessment has been carried out on the basis of best judgment after the rejection of books of accounts, the same books of accounts can still supply evidence of contemporaneous transaction in a proceeding under GST law.

The term 'document' has been defined under section 2(41) so as to include written or printed record of any sort and electronic record as defined in the Information Technology Act, 2000. Any information stored electronically or any hard copies made thereof is treated as document.

A certificate by a responsible person in relation to the operation of the computer or the management of such activities is required for identifying the document and describing the manner in which it was produced is required.

### 145.3 Relevant rules

It may be noted that Rule 56 of CGST Rules, mandates to maintain specific records at related place of business as mentioned in the certificate of registration

### 145.4 Comparative Review

#### Comparison to Central Excise:

Sections 144 and 145 of the CGST Act are like Sections 36A and 36B of the Central Excise Act respectively.

In addition, Sec 12B of the Central Excise Act deals with Presumption that the incidence of duty has been passed on to the buyer.

### 145.5 Landmark Judgements:

- In the case of Commissioner of Central Excise and Customs, Surat - Vs. Vinod Kumar Gupta, a computer printout of the data collected on USB during a raid was adduced as an evidence against the manufacturer, and further the witnesses had disowned their statements, The Hon'ble Gujarat High Court has held that such reliance on such material was impermissible in view of non-fulfilling the conditions sub-section (2) of Section 36-B of the Central Excise Act.

### 145.6 MCQs

Q1. Document includes:

- (a) Written record

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

Ans. (d) All of the above

### Statutory provisions

#### 146. Common Portal

*The Government may, on the recommendations of the Council, notify the Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns, computation and settlement of integrated tax, electronic way bill and for carrying out such other functions and for such purposes as may be prescribed.*

### Related provisions

Section or Rule	Description
Section 2(26)	Definition of common portal"

#### 146.1. Introduction

This section deals with notification of common portal for various purposes upon recommendation by the GST Council. The Central government has vide Notification No. 4/2017-Central Tax dated 19-06-2017 notified [www.gst.gov.in](http://www.gst.gov.in) as the Common Goods and Services tax Electronic portal and [www.ewaybillgst.gov.in](http://www.ewaybillgst.gov.in) as the Common Goods and Services Tax Electronic Portal for furnishing electronic way bill vide Notification No.09/2018– Central Tax dated 23-01-2017.

#### 146.2. Analysis

This common portal would facilitate registration, tax payment, filing of returns, computation and settlement of integrated tax, electronic way bill and other prescribed purposes. It is important to note that the extensive data that will reside in the common portal can facilitate preparation of analytical reports in respect of profitability, product-wise supply profile and other information that can form the basis of further investigation. The common portal is not merely a platform or a repository of invoices uploaded by taxpayers.

Nationwide E-way bill system will be driven by common portal [www.ewaybillgst.gov.in](http://www.ewaybillgst.gov.in). This would facilitate Generation, cancellation and rejection of E-way bill, access to various reports in E-way bill, creation of various masters and other prescribed purpose.

#### 146.3. Comparative Review

GST is a technology driven law and this type of common portal is hitherto unheard of in the history of Indian tax jurisprudence although there was some attempt made in the past to facilitate e-payment of tax, e-filing of returns, statements, etc.



**146.4 FAQs**

Q1. What are the compliances which can be done only online through GST Portal?

Ans. The Common Goods and Services Tax Electronic Portal used for facilitating registration, payment of tax, furnishing of returns, computation and settlement of integrated tax, electronic way bill and for carrying out such other functions and for such purposes as may be prescribed.

**146.5 MCQs**

Q1. The common portal can be notified based on recommendation of:

- (a) GST Council
- (b) President of India
- (c) Union Finance Minister
- (d) Supreme Court

Ans. (a) GST Council

**Statutory provision****147. Deemed Exports**

*The Government may, on the recommendations of the Council, notify certain supplies of goods as deemed exports, where goods supplied do not leave India, and payment for such supplies is received either in Indian rupees or in convertible foreign exchange, if such goods are manufactured in India.*

**Relevant circulars, notifications, clarifications issued by Government:**

1. Notification No. 48/2017-Central Tax dated 18.10.2017 which notifies certain supplies as deemed exports under Section 147 – supply of goods against advance authorisation, supply of capital goods against EPCG authorisation & supply of goods to EOU; supply of gold by Bank / PSU specified in notification 50/2017 : Customs – 30/06/2017 against advance authorisation;
2. Notification No. 49/2017-Central Tax dated 18.10.2017 which notifies the evidences required to be produced by the supplier of deemed export supplies for claiming refund;
3. Chapter Twenty-five of the compilation of the GST Flyers as issued by the CBIC can be referred to for a gist of the statutory provisions, titled 'Deemed Exports in GST'.

**Related provisions**

Section or Rule	Description
Section 2(39)	Definition of Deemed exports
Section 2(52)	Definition of Goods

Section 2(56)	Definition of India
Section 2(72)	Definition of manufacture

**147.1. Introduction**

This section deals with notification of certain supplies of goods as deemed exports upon recommendation by the GST Council.

**147.2. Analysis**

The notified goods would be deemed to be exported, if such goods are manufactured in India although they do not leave India and payments are received in Indian rupees or convertible foreign exchange.

This section authorizes the government to notify transactions which will be declared to be deemed exports. Interestingly, there is no section that authorizes deemed exports to enjoy zero rated benefit except inclusion of deemed exports within the machinery provisions for claiming refund under section 54 read with rule 89. It is remarkable that all other transactions where the funds are available such as, refunds to UIN-holders under section 55 of CGST Act, the refunds to exporters under section 16 of IGST Act, refunds in case of inverted tax-rate under section 54(3) of CGST Act, etc, are available. However, there is no section granting entitlement to refund in respect of deemed exports. The promise by the government alone provides the necessary entitlement.

**147.3. Comparative Review**

This is comparable to the concept of deemed exports in the Foreign Trade Policy and attendant export benefits/incentives are extended.

- Supply to 100% EOU from DTA was treated as deemed exports under excise law but these are not treated as deemed exports under GST, resulting in denial of duty free imports of inputs under “advance authorisation” scheme
- EOU are like any other suppliers under GST and all the provisions of GST will apply to it but the benefit of BCD exemption on import will continue for EOU. Supplies from EOU are not exempted from GST except zero rated like exports or supply to SEZ

**147.4 Related provisions**

Section 2(39) of the CGST Act, 2017 defines the term ‘deemed exports’. This would be relevant for extending refund benefit under section 54 of the CGST Act.

**147.5 Related Rules**

Rule 89 of CGST Rules, 2017 is relevant for claiming refund in respect of deemed exports. This rule prescribes forms & procedures for claiming refund in case of supplies made to a special economic zone.

Second proviso to Rule 89(1) says that

“provided also that in respect of supplies regarded as deemed exports, the application shall be filled by recipient of deemed export supplies.

#### **147.6. Documents Required For Refund Under Deemed Export**

1. Acknowledgment by the Jurisdictional Tax officer of the Advance Authorisation holder or Export Promotion Capital Goods Authorisation holder, as the case may be, that the said deemed export supplies have been received by the said Advance Authorisation or Export Promotion Capital Goods Authorisation holder, or a copy of the tax invoice under which such supplies have been made by the supplier, duly signed by the recipient Export Oriented Unit that said deemed export supplies have been received by it.
2. An undertaking by the recipient of deemed export supplies, that no input tax credit on such supplies has been availed of by him.
3. An undertaking by the recipient of deemed export supplies that he shall not claim the refund in respect of such supplies and the supplier may claim the refund.

#### **147.7 FAQs**

Q1. What is the time line for obtaining refund on the GST paid?

- Ans I. For 90% of the total amount claimed as refund excluding the amount of input tax credit, provisional refund will be granted within 10 days of making of application or within 7 days of issuance of acknowledgement of the application.
- II. Refund of the balance 10% will be granted after verification of documents furnished by the applicant

Q2 Can an exporter get exemption from the payment of GST on the export product?

Ans An exporter would get exemption from the payment of GST on the final product and get refund of GST paid on inputs.

Q3. What are the GST refund options available to the exporters?

Ans An exporter would be eligible to claim refund under one of the following two options, namely - (a) He may export under bond, without payment of IGST and claim refund of unutilized input tax credit in; (b) He may export on payment of IGST and claim refund of IGST paid on goods and services exported. The SEZ developer or SEZ unit receiving zero rated supply can claim refund of IGST paid by the firm making supply to SEZ.

Q4. How will exports be treated under GST?

Ans All exports will be deemed as inter-State supplies. Exports of goods and services will be treated as zero rated supplies. The exporter has the option either to export under bond/Letter of Undertaking without payment of tax and claim refund of ITC or pay IGST by utilizing ITC or in cash at the time of export and claim refund of IGST paid.

**Statutory provisions****148. Special Procedure for certain processes**

*The Government may, on the recommendations of the Council, and subject to such conditions and safeguards as may be prescribed, notify certain classes of registered persons, and the special procedures to be followed by such persons including those with regard to registration, furnishing of return, payment of tax and administration of such persons.*

**148.1. Introduction**

This section deals with notification of certain classes of registered persons, who would be required to follow certain special procedures.

**148.2. Analysis**

The Government can notify such persons upon recommendation of the GST Council. Such notified persons would be required to follow certain special procedures inter-alia relating to registration, returns, tax payment and administration aspects. In other words, even though there may be a requirement to the CGST Act, by exercise of powers under section 148, the Government can alter the said requirement on matters relating to registration, filing of returns, tax payment and other administrative matters. The powers to vary the general prescription in these areas applies only in respect of categories of registered persons notified here.

It is very interesting that, say, provisions regarding filing of returns can be overruled, in relation to persons notified under 148. The special procedures to be applied does not enjoy *non obstante* powers but considering that such special procedures would only be more favourable may not be questioned unless the 'conditions' and 'safeguards' are prescribed and adhered to.

It is important to note that the power that is not delegated cannot be assumed to be vested with the delegatee. Power that is exercised by the Act itself, in relation to certain persons cannot be permitted to be exercised by any delegatee, in relation to certain other persons. And delegation cannot alter the nature of the compliance and any variation, at most, can be limited to matters that do not amount to substantive deviation, that is, require the same compliance but at lesser frequency or extended time for compliance.

In exercise of this power, we find certain measures to have been taken by the Government and similar provisions are simultaneously required to be taken under the respective SGST / UTGST laws so as to be in harmony. And without issuing notifications afresh, 17/2017-UT dated 24 Oct, 2017 adopts CGST notifications *mutatis mutandis* in relation to matters of UT. Reference may also be had to the discussion in the context of section 168 where such deviation from standard procedures are permitted.

**148.3 Notifications Issued**

The Government has issued the following notifications under section 148:

40/2017-Central Tax, dt. 13-10-2017	Now redundant - Seeks to make payment of tax on issuance of invoice by registered persons having aggregate turnover less than Rs 1.5 crores – superseded by notification 66/2017 / 15/11/2017
57/2017-Central Tax ,dt. 15-11-2017	Seeks to prescribe quarterly furnishing of FORM GSTR-1 for those taxpayers with aggregate turnover of upto Rs.1.5 crore
66/2017-Central Tax ,dt. 15-11-2017	Seeks to exempt all taxpayers from payment of tax on advances received in case of supply of goods
04/2018 – Central Tax (Rate) dt. 25.01.2018	Seeks to notify the time of supply for registered persons being developer and land owner in case of joint development.

#### 148.4 Analysis of the Notifications

##### 148.4.1 Notification No 66/2017 & 57/2017- Central Tax dated 15<sup>th</sup> November, 2017 respectively

###### 148.4.1.1 Class of persons notified

- Registered Person (other than persons registered under composition scheme) having aggregate turnover of less than Rs. 1.5 crores in the preceding financial year or,
- Registered Person (other than persons registered under composition scheme) whose aggregate turnover in the year of registration is likely to be less than Rs. 1.5 crores

###### 148.4.1.2 Relaxations provided

- The class of persons specified above will not be required to pay tax on advances received against supply of goods. The time of supply of goods shall be the date of issue of invoice or the last date on which the invoice is to be issued as per section 31(1). It is important to note that no special provisions have been notified in respect of time of supply of services and therefore tax would need to be paid on advances received against supply of services – Notification No 66/2017. The effective date of this provision is 15/11/2017.
- The said persons shall furnish the details of outward supply of goods or services or both in FORM GSTR-1 as per following schedule – Notification No 57/2017.

SI No.	Quarter for which the details in FORM GSTR-1 are furnished	Time period for furnishing the details in FORM GSTR-1
1	July - September, 2017	10 <sup>th</sup> January, 2018
2	October - December, 2017	15 <sup>th</sup> February, 2018
3	January - March, 2018	30 <sup>th</sup> April, 2018

**148.4.2 Notification No 66/2017- Central Tax dated 15<sup>th</sup> November, 2017****148.4.2.1 Class of persons notified**

All Registered Persons other than persons registered under composition scheme

**148.4.2.2 Relaxations provided**

The class of persons defined above will not be required to pay tax on advances received against supply of goods. The time of supply of goods shall be the date of issue of invoice or the last date on which the invoice is to be issued as per section 31(1). It is important to note that no special provisions have been notified in respect of time of supply of services and therefore tax would need to be paid on advances received against supply of services –The effective date of this provision is 15<sup>th</sup> November, 2017.

Therefore, w.e.f 15<sup>th</sup> November, 2017 no tax needs to be paid on advances received by registered persons against goods supplied. W.e.f. 13<sup>th</sup> October, 2017 to 15<sup>th</sup> November, 2017, this benefit was available to suppliers having aggregate turnover less than Rs. 1.5 crores only. It must be understood that when a beneficial notification stands superseded it will be subject to certain conditions. For instance the notification 66/2017 dated 15.11.2017 provides for such a condition which reads “except as respects things done or omitted to be done before such supersession”.

**148.4.3. Notification No. 04/2018 dated 25.01.2018:** The notification specifies the time when the registered persons being the land owner and the developer should remit the tax on the supply of service viz., supply of works contract service by developer to the land owner and supply of development rights by the land owner to the developer *inter-se*. The notification specifies that the date when the possession / right in the constructed portion is transferred would be the date relevant for remittance of GST on such services.

**Statutory provisions****149. Goods and Services Tax Compliance Rating**

- (1) *Every registered person may be assigned a goods and services tax compliance rating score by the Government based on his record of compliance with the provisions of this Act.*
- (2) *The goods and services tax compliance rating score may be determined on the basis of such parameters as may be prescribed.*
- (3) *The goods and services tax compliance rating score may be updated at periodic intervals and intimated to the registered person and also placed in the public domain in such manner as may be prescribed.*

**149.1 Introduction**

Compliance rating system is one of the new ways of tax administration. This section states that every registered person would be rated based on certain parameters. It also provides that the rating would be published in the public domain.

**149.2 Analysis**

With the aim of increasing governance by publishing information about the extent of compliance by each taxable person, this section provides a compliance rating that varies periodically. The proposed compliance rating system is a unique form of rating the performance of the registered persons. The parameters which would be considered for performance rating would be prescribed / notified.

Among others, the rating of a registered person would be relevant to show reliability of the supplier to pay taxes on time so that recipient of supplies can exercise some caution based on the published compliance rating of suppliers and for selection for scrutiny and other administrative / monitoring purposes.

This section provides as follows:

- Every registered person shall be rated and will be assigned a GST compliance rating score.
- The rating would be based on his record of compliance with the provisions of CGST, IGST and SGST/UTGST. The details of parameters and methodology for rating would be prescribed.
- The compliance rating score will be updated periodically and will be-
  - Intimated to the registered person; and
  - placed in the public domain.

**149.3 Comparative Review**

Previously there was no rating system under any of the indirect tax laws.

**149.4 FAQs**

Q1. What would the compliance rating be used for?

Ans: It would be for determining the eligibility for credit on inward supplies, selection of cases for audit / scrutiny, grant of benefits etc, as may be prescribed.

Q2. What are the parameters which would be considered in compliance rating?

Ans: The parameters and methodology of usage in determining compliance rating have not been prescribed yet.

**149.5 MCQs**

Q1. How will the compliance rating be communicated?

- (a) to the relevant taxable person
- (b) will be put up in the public domain
- (c) neither (a) nor (b)
- (d) both (a) and (b).

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

**Statutory provisions****150. Obligation to furnish information return**

- (1) Any person, being—
- (a) a taxable person; or
  - (b) a local authority or other public body or association; or
  - (c) any authority of the State Government responsible for the collection of value added tax or sales tax or State excise duty or an authority of the Central Government responsible for the collection of excise duty or customs duty; or
  - (d) an income tax authority appointed under the provisions of the Income-tax Act, 1961; or
  - (e) a banking company within the meaning of clause (a) of section 45A of the Reserve Bank of India Act, 1934; or
  - (f) a State Electricity Board or an electricity distribution or transmission licensee under the Electricity Act, 2003, or any other entity entrusted with such functions by the Central Government or the State Government; or
  - (g) the Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908; or
  - (h) a Registrar within the meaning of the Companies Act, 2013; or
  - (i) the registering authority empowered to register motor vehicles under the Motor Vehicles Act, 1988; or
  - (j) the Collector referred to in clause (c) of section 3 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; or
  - (k) the recognised stock exchange referred to in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956; or
  - (l) a depository referred to in clause (e) of sub-section (1) of section 2 of the Depositories Act, 1996; or
  - (m) an officer of the Reserve Bank of India as constituted under section 3 of the Reserve Bank of India Act, 1934; or
  - (n) the Goods and Services Tax Network, a company registered under the Companies Act, 2013; or
  - (o) a person to whom a Unique Identity Number has been granted under sub-section (9) of section 25; or
  - (p) any other person as may be specified, on the recommendations of the Council, by the Government, who is responsible for maintaining record of registration or statement of accounts or any periodic return or document containing details of payment of tax and other details of transaction of goods or services or both or transactions related to a



*bank account or consumption of electricity or transaction of purchase, sale or exchange of goods or property or right or interest in a property under any law for the time being in force, shall furnish an information return of the same in respect of such periods, within such time, in such form and manner and to such authority or agency as may be prescribed.*

- (2) *Where the Commissioner, or an officer authorised by him in this behalf, considers that the information furnished in the information return is defective, he may intimate the defect to the person who has furnished such information return and give him an opportunity of rectifying the defect within a period of thirty days from the date of such intimation or within such further period which, on an application made in this behalf, the said authority may allow and if the defect is not rectified within the said period of thirty days or, the further period so allowed, then, notwithstanding anything contained in any other provisions of this Act, such information return shall be treated as not furnished and the provisions of this Act shall apply.*
- (3) *Where a person who is required to furnish information, return has not furnished the same within the time specified in sub-section (1) or sub-section (2), the said authority may serve upon him a notice requiring furnishing of such information return within a period not exceeding ninety days from the date of service of the notice and such person shall furnish the information return.*

### 150.1 Introduction

This is an administrative provision. This section requires specified persons to furnish an information return with the prescribed authority.

### 150.2 Analysis

A return called an 'information return' would be required to be filed by specified persons. It is expected that this would be used by the Government/s for exchange of information.

#### Specified persons who would be required to furnish the information return:

Nature of persons who would be required to file the information return would be:	If the said persons are responsible for maintaining:
<ul style="list-style-type: none"> <li>• Taxable Person.</li> <li>• Local Authority, Other Public Body or Association.</li> <li>• Authority responsible for collecting VAT, Sales Tax, State Excise Duty, Central Excise Duty or Customs Duty.</li> <li>• Authority appointed under Income Tax.</li> <li>• Banking Company</li> <li>• State Electricity Board</li> </ul>	<ul style="list-style-type: none"> <li>• Records of registration</li> <li>• Statement of accounts</li> <li>• Periodic returns</li> <li>• Details of payment of tax</li> <li>• Any other details of transaction of goods or services</li> <li>• Transaction relating to bank account</li> <li>• Transaction relating to consumption of electricity</li> </ul>

<ul style="list-style-type: none"> <li>• Registrar or Sub-Registrar of Registration Act, 1908</li> <li>• Registrar of Companies</li> <li>• Registering authority of Motor Vehicles</li> <li>• Collector</li> <li>• Recognised Stock Exchange</li> <li>• Depository of Shares</li> <li>• Officer of Reserve Bank of India</li> <li>• Goods &amp; Service Tax Network</li> <li>• Person to whom Unique Identity Number (UIN) is granted</li> <li>• Any other specified person on recommendation of the Council</li> </ul>	<ul style="list-style-type: none"> <li>• Transaction of purchase</li> <li>• Sales</li> <li>• Exchange of goods or property</li> <li>• Right or interest in a property</li> </ul>
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**Implications of non-compliance**

1. If the details filed are defective:
  - Defect should be intimated to the person who has furnished such information return.
  - Reasonable opportunity should be given to rectify the defect in the return.
  - Defect should be rectified within a period of 30 days from the date of such information or within such further period.

If the defect in the return is not rectified within the time prescribed, the information return should be treated as not submitted and penalty of Rs.100/- per day for each day during which the failure continues, would be payable subject to a maximum of Rs. 5,000 in terms of section 123 of the CGST Act.

2. If no return is filed:
  - Authority may serve a notice requiring him to furnish such information return.
  - It should then be filed within a period not exceeding 90 days from the date of service of notice.

**150.3 Comparative Review**

The provision is similar to Section 15A of Central Excise Act, 1944.

**150.4 Related provisions**

Statute	Section / Rule / Form	Description
CGST	Section 123	Penalty for non-filing of Information Return

**150.5 FAQs**

Q1. What type of persons would be required to file the information return?

Ans. Any person who is responsible for maintaining any of the following would be required to file the information return.

- Records of registration
- Statement of accounts
- Periodic returns
- Details of payment of tax
- Any other details of transaction of goods or services
- Transaction relating to bank account
- Transaction relating to consumption of electricity
- Transaction of purchase
- Sales
- Exchange of goods or property
- Right or interest in a property

Q2. Is this return required to be filed by every taxable person?

Ans. No. Only the persons responsible for maintaining any of the above-mentioned records / details would be required to file this return.

**Statutory provisions****151. Power to Collect Statistics**

- (1) *The Commissioner may, if he considers that it is necessary so to do, by notification, direct that statistics may be collected relating to any matter dealt with by or in connection with this Act.*
- (2) *Upon such notification being issued, the Commissioner, or any person authorised by him in this behalf, may call upon the concerned persons to furnish such information or returns, in such form and manner as may be prescribed, relating to any matter in respect of which statistics is to be collected.*

**151.1 Introduction**

This section authorises the Commissioner for the purpose of the Act, to collect any statistics relating to any matter that may be required.

**151.2 Analysis**

— The Commissioner may, by way of a notification, direct collection of statistics for the purpose of better administration of the Act.

- After issuance of such notification, the Commissioner or any person authorised by Commissioner in this regard may call all concerned persons to furnish such information or return relating to any matter in respect of which statistics is being collected.
- The form in which the information need to be filed, the authority to whom such return need to be filed, the details that are captured on the return, the periodicity of filing such return have not been prescribed yet.

### 151.3 Related provisions

Statute	Section / Rule / Form	Description
CGST	Section 152	Disclosure of information collected under Section 151

### Statutory provisions

#### 152. Bar on disclosure of information

- (1) *No information of any individual return or part thereof with respect to any matter given for the purposes of section 150 or section 151 shall, without the previous consent in writing of the concerned person or his authorised representative, be published in such manner so as to enable such particulars to be identified as referring to a particular person and no such information shall be used for the purpose of any proceedings under this Act.*
- (2) *Except for the purposes of prosecution under this Act or any other Act for the time being in force, no person who is not engaged in the collection of statistics under this Act or compilation or computerisation thereof for the purposes of this Act, shall be permitted to see or have access to any information or any individual return referred to in section 151.*
- (3) *Nothing in this section shall apply to the publication of any information relating to a class of taxable persons or class of transactions, if in the opinion of the Commissioner, it is desirable in the public interest to publish such information.*

#### 152.1 Introduction

This Section discusses about the way in which the information obtained under Sections 150 and 151 needs to be handled.

#### 152.2 Analysis

- Any information obtained shall not be published so as to enable any particulars to be identified as referring to a particular taxpayer, without the previous consent of the tax payer or his authorised representative. This consent should be in writing. Further the information so obtained shall not be used for the purpose of any proceedings under this Act.
- A person who is not engaged in the collection of statistics under this Act or compliance or computerisation for the purpose of Act, shall not be permitted to see or have access to any information or any individual return.

However, for the purpose of prosecution under the Act, or under any other Act, access to such information can be given.

- Any person who is engaged in connection with collection of statistics under Section 151 or compilation or computerisation wilfully discloses any information or contents of any return under this Section, or otherwise in execution of his duties shall be punished with imprisonment or fine or both in terms of section 133.
- Imprisonment for a term which may extend to six months or fine which may extend to ₹ 25000 or with both

### 152.3 Related provisions

Statute	Section / Rule / Form	Description
CGST	Section 150	Obligation to file information return
CGST	Section 151	Provisions for collection of statistics and filing of returns
CGST	Section 133	Liability of officers & certain other persons

### Statutory provisions

#### **153. Taking assistance from an expert**

*Any officer not below the rank of Assistant Commissioner may, having regard to the nature and complexity of the case and the interest of revenue, take assistance of any expert at any stage of scrutiny, inquiry, investigation or any other proceedings before him.*

#### **153.1 Introduction**

This Section enables the Officer not below the rank of an Assistant Commissioner to take assistance of an expert at any stage of scrutiny, inquiry, investigation or any proceedings.

#### **153.2 Analysis**

This section will enable the Officer to take assistance of experts like IT professional, Lawyer, Technocrat, Chartered Accountants etc. considering the nature and complexity of the case and revenue's interest. These experts would assist the concerned officer in scrutiny, inquiry, investigation or any other proceedings.

### Statutory provisions

#### **154. Power to take samples**

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

**154.1 Introduction**

This Section discusses about authority of the GST officers to draw sample of goods.

**154.2 Analysis**

Sample of any goods may be drawn by the Commissioner or any officer who is authorised by him.

The samples may be drawn wherever the officer so deems necessary and should be out of the goods in possession of the taxable person.

Once the samples are drawn, the officer should provide a receipt for the same.

**154.3 FAQs**

Q1. For what purposes can samples be taken?

Ans. There is no purpose which is specified in the law. However, if the specified officer deems necessary, a sample of the goods may be drawn.

Q2. Who can effect samples?

Ans. The Commissioner or any other person who is authorised by the Commissioner may draw samples out of the goods from the possession of the taxable person.

**Statutory provisions****155. Burden of Proof**

*Where any person claims that he is eligible for input tax credit under this Act, the burden of proving such claim shall lie on such person.*

**155.1 Introduction**

This provision places the burden on the taxable person to prove his input tax claims.

**155.2 Analysis**

Normally, it is for the person to prove a fact which he asserts.

Following this, under this Section, the onus of correctness and eligibility of the following claim has been vested with the taxable person:

- Eligibility to claim input tax credit: Where the taxable person claims any input tax credit under Chapter V (Input Tax Credit) of the CGST Act.

**155.3 FAQs**

Q1. Under what circumstances does the onus of claim by a taxable person lie with him?

Ans. The onus of proving that the taxable person is right in his claims would vest with him, in the following circumstance:

- Where the taxable person has claimed any input tax credit under Chapter-V (Input Tax Credit) of CGST Act, 2017.

**155.4 MCQs**

Q1. Which of the following proposition is correct?

- (a) The Act provides for rule of burden of proof in all situations
- (b) The Act places specific burden on the assessee only in one situation
- (c) The burden of proof is always on the assessee
- (d) None of the above

Ans. (b) The Act places specific burden on the assessee only in one situation

**Statutory provisions****156. Persons deemed to be public servants**

*All persons discharging functions under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.*

**156.1. Introduction**

This section proclaims that all persons discharging official functions under the CGST Act would be deemed to be public servants within the meaning of section 21 of the IPC.

**156.2. Analysis**

As the persons discharging official functions are deemed to be public servants, any offences against such persons and offences by such persons would be dealt with in accordance with IPC. By availing the services of officials of other departments or Ministries, all those officials will be able to exercise the authority under GST law.

**156.3 Related provisions**

Section 21 of the IPC defines a public servant. Chapter IX of IPC comprising of sections 166 to 171 deals with offences against and offences by public servants prescribing for punishment including imprisonment. Chapter X deals with contempt's of the lawful authority of public servants – sections 172 to 190 thereof prescribes for punishment including imprisonment.

**Statutory provisions****157. Protection of action taken under this Act**

- (1) *No suit, prosecution or other legal proceedings shall lie against the President, State President, Members, officers or other employees of the Appellate Tribunal or any other person authorised by the said Appellate Tribunal for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.*
- (2) *No suit, prosecution or other legal proceedings shall lie against any officer appointed or authorised under this Act for anything which is done or intended to be done in good faith under this Act or the rules made thereunder.*

**157.1 Introduction**

This Section protects the GST officers and officers of GST Tribunal from legal proceedings in respect of acts done in good faith.

**157.2 Analysis**

Immunity from any legal or departmental proceedings is provided to the GST officers and officers of the Tribunal for the acts done in good faith under the provisions of this Act. Actions taken in exercise of official functions cannot result in liability devolving on the officers. It is this protection that officers enjoy while exercising authority vested in the law without fear or favour.

**157.3 Related provision**

Statute	Section / Rule / Form	Description	Remarks
CGST	Section 156	Deemed as public servants	All officers performing any function under this Act are designated as 'public servants'.
CGST	Section 158	Disclosure of information by a public servant	None

**157.4 FAQs**

Q1. Can the department proceed against the officer for passing any adjudication order?

Ans. No, the department cannot take any action against the officer who has discharged his duty in good faith.

**Statutory provisions****158. Disclosure of information by a public servant**

- (1) *All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act (other than proceedings before a criminal court), or in any record of any proceedings under this Act shall, save as provided in sub-section (3), not be disclosed.*
- (2) *Notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall, save as otherwise provided in sub-section (3), require any officer appointed or authorised under this Act to produce before it or to give evidence before it in respect of particulars referred to in sub-section (1).*
- (3) *Nothing contained in this section shall apply to the disclosure of, —*
  - (a) *any particulars in respect of any statement, return, accounts, documents, evidence, affidavit or deposition, for the purpose of any prosecution under the Indian Penal Code or the Prevention of Corruption Act, 1988, or any other law for the time being in force; or*



- (b) *any particulars to the Central Government or the State Government or to any person acting in the implementation of this Act, for the purposes of carrying out the objects of this Act; or*
- (c) *any particulars when such disclosure is occasioned by the lawful exercise under this Act of any process for the service of any notice or recovery of any demand; or*
- (d) *any particulars to a civil court in any suit or proceedings, to which the Government or any authority under this Act is a party, which relates to any matter arising out of any proceedings under this Act or under any other law for the time being in force authorising any such authority to exercise any powers thereunder; or*
- (e) *any particulars to any officer appointed for the purpose of audit of tax receipts or refunds of the tax imposed by this Act; or*
- (f) *any particulars where such particulars are relevant for the purposes of any inquiry into the conduct of any officer appointed or authorised under this Act, to any person or persons appointed as an inquiry officer under any law for the time being in force; or*
- (g) *any such particulars to an officer of the Central Government or of any State Government, as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty; or*
- (h) *any particulars when such disclosure is occasioned by the lawful exercise by a public servant or any other statutory authority, of his or its powers under any law for the time being in force; or*
- (i) *any particulars relevant to any inquiry into a charge of misconduct in connection with any proceedings under this Act against a practising advocate, a tax practitioner, a practising cost accountant, a practising chartered accountant, a practising company secretary to the authority empowered to take disciplinary action against the members practising the profession of a legal practitioner, a cost accountant, a chartered accountant or a company secretary, as the case may be; or*
- (j) *any particulars to any agency appointed for the purposes of data entry on any automated system or for the purpose of operating, upgrading or maintaining any automated system where such agency is contractually bound not to use or disclose such particulars except for the aforesaid purposes; or*
- (k) *any particulars to an officer of the Government as may be necessary for the purposes of any other law for the time being in force; or*
- (l) *any information relating to any class of taxable persons or class of transactions for publication, if, in the opinion of the Commissioner, it is desirable in the public interest, to publish such information.*

**158.1 Introduction**

This Section lays down the guidelines for non-disclosure of information obtained during the course of any proceeding and the situations when such information can be disclosed.

**158.2 . Analysis**

**Non-disclosure:** The following shall be kept confidential and should not be disclosed:

- All details contained in any statement / returns / accounts / documents which are submitted as per the Act.
- All details contained in any evidence given during any proceeding under the Act or in any record of proceedings under the Act

Note: All details obtained from any evidence during the proceedings before a criminal court need not be confidential.

**Restrictions on Courts:** Courts shall not have the right

- To require any GST officer to produce before it or
- To require the officer to give evidence before it
- in relation to matters which cannot be disclosed

**Exceptions to non-disclosure:** The following details can be disclosed:

- **Situation 1 – required under other Law:** Statement, return, accounts, documents, evidence, affidavit or deposition, for prosecution under the Indian Penal Code / the Prevention of Corruption Act, 1988 / or any other law in force.
- **Situation 2 – for verification purposes:** Particulars which are to be given to the Central / State Government or to any person discharging his functions under this Act, for the purpose of carrying out the object of the Act.
- **Situation 3 – for service of notice / demand:** If such disclosure is necessary for the service of notice or the recovery of demand.
- **Situation 4 – for Civil Court / Tribunal proceeding:** Particulars to be disclosed to a Civil Court.

Note: The disclosure is in relation to any suit or proceeding. In such proceeding, the Government or any authority under the Act is a party. The disclosure relates to any proceeding as per the Act or under any other law authorising any such authority to exercise such powers.

- **Situation 5 – for Audit:** Particulars to any officer appointed for the purpose of audit of tax receipts or refunds of the tax levied under the Act.
- **Situation 6 – for inquiry on any GST Officer:** Particulars relevant for any inquiry into the conduct of any GST officer, to any person(s) appointed as an inquiry officer under any relevant law.
- **Situation 7 – to levy or realise tax / duty:** Such facts to an officer of the Central /

State Government as necessary for the purpose of enabling that Government to levy or realise any tax or duty.

- **Situation 8 – to public servant:** Such particulars, if such disclosure is necessary before a public servant or any statutory authority, due to his or its powers under any law.
- **Situation 9 – to conduct inquiry on professionals:** Such particulars as relevant to any inquiry under the Act conducted into a charge of misconduct against a practising advocate / cost accountant / a chartered accountant, company secretary / tax practitioner to the authority empowered to take disciplinary action against the members practicing such profession. (i.e. ICAI / ICAI (CWA) / ICSI / Bar Council)
- **Situation 10 – to data entry agency for department:** Disclosures to any agency appointed for the purposes of data entry on any automated system or for operating, upgrading or maintaining any automated system (if such agency is contractually bound not to use or disclose such particulars except for the aforesaid purposes)
- **Situation 11 – to Government:** Particulars to an officer of the Central / State Government necessary for any law for the time being in force.
- **Situation 12 – for publication in public interest:** Information relating to any class of taxpayers / transactions for publication, if, in the opinion of the Competent authority, it is desirable in the public interest, to publish such information.

### 158.3 Comparative review

There are no specific provisions in the erstwhile law to specifically protect the confidentiality of the information obtained during the course of carrying out any functions as a public servant.

### 158.4 Related provisions

Statute	Section / Rule / Form	Description	Remarks
CGST	Section 156	Deemed as public servants	All officers performing any function under this Act are designated as 'public servants'.
CGST	Section 157	Immunity from legal proceedings	Protection of action taken in good faith by GST officers and officers of Tribunal

### 158.5 FAQs

Q1. Who is responsible for maintaining confidentiality or non-disclosure of information?

Ans: Every GST Officer must maintain confidentiality or non-disclosure of information obtained by him.

Q2. Can the GST officer disclose the information if required under any law?

Ans: GST Officer shall disclose the information if required under Indian Penal Code / Prevention of Corruption Act or any other law.

Q3. Can the GST officer voluntarily disclose information to professional bodies regarding professional misconduct of any professional?

Ans: No. Voluntary disclosure of information is not covered under the above provision. However, if any inquiry is already underway by the relevant professional regulatory body, then the GST officer can disclose information to such authority relating to the professional misconduct.

Q4. Can information be shared for statistical purposes?

Ans: GST officer can share the information to the Central / State Government regarding compilation of statistics dealing with particular class of taxpayers / class of transactions.

Q5. Can information be shared with Civil Courts?

Ans: GST officer can disclose information in any proceeding before Civil Courts only if the Government is also one of the parties involved and such Courts have been empowered with the power to call for such information.

Q6. Can information be shared with First Appellate Authority?

Ans: GST officer cannot share the information with the First Appellate Authority unless it is authorized under the law to be disclosed before them.

#### Statutory provisions

##### **159. Publication of information in respect of persons in certain cases**

(1) *If the Commissioner, or any other officer authorised by him in this behalf, is of the opinion that it is necessary or expedient in the public interest to publish the name of any person and any other particulars relating to any proceedings or prosecution under this Act in respect of such person, it may cause to be published such name and particulars in such manner as it thinks fit.*

(2) *No publication under this section shall be made in relation to any penalty imposed under this Act until the time for presenting an appeal to the Appellate Authority under section 107 has expired without an appeal having been presented or the appeal, if presented, has been disposed of.*

*Explanation. —In the case of firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasurers or managers of the company, or the members of the association, as the case may be, may also be published if, in the opinion of the Commissioner, or any other officer authorised by him in this behalf, circumstances of the case justify it.*

**159.1 Introduction**

- (i) This provision confers powers on the Competent Authority to publish the names and other details of persons in default, as information to the public.
- (ii) This provision also discusses the persons, whose names can be published, if proceedings relate to a company / firm / association of persons.

**159.2 Analysis****Powers to publish details:**

- (i) The Competent Authority may ensure that the following details are published:
  - Names of any person (and)
  - Other particulars relating to proceedings or prosecutions under the Act, if related to such person.
- (ii) The decision to publish is based on the opinion of the Competent Authority that it is essential or beneficial in the public interest to do so.
- (iii) As the provision indicates that the Competent Authority “*can decide to publish in such manner as it thinks fit*”, Competent Authority can decide:
  - the category of proceedings / prosecution cases to be published;
  - the category of persons whose details to be published;
  - the extent of particulars to be published;
  - the manner of publishing;
  - the media wherein the information to be published.
- (iv) In addition, the Competent Authority may also decide to publish the following:

<b>Nature of Organisation</b>	<b>Additional details</b>
In case of Firm	Names of partners
In case of Company	Names of directors / Managing Agents / Secretaries & Treasurers / Managers
In case of Association of Persons	Names of the members

*Note: However, the additional details can be published only if the Competent Authority opines that the circumstances of the case justify it.*

- (v) **Exception:** However, publication can be made in relation to imposition of penalty, only when the following conditions are satisfied:
  - The time for presenting an appeal to the First Appellate Authority (u/s 107) has expired and the persons involved, did not present any appeal (OR)
  - The appeal is presented and it is disposed of (against such persons).

**159.3 Comparative review**

Similar Provisions as above find place under erstwhile laws as under:

Law	Distinction in the GST law
Central Excise (Sec.37E)	<p>The provisions are similar to Sec.37E.</p> <p>However, in the extant Central Excise Legislation, as there is a provision to appeal directly to CESTAT against the order of Commissioner, the time limit in relation to publishing information about penalty also includes the time for appeals before CESTAT.</p> <p>In the GST law, there is no such provision for direct appeal to Tribunal and so time limit for appeals before Tribunal is omitted.</p>
Central Excise (Sec.9B)	<p>In the extant Excise Law, as per Sec.9B, Courts have powers to publish the information about conviction of the persons and other information (as mentioned in Sec.9B). However, in the present GST legislation, no such powers are conferred on the Courts.</p> <p>In fact, there is a Circular No.1009/16/2015 – CX dt. 23.10.15, which insists that the power to publish information is being exercised very sparingly by the Courts and has given a clear direction that in deserving cases, the department should make a prayer to the Court to invoke this Section in respect of all persons who are convicted under the Act.</p>
Service Tax (Sec.73D)	<p>As per extant service tax provisions, the names and the particulars to be published and the manner in which it has to be published <i>are as prescribed</i> (by the Service Tax (Publication of Names) Rules 2008).</p> <p>In the above rules, the situations for publication and the detailed process flow along with documentation are prescribed.</p> <p><i>The words “as prescribed” do not find place in the GST law.</i></p> <p><i>This leaves the decision to publish solely to the discretion of the Competent Authority. Further, there are no enabling provisions u/s 164 to confer powers to the Governments to frame rules for such publication. Sec.165 has also not listed out the specific areas wherein the Board / Commissioner SGST can frame regulations.</i></p>
VAT Laws	<p>Similar provisions as that of the GST Law are enacted as part of the extant State VAT Laws, but in certain State VAT Laws, the powers can be exercised <i>subject to such conditions as may be prescribed.</i> (For e.g. Sec.79 of the TNVAT Act, 2006)</p>

**159.4 Related provisions**

Statute	Section / Rule / Form	Description	Remarks
GST	Section 107	Time Limit for appeal before First Appellate Authority	Information on the penalty imposed on a person can be published only if the time limit for appeals before First Adjudicating Authority is over. So Sec.107 is relevant.

**159.5 FAQs**

Q1. Should prosecution proceedings alone be published?

Ans: No. Sec.159 uses the words “any proceedings or prosecution”. Hence, even a normal adjudication proceeding can be published if the competent authority thinks fit.

Q2. Is there any guideline available for deciding the situations in which information must be published?

Ans: No. As per the section, the Competent Authority may form his own opinion and may decide to publish the name and other particulars in such manner as it thinks fit. It is expected that the Government may frame guidelines on publishing information and manner of such publishing.

Q3. What are the media in which the details must be published?

Ans: Sec.159 is silent on such aspect and it gives the power to the competent authority to decide the manner in which it has to be published (*Unless certain guidelines are spelt out by the government*).

Q4. Whether the publishing is to be done only after the adjudication order is passed?

Ans: Sec.159 indicates that the Competent Authority may publish names and other particulars, in relation to any proceeding or prosecution. There is no condition that the order needs to be passed to publish the details.

Q5. Can the names of persons alone be published by the competent authority?

Ans: Sec.159 indicates that the names of any person and any other particulars relating to such person, in respect of such proceedings may be given. So, it is imperative to give the other relevant particulars of the proceedings also.

**159.6 MCQs**

Q1. Who can publish the names and particulars

- (a) Courts
- (b) Appellate Authority
- (c) Any Adjudicating Authority

(d) Competent Authority

Ans (d) Competent Authority

Q2. Names and particulars relating to prosecutions can be published –

- (a) After Courts Approval
- (b) After expiry of appeal to First Appellate Authority
- (c) At the discretion of the Competent Authority
- (d) Cannot be published at all

Ans. (c) At the discretion of the Competent Authority

Q3. In case of proceedings against the Companies, the details that can be published are-

- (a) Names and Addresses of the Directors
- (b) Only Names of the Directors
- (c) Details of Directors and Auditors
- (d) Photographs of the Directors

Ans. (b) Only Names of the Directors

### Statutory provisions

#### **160. Assessment proceedings, etc., not to be invalid on certain grounds**

- (1) *No assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings done, accepted, made, issued, initiated, or purported to have been done, accepted, made, issued, initiated in pursuance of any of the provisions of this Act shall be invalid or deemed to be invalid merely by reason of any mistake, defect or omission therein, if such assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings are in substance and effect in conformity with or according to the intents, purposes and requirements of this Act or any erstwhile law.*
- (2) *The service of any notice, order or communication shall not be called in question, if the notice, order or communication, as the case may be, has already been acted upon by the person to whom it is issued or where such service has not been called in question at or in the earlier proceedings commenced, continued or finalised pursuant to such notice, order or communication.*

#### **160.1 Introduction**

Very often proceedings under the Act are questioned for their validity even when there are inadvertent errors. This Section saves the proceedings from such challenge when substantive conformity is found but for these errors.



**160.2 Analysis**

Assessment, re-assessment and other proceedings that are listed in this Section will be valid even though there may be:

- Mistake
- Defect or
- Omission

Provided they are in 'substance' and 'effect' in conformity with the intents, purposes and requirements of the Act.

Proceedings listed in this Section are:

- Assessment
- Re-assessment
- Adjudication
- Review
- Revision
- Appeal
- Rectification
- Notice
- Summons
- Other proceedings

Considering the purpose of this Section, no proceedings under the Act are excluded from the operation of this Section. It is interesting to see how such a determination will be made – whether deficiency in the proceedings was a mistake, defect or omission and that it is in substance and effect in conformity with the Act.

Further, where a notice, order or communication has been:

- acted upon or
- Not called into question at the earliest opportunity available,

then the opportunity to call such notice, order or communication into question will not be available in the course of subsequent proceedings. Please note that the deficiency that can be so called into question is limited to – notice, order or communication – and not the documents forming part of the other proceedings listed in sub-section (1). Hence, it is important to note that care needs to be taken while making preliminary objections on jurisdiction and validity of communication.

**Statutory provisions****161. Rectification of errors apparent on the face of record**

*Without prejudice to the provisions of section 160, and notwithstanding anything contained in any other provisions of this Act, any authority, who has passed or issued any decision or order or notice or certificate or any other document, may rectify any error which is apparent on the face of record in such decision or order or notice or certificate or any other document, either on its own motion or where such error is brought to its notice by any officer appointed under this Act or an officer appointed under the State Goods and Services Tax Act or an officer appointed under the Union Territory Goods and Services Tax Act or by the affected person within a period of three months from the date of issue of such decision or order or notice or certificate or any other document, as the case may be:*

*Provided that no such rectification shall be done after a period of six months from the date of issue of such decision or order or notice or certificate or any other document:*

*Provided further that the said period of six months shall not apply in such cases where the rectification is purely in the nature of correction of a clerical or arithmetical error, arising from any accidental slip or omission:*

*Provided also that where such rectification adversely affects any person, the principles of natural justice shall be followed by the authority carrying out such rectification.*

**161.1 . Introduction**

While the authority to issue any decision, order, summons, notice, certificate or other document is expected to be free from errors, it is the duty of the authority issuing the same to correct any errors that do not convey the outcome of the process of law resulting in its issuance. This Section provides for an opportunity to make such rectification with some caution and due process being prescribed.

**161.2 Analysis**

This section begins with caution in stating that:

- no prejudice will be caused to the validity of proceedings listed in Section 161 from the defects that may be present in the documents concerned;
- but overrides all other provisions of the Act that may permit calling into question any deficiency in the documents.

This Section provides for rectification of error or mistake apparent by the authority who has issued the document or on being brought to attention by CGST / SGST authority or the affected person. So, there are three ways in which action can be taken under this Section. No person is entitled to take advantage of such errors or mistakes.

The action permitted to be taken is to rectify an error or mistake apparent. Errors or mistakes apparent can cause difficulty in executing the directions contained in the document. This may require seeking the authority's intervention to rectify.

The power/jurisdiction to rectify is for **any error or mistake which is apparent from record**. The error must be self-evident and should not be discoverable by a long process of reasoning, where there is a possibility on points on which there may conceivably be two opinions. But the limiting aspect is that the power cannot be exercised to amend substantive part of the document concerned.

The error may be-

- (a) factual,
- (b) legal or
- (c) clerical.

All of them are rectifiable once it is shown that they are apparent on face of the record and not within the natural understanding of the authority at the time of issuance of the original document but which has crept in due to inadvertence or by reason other than exercise of judgement. Here the assessee, on a literal interpretation, cannot bring any document or evidence, not already available on record, to substantiate his claim for rectification.

The time limit of 3 months is allowed for the affected person to bring to attention any such error or mistake. This time limit does not apply to a CGST / SGST officer from bringing it to the attention to the issuing authority or for making voluntarily rectification. However, no such rectification is permitted after 6 months from the date of its issuance.

If any such rectification adversely affects any person, it is required that principles of natural justice be followed in these proceedings also. Once an application for rectification has been made, it must conclude in an order. This original order will be substituted by the rectified order. One may note that if the application for rectification is rejected, then the original order stands. Any time limit for preferring an appeal will be counted from the date of the original or rectified order, as the case may be. Time lost in process of rectification can impair the remedy of appeal. Rejection of application for rectification is also an appealable order but this itself does not vacate the original order. But once the rectification is ordered and a rectification order is passed, then the rectified order will replace the original order. All further appeals on matters arising from the rectified order will be counted from the date of such rectified order.

### 161.3 Comparative review

Starting from Civil Procedure, all laws have provisions to rectify errors apparent on the face of the records including tax laws such as Income Tax Act, Central Excise, Customs, Service Tax and different Sales tax etc.

### 161.4 Related provisions

Statute	Section / Rule / Form	Description
Central Excise Act,	Section 35C. Orders of	The Appellate Tribunal may, at any time within six months from the date of the order, with a view to rectifying any

Statute	Section / Rule / Form	Description
1984	Appellate Tribunal.	mistake apparent from the record, amend any order passed by it
Chapter V of the Finance Act, 1994	Section 74. Rectification of mistake	With a view to rectifying any mistake apparent from the record, the 4[Central Excise Officer] who passed any order under the provisions of this Chapter may, within two years of the date on which such order was passed, amend the order.
Income Tax Act, 1961	Section - 154	With a view to rectifying any mistake apparent from the record an income-tax authority referred to in Section 116 may,— (a) amend any order passed by it under the provisions of this Act; (b) amend any intimation or deemed intimation under sub-Section (1) of Section 143; (c) amend any intimation under sub-Section (1) of Section 200A; (d) amend any intimation under sub-Section (1) of Section 206CB.

**161.5 Related rules / forms**

Rule 142 provides that rectification of the order shall be in form GST DRC-08

**161.6 FAQs**

Q1. What errors may be rectified under the provision?

Ans. Only those errors, which are apparent on the face of the record, may be rectified under the provision.

Q2. What is an error apparent on the face of the record?

Ans. An error is apparent on the face of the record if it is evident from the record itself and does not require long drawn out reasoning.

Q3. What are the types of errors, which can be rectified?

Ans. Any error, which is apparent on the face of the record, may be rectified. Such error can be a) factual, b) legal or c) clerical.

Q4. Is there a time limit to apply for rectification?

Ans. The time limit is 3 months but extendable to 6 months from the date of issue of such decision or order or notice or certificate or any other document. But in case of clerical or arithmetic mistakes, the 6 months outer limit is not applicable. Such clerical error must be due to accidental slip or omission.

Q5. Who can seek rectification?

Ans. The authority itself, an officer or the affected person can seek rectification.

Q6. If a proceeding is pending before a higher forum can rectification be sought for?

Ans. As the provision is applicable notwithstanding other provisions, pendency of proceeding before higher forums is not a bar to seek rectification.

Q7. If there is a material found out which has bearing on the decision whether rectification can be sought?

Ans. No. For that purpose, the error must be apparent on the face of the record. Therefore, outside material cannot be produced to rectify the decision.

Q8. What is the scope of rectification? Whether any part of the order can be rectified?

Ans. The provision expressly states that it cannot amend the substantive part of the decision etc.

Q9. Whether the assessee is to be given notice?

Ans. If there is an adverse effect then principles of natural justice has to be complied with.

#### 161.7 MCQs

Q1. What errors may be rectified under the provision?

- (a) Only errors which are apparent on the face of the record
- (b) All errors of law and fact
- (c) Only clerical error can be rectified
- (d) Only if the error is by accidental slip or omission

Ans. (a) Only errors which are apparent on the face of the record

Q2. What is an error apparent on the face of the record?

- (a) If it can be proved by additional evidence not available at the time of passing the order
- (b) If it is evident from the record itself and does not require long drawn out reasoning
- (c) If it is error on points of law
- (d) If it is only a clerical or arithmetic error

Ans. (b) If it is evident from the record itself and does not require long drawn out reasoning

Q3. What is the time limit to apply for rectification?

- (a) Normally 3 months extendable to 6 months in all cases
- (b) Normally 3 months and on sufficient cause shown the delay can be condoned

- (c) Strictly 3 months
- (d) Normally 3 months extendable to 6 months, but in case of clerical or arithmetic mistakes, the 6 months outer limit is not applicable.

Ans (d) Normally 3 months extendable to 6 months, but in case of clerical or arithmetic mistakes, the 6 months outer limit is not applicable

Q4. Who can seek rectification?

- (a) Only the authority itself
- (b) The authority itself, an officer or the affected person
- (c) Only an officer
- (d) Only the affected person

Ans. (b) The authority itself, an officer or the affected person

Q5. If a proceeding is pending before a higher forum can rectification be sought for?

- (a) No
- (b) Yes
- (c) With the permission from the Appellate Authority
- (d) None of the above

Ans. (b) Yes

Q6. What is the scope of rectification? Whether any part of the order can be rectified?

- (a) Once it is proved that there is error apparent, any part of the decision can be rectified
- (b) Only the part dealing with legal aspect can be rectified
- (c) Only the part dealing with clerical or arithmetic aspect can be rectified
- (d) The authority cannot amend the substantive part of the decision etc.

Ans (a) Once it is proved that there is error apparent, any part of the decision can be rectified

Q7. Whether principle of natural justice to be followed?

- (a) As it is a quasi-judicial function the authority must give notice and follow principles of natural justice
- (b) As it is only a rectification of apparent error principles of natural justice is not applicable
- (c) If there is an adverse effect then principles of natural justice have to be complied with
- (d) If it relates to assessment principles of natural justice have to be complied with

Ans (a) As it is a quasi-judicial function the authority must give notice and follow principles of natural justice

### Statutory provisions

#### **162. Bar on jurisdiction of civil courts**

*Save as provided in sections 117 and 118, no civil court shall have jurisdiction to deal with or decide any question arising from or relating to anything done or purported to be done under this Act.*

#### **162.1 Introduction**

With the advent of administrative law whereby the departmental machinery has been created to deal with disputes, civil court jurisdiction is restricted. Earlier whenever a new tax liability was created machinery provisions to deal with disputes were also in-built. Otherwise, civil court had a jurisdiction to deal with all disputes of civil nature. Under Sections 116 and 117, appeal to High Court and Special leave to the Supreme Court are provided. These are the only instances when this bar to approach Court is not applicable, as it is a statutory appeal and only questions of law could be raised.

#### **162.2 Analysis**

The basic principle is that every dispute of civil nature can be tried by the civil court. Tax being a civil liability its levy, imposition and collection can be challenged before the Civil Court.

Over a period of time, tribunals were created for trying disputes arising under each legislation without the rigours of Civil Procedure Code to be followed, where non-judicial members preside and persons representing are well versed in the specific domain though not always from the judiciary. In order to avoid duplication of judicial for a, civil court jurisdiction has been barred. The principle is that if a statute creates a new liability or obligation and provides for machinery, then this impliedly bars civil court's jurisdiction. Under GST law, it is expressly barred. This however, does not bar the writ jurisdiction and appellate jurisdiction of High Courts and Supreme Court.

The clause "any question arising from or relating to anything done or purported to be done under the Act;" makes a strict rule barring even those which are purportedly done under Act. Except to sit in judgement about the vires of the law itself, the appellate machinery created by the law can go into any question of fact or law. However, the clause does not bar the Constitutional powers of High Court under Article 226 & 227 or Supreme Court under Article 32 & 136 etc.

Section 116 relates to appeal on substantial question of law to High Court and Section 117 a leave to appeal therefrom to Supreme Court.

#### **162.3 Comparative Review**

All erstwhile indirect tax laws bar exercise of jurisdiction by Civil Courts as the tax laws provide for an alternative and effective mechanism to deal with tax disputes.

**162.4 Relevant rules**

Though the civil courts do not have jurisdiction to deal with any question relating to this Act, however as per Rule 146 for the purpose of recovery of tax from a defaulter the civil court will have to pass a decree on request by a proper officer.

**162.5 FAQs**

Q1. Why a civil suit cannot be filed against an order passed under the Act?

Ans. Remedies of different nature are provided under the Act. Further, there are constitutional remedies also. Therefore, the Act bars filing of civil suits against any order passed under the Act.

**Statutory provisions****163. Levy of Fee**

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

**163.1 Introduction**

This provision empowers the Central Government to collect fees for supplying copy of the orders / documents.

**163.2 Analysis**

Document or order must be served on the party concerned. But to receive an authentic copy of such document or order, a fee is being prescribed. It is important to note that a new procedure of securing an authenticated copy of the document or order is provided for. This is similar to the procedure prescribed under CPC for receiving documents.

**163.3 Comparative review**

- (i) Under the extant legislations (Central Excise / Service Tax / VAT Laws), there is no exclusive provision to give copies of any document or order against payment of fees.
- (ii) This provision will lead to issuance of a separate notification, indicating the fees to be paid for obtaining the copies of the various orders / documents.
- (iii) This could indirectly convey the intention of the Government to give copies of any document / order against the fees.
- (iv) If an order served to the registered person is lost the same may be obtained by paying a prescribed fee
- (v) The Right to Information law also deals with provision of information/ documents for a prescribed fee.

**163.4 FAQs**

Q1. Should a person pay fees for obtaining copy of Show Cause Notice?



Ans: 'Document' is not defined. It can include Show Cause Notices also.

Q2. How much fees is to be paid?

Ans: It shall be prescribed by a separate notification.

Q3. Should a person pay fees to obtain the application?

Ans: The person may have to pay fees, if prescribed by the notification.

Q4. Will this provision cover the fees for submission of appeals?

Ans: No. This provision deals only with obtaining copies of pre-existing orders / documents and not filing appeal related documents. For appeals fees, the relevant Sections must be referred to.

Q5. Can a person obtain a copy of an internal document of the department?

Ans: The intention of the provision is to obtain the copy of any order / document, to which a person is normally entitled to. He cannot access the internal communication through this provision. However, such information/document can be obtained under RTI law.

### 163.5 MCQs

Q1. A person need not pay fees for:

- (a) Primary copy of the Appellate Order
- (b) Copy of the Show Cause Notice (lost by the assessee)
- (c) Copy of the Adjudication Order
- (d) All of the above

Ans. (a) Primary copy of the Appellate Order

Q2. Fees must be paid

- (a) Before obtaining the Copy of Order
- (b) After obtaining the Copy of Order

Ans. (a) Before obtaining the Copy of Order

### Statutory provisions

#### **164. Power of Government to make rules**

- (1) *The Government may, on the recommendations of the Council, by notification, make rules for carrying out the provisions of this Act.*
- (2) *Without prejudice to the generality of the provisions of sub-section (1), the Government may make rules for all or any of the matters which by this Act are required to be, or may be, prescribed or in respect of which provisions are to be or may be made by rules.*

- (3) *The power to make rules conferred by this section shall include the power to give retrospective effect to the rules or any of them from a date not earlier than the date on which the provisions of this Act come into force.*
- (4) *Any rules made under sub-section (1) or sub-section (2) may provide that a contravention thereof shall be liable to a penalty not exceeding ten thousand rupees.*

### 164.1 Introduction

This is delegation of legislation to the administrative authority, which has become a regular practice and a standard feature of modern legislation. This has to be read with Section 165 regarding regulations. While under this Section the Government is given the power to make rules, under Section 165 power to make regulations is given to the Board and Commissioner of SGST. There is a general power under sub-section (1) and specific power under sub-section (2) which is also a standard structure.

### 164.2 Analysis

The reason for the delegation of legislation is that the Legislature cannot take care of all aspects of creating law, due to the enormous responsibility and also, that it is better to leave it to the bureaucracy / Officials to fill in the gaps, after laying down general principles.

Two important principles are:

- a) The essential legislative function i.e., laying down the policy, has to be carried out by the legislature and only lesser aspects can be left to the administration.
- b) The legislative policy behind the areas where it is delegated must be known from the legislation itself, so that the administrative authority remains within bounds while making the rules.

It is part of the separation of powers that legislative power is exercised by the legislature and executive only administers it. Delegation requires superintendence of the legislature. Although express supervisory provisions are not contained in this Section, the boundaries of delegation must be identified by the limits set from the words used to describe the topics on which rules (or regulations) are to be notified.

The general rule making power is granted to the Central and State Governments. The rule making power is subject to a procedural limitation that it can be made only when there is a recommendation by the Council. Such rule making power also includes power to issue notifications with retrospective effect under the rules.

General powers to carry into effect the purposes of this Act are provided by vesting the appropriate Government with the rule making power to fill in the gaps with expression "as may be prescribed". This does not limit the general rule making power to carry out the purposes of the Act.

Legislature has an inherent power to make retrospective laws but the delegated authority can make retrospective rules but not earlier than the date of commencement of this Chapter XXI.

Finally, in order to ensure the rules are enforceable, breach of the rules are recognized as a cause for imposing penalty not exceeding Rs. 10,000/-. It is interesting that a particular breach while being a breach of the specific rule attracting penalty may also be the breach of the substantive provision of law attracting penalty under Sections 73/74 of the Act.

### 164.3 Comparative review

Rulemaking power is an important adjunct of modern Administrative legislation. It features in Income Tax Act, Central Excise, Customs, Service Tax and Different Sales tax and other laws as well.

### 164.4 Related provisions

Statute	Section / Rule / Form	Description
Central Excise Act, 1984	Section 37. Power of Central Government to make rules.	(1) The Central Government may make rules to carry into effect the purposes of this Act. (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for specific matters.
Chapter V of the Finance Act, 1994	<b>Section 94</b> Power to make rules. -	(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Chapter. (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the specific matters stated therein.

### 164.5 Relevant rules

Central Government has notified Rules via *notification no. 3/2017- Central tax dated 19.06.2017* which has been further amended by *notification no. 7/2017- central tax dated 27.06.2017*, *notification no. 10/2017 –central tax dated 28.06.2017*, *notification no. 15/2017-central tax dated 1.07.2017*, *notification no. 17/2017-central tax dated 27.07.2017*, *notification no. 22/2017-central tax dated 17.08.2017*, *notification no. 27/2017-central tax dated 30.08.2017*, *notification no. 34/2017-central tax dated 15.09.2017*, *notification no. 36/2017-central tax dated 29.09.2017*, *notification no. 45/2017-central tax dated 13.10.2017*, *notification no. 47/2017-central tax dated 18.10.2017*, *notification no. 51/2017-central tax dated 28.10.2017* and *notification no. 55/2017-central tax dated 15.10.2017*

### 164.6 FAQs

Q1. What is the purpose of making rules?

Ans: The principal legislation lays down policy in general. It requires specifics and details for implementation. These are taken care of by the Rules.

**164.7 MCQs**

Q1. Whether the rules can be made with retrospective effect?

- (a) Yes
- (b) No
- (c) Yes, subject to the limitation that it cannot be made beyond the date on which the Chapter-XXI comes into force
- (d) None of the above

Ans. (c) Yes, subject to the limitation that it cannot be made beyond the date on which the Chapter-XXI comes into force

**Statutory provisions****165. Power to make regulations**

*The Board may, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act.*

**165.1 Introduction**

While topics for rule making are listed under Section 164 leaving the domain to the appropriate Government, topics for making regulation listed under Section 165 are reserved for the Board. These are mutually exclusive domains.

**165.2 Analysis**

The Board is empowered to notify regulations consistent with the objects of the Act. No recommendation of the GST Council is called for in this case.

Specific topics to issue regulations are also provided for though not listed for the time being.

**165.3 Comparative review**

Section 156 and 157 of Customs Act where topics are allocated to Central Government and Central Board of Excise and Customs.

Section 37 of the Central Excise Act, 1944

**Statutory provisions****166. Laying of rules, regulations and notifications**

*Every rule made by the Government, every regulation made by the Board and every notification issued by the Government under this Act, shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or*

*regulation or in the notification, as the case may be, or both Houses agree that the rule or regulation or the notification should not be made, the rule or regulation or notification, as the case may be, shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation or notification, as the case may be.*

### **166.1 Introduction**

This Section lays down the general procedure of laying delegated legislations before the Parliament for a prescribed duration.

### **166.2. Analysis**

- (a) The Act permits making of rules by Government, issuance of regulation by Board and issuance of notification by the Government.
- (b) Such rule, regulation and notification, which is a part of delegated legislation is placed before the Parliament.
- (c) It is laid before the Parliament, as soon as may be after it is made or issued, when the Parliament is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions.
- (d) Before the expiry of the session or successive sessions both Houses may make suitable modifications and would have effect in such modified form.
- (e) However, any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation or notification, as the case may be.

### **166.3. Comparative Review**

Similar provisions are there in the erstwhile tax laws as well.

### **Statutory provisions**

#### **167. Delegation of Powers**

*The Commissioner may, by notification, direct that subject to such conditions, if any, as may be specified in the notification, any power exercisable by any authority or officer under this Act may be exercisable also by another authority or officer as may be specified in such notification.*

### **167.1 Introduction**

This section enables the Competent Authority to delegate the power exercisable by one authority to another.

### **167.2 Analysis**

The power conferred on one officer or authority under the Act can be exercised by another

authority or officer if directed by the Competent Authority. This direction of the Competent Authority must be notified in the Gazette. Such power can be limited by conditions specified in the notification. Significantly, there is no condition, criterion or circumstance stated for exercising this power by the Competent Authority. It is important to note that upon notification of such direction by the Competent Authority, it does exclude the first authority or officer who was originally delegated from exercising such power.

This is an administrative power to ensure swift response to situations where an authority or officer better placed to carry out the duties (by exercising the power) has not been originally conferred with the power by delegation. In such cases, instead of awaiting the revision in delegation, the delegation is permitted to be redirected at the discretion of the Competent Authority for purposes of the Act.

### 167.3 Comparative review

Delegation of powers for administrative exigencies is part of laws dealing with administrative powers

### 167.4 Related provisions

Statute	Section / Rule / Form	Description
Central Excise Act, 1944	Section 37A. Delegation of powers	<p>The Central Government may, by notification in the Official Gazette direct that subject to such conditions, if any, as may be specified in the notification -</p> <ul style="list-style-type: none"> <li>(a) any power exercisable by the Board under this Act may be exercisable also by a Chief Commissioner of Central Excise or a Commissioner of Central Excise empowered in this behalf by the Central Government;</li> <li>(b) any power exercisable by a Commissioner of Central Excise under this Act may be exercisable also by a Joint Commissioner of Central Excise or an Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise empowered in this behalf by the Central Government;</li> <li>(c) any power exercisable by a Joint Commissioner of Central Excise under this Act may be exercisable also by an Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise empowered in this behalf by the Central Government; and</li> <li>(d) any power exercisable by an Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise under this Act may be exercisable also by a gazetted officer of Central Excise empowered in this behalf by the Board.</li> </ul>

**167.5 FAQs**

Q1. How does the assessee know whether an officer is properly delegated?

Ans. As the delegation has to be through notification, by referring to the notification it can be ascertained whether the officer is properly delegated or not.

**167.6 MCQs**

Q1. Which of the following statements is correct?

- (a) An officer may delegate his powers to his subordinate
- (b) The delegation can be done by way of an internal memo
- (c) No conditions can be imposed
- (d) The delegation can be done only by a competent authority by way of a notification

Ans. (d) The delegation can be done only by a competent authority by way of a notification

Q2. Who can delegate the powers?

- (a) The officer who is exercising the power
- (b) Appropriate Government
- (c) The Competent Authority
- (d) All of the above

Ans. (c) The Competent Authority

**Statutory provisions****168. Power to issue instructions or directions**

- (1) *The Board may, if it considers it necessary or expedient so to do for the purpose of uniformity in the implementation of this Act, issue such orders, instructions or directions to the central tax officers as it may deem fit, and thereupon all such officers and all other persons employed in the implementation of this Act shall observe and follow such orders, instructions or directions.*
- (2) *The Commissioner specified in clause (91) of section 2, sub-section (3) of section 5, clause (b) of sub-section (9) of section 25, sub-sections (3) and (4) of section 35, sub-section (1) of section 37, sub-section (2) of section 38, sub-section (6) of section 39, sub-section (5) of section 66, sub-section (1) of section 143, sub-section (1) of section 151, clause (l) of sub-section (3) of section 158 and section 167 shall mean a Commissioner or Joint Secretary posted in the Board and such Commissioner or Joint Secretary shall exercise the powers specified in the said sections with the approval of the Board.*

**168.1 Introduction**

This Section empowers the Competent Authority to issue orders, instruction or directions to the lower authorities to bring in uniformity in the implementation of the Act.

**168.2 Analysis**

There are three aspects to the provision, namely:

- authority issuing the instruction;
- persons whom it binds, and
- its efficacy.

It is the Competent Authority who is empowered to issue the orders, instruction or directions. The purpose is to bring in uniformity in the implementation of the Act; and it is binding on all GST officers.

Thus, any circular which is general or administrative in nature is binding on the assessing officer and other officers at basic level. Once the circular is cited they cannot ignore it and decide the matter independently. The circular or instruction is not binding on the assessee. As regards contrary views regarding binding force of a circular which is against the legal provisions on the assessee or the Authorities is not expressly addressed in this Section. However, officers are not liable for passing orders contrary to law involving interpretation by higher judiciary if it can be shown that such orders are in conformity with orders, instruction or directions issued under this Section.

Sub-section (2) of section 168 designates the Commissioner or Joint Secretary posted in the Board for exercising certain powers conferred under specific provisions. Such powers would be exercised with the approval of the Board.

**168.3 Comparative review**

Central Excise, Customs, majority of the State VAT enactments and Income Tax contain similar provisions.

**168.4 Related provisions**

Statute	Section / Rule / Form	Description
Central Excise Act, 1984	Section 37B. Instructions to Central Excise Officers. -	The Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963), may, if it considers it necessary or expedient so to do for the purpose of uniformity in the classification of excisable goods or with respect to levy of duties of excise on such goods, issue such orders, instructions and directions to the Central Excise Officers as it may deem fit, and such officers and all other persons employed in the execution of this Act shall observe and follow such orders, instructions and directions



Statute	Section / Rule / Form	Description
		<p>of the said Board:</p> <p><i>Provided</i> that no such orders, instructions or directions shall be issued)</p> <p>so as to require any Central Excise Officer to make a particular assessment or to dispose of a particular case in a particular manner; or</p> <p>so as to interfere with the discretion of the Commissioner of Central Excise (Appeals) in the exercise of his appellate functions.</p>

**168.5 Relevant orders**

Various orders have been brought in by the Board from time to time under this Section the gist of which are as follows:

Order-02/2018-GST	Incidence of GST on providing catering services in train
Order-01/2018-GST	Extension of date for submitting the statement in FORM GST TRAN-2 under rule 117(4)(b)(iii) of the Central Goods and Service Tax Rules, 2017
Order-11/2017-GST	Extension of time limit for intimation in FORM GST CMP-03
Order-10/2017-GST	Seeks to extend the due date for revision of FORM GST TRAN-1
Order-09/2017-GST	Seeks to extend the due date for submitting FORM GST TRAN-1
Order-08/2017-GST	Extension of time limit for submitting the declaration in FORM GST TRAN-1 under rule 120A
Order-07/2017-GST	Extension of time limit for submitting the declaration in FORM GST TRAN-1 under rule 117
Order-06/2017-GST	Extension of time limit for submitting application in FORM GST REG-26
Order-05/2017-GST	Extension of time limit for intimation of details of stock in FORM GST CMP-03
Order-01/2017-Central Tax	To remove difficulties in implementing provisions of composition scheme.

Order-04/2017-GST	Extension of time limit for intimation of details in FORM GST CMP-03
Order-03/2017-GST	Extension of time limit for submitting the declaration in FORM GST TRAN-1
Order-02/2017-GST	Extension of time limit for submitting the declaration in FORM GST TRAN-1
Order-01/2017	Extension of date for filing option for composition scheme

**Circulars pertaining to Sec 168 of CGST Act, 2017**

<b>Circular No.</b>	<b>Summary</b>
02/2017 dt 04-07-2017	Issues related to furnishing of Bond/ Letter of Undertaking for Exports-Reg
04/2017 dt. 07-07-2017	Regarding issues related to Bond/Letter of Undertaking for exports without payment of integrated tax – Reg.
05/2017 dt 11-08-2017	Circular on Bond/LUT in case of exports without payment of integrated tax
08/2017 dt 04-10-2017	Clarification on issues related to furnishing of Bond/LUT for exports
10/2017 dt 18-10-2017	Clarification on movement of goods on approval basis
17/2017 dt 15-11-2017	Manual filing and processing of refund claims in respect of zero-rated supplies
22/2017 dt 21-12-2017	Clarification on issues regarding treatment of supply by an artist in various States and supply of goods by artists from galleries
23/2017 dt 21-12-2017	Issues in respect of maintenance of books of accounts relating to additional place of business by a principal or an auctioneer for the purpose of auction of tea, coffee, rubber etc
24/2017 dt 21-12-2017	Manual filing and processing of refund claims on account of inverted duty structure, deemed exports and excess balance in electronic cash ledger
25/2017 dt 21-12-2017	Manual filing of applications for Advance Ruling and appeals before Appellate Authority for Advance Ruling
26/2017 dt 29-12-2017	Filing of returns under GST
33/2018 dt 23-02-2018	Directions under Section 168 of the CGST Act regarding non-transition of CENVAT credit under section 140 of CGST Act or non-utilization thereof in certain cases-reg..

36/2018 dt 13-03-2018	Processing of refund application for UIN entities
37/2018 dt 15-03-2018	Clarifications on exports related refund issues
38/2018 dt 26-03-2018	Clarifications on issues related to Job Work
40/2018 dt 06-04-2018	Clarification on issues related to furnishing of Bond/Letter of Undertaking for exports – Reg.
42/2018 dt 13-04-2018	Clarifying the procedure for recovery of arrears under the existing law and reversal of inadmissible input tax credit.
43/2018 dt 13-04-2018	Clarifying the issues arising in refund to UIN.

**168.6 MCQs**

1. The Competent Authority can issue instruction to the field formation to bring in uniformity to all officers
  - (a) True
  - (b) False

Ans (a) True

**Statutory provisions****169. Service of notice in certain circumstances**

- (1) Any decision, order, summons, notice or other communication under this Act or the rules made thereunder shall be served by any one of the following methods, namely: —
  - (a) by giving or tendering it directly or by a messenger including a courier to the addressee or the taxable person or to his manager or authorised representative or an advocate or a tax practitioner holding authority to appear in the proceedings on behalf of the taxable person or to a person regularly employed by him in connection with the business, or to any adult member of family residing with the taxable person; or
  - (b) by registered post or speed post or courier with acknowledgement due, to the person for whom it is intended or his authorised representative, if any, at his last known place of business or residence; or
  - (c) by sending a communication to his e-mail address provided at the time of registration or as amended from time to time; or
  - (d) by making it available on the common portal; or
  - (e) by publication in a newspaper circulating in the locality in which the taxable person or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain; or

- (f) *if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence and if such mode is not practicable for any reason, then by affixing a copy thereof on the notice board of the office of the concerned officer or authority who or which passed such decision or order or issued such summons or notice.*
- (2) *Every decision, order, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed in the manner provided in sub-section (1).*
- (3) *When such decision, order, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.*

### 169.1 Introduction

Service of communication is an essential step of any process of law. This Section details the mode of service that is considered valid.

### 169.2 Analysis

- (i) **Communication:** Any decision, order, summons, notice or other communication under the Act or the rules.
- (ii) **Modes of Communication:** The above documents can be served on the assessee in the following modes:
  - (a) **Mode 1 – Physical Delivery:**
    - Giving or tendering it directly; or
    - Delivery through a messenger including a courier;
    - The documents can be delivered to:
      - (i) The addressee / the taxpayer / to his manager;
      - (ii) The agent duly authorized / an advocate / a tax practitioner (who holds authority to appear in the proceeding on behalf of the taxpayer);
      - (iii) A person regularly employed by him in connection with the business;
      - (iv) Any adult member of family residing with the taxpayer.
  - (b) **Mode 2 – Regd. Post /speed post or Courier with acknowledgement due:**

It should be sent to intended person or his authorised representative at his last known place of business or residence.
  - (c) **Mode 3 – Electronic Means:**

Email or notifying on common portal (GSTN).

- (d) **Mode 4 – Media:** Publication in a newspaper (in the locality in which the taxpayer or the person to whom it is issued is known to have resided, carried on business or personally worked for gain)
- (e) **Mode 5 – Other Modes:** If above modes fail, then it can be served by
- Affixing it in some conspicuous place at his last known place of business or residence or
  - If above mode is not practicable, service of notice can be by affixing a copy on the notice board of the officer or authority issuing such communication.
- (iii) **Date of service**
- **Normal Cases:** The above communications shall be treated as served on the date on which it is tendered or published or a copy thereof is affixed (as mentioned above)
  - **Registered or Speed Post:** If such communications are sent by registered/speed post, it shall be treated as received by the addressee at the expiry of the normal period taken by such post in transit (unless the contrary is proved).

### 169.3 Comparative review

The following are the major improvements / inclusions made in the GST Law as against the erstwhile provisions available in Central Excise / Service Tax:

Points of Distinction	Remarks
New Modes of Service included	<ul style="list-style-type: none"> <li>— Delivery through a messenger including a courier;</li> <li>— Courier (no specific mention about whether it is approved by CBEC);</li> <li>— Electronic Means (E-mail/common portal);</li> <li>— Publication in Newspaper.</li> </ul>
Additional Addressees (if main addressee is not available)	<p>Delivery through messenger or by courier to following persons are accepted:</p> <p>A person regularly employed by him in connection with the business /</p> <p>Any adult member of family residing with the taxpayer</p>
Deemed Delivery under registered post	A specific clause is added under the GST Law which indicates that if communications are sent by registered/speed post, <i>it shall be treated as received by the addressee at the expiry of the normal period taken by such post in transit.</i>
Type of communication	<p>The proposed Section covers any communication issued under the law.</p> <p>In the extant Central Excise Law, Section 37C covers <i>decision / order / summons / notice.</i></p>

	Any communication might include intimation letters sent under the law, trade letters issued, acknowledgments issued etc.
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**169.4 Related provisions**

Section 169 relates to all communications issued under the law and hence any communication given under any provision, shall be governed by this provision.

**169.5 FAQs**

Q1. What are the approved modes of communication?

Ans: Physical Delivery, Registered Post, Courier, Email, common portal, publication in newspaper, affixing of notice on place of business or residence of the addressee, notice board of the Authority which has issued notice.

Q2. If post is used but acknowledgment due is not given, is it approved?

Ans: Post with Acknowledgment due is essential to make it valid.

Q3. If mail is sent to an invalid mail ID, is it valid?

Ans: Mail sent to the last known E-mail ID of the Addressee shall be considered valid communication. However, if the addressee is able to prove that such communication is not received by him, it can be invalid.

Q4. Whether notice must be sent to the person intended and to his authorized agent also or any one of them is sufficient?

Ans: The provision provides that if the notice is sent by courier or physical delivery to the person to whom it is intended or his authorized agent, it is sufficient.

Q5. Whether advertisement in local talks is considered valid service?

Ans: The provision provides that display in the newspaper shall be a valid service of notice. Hence, local talks prevalent in the place where the addressee normally resides or has place of business shall be treated as valid.

**169.6 MCQs**

Q1. Among the following, which method is not approved?

- (a) Post
- (b) Courier
- (c) Email
- (d) Notice to Addressee's Debtor

Ans: (d) Notice to Addressee's Debtor

Q2. Among the following, to whom the notice cannot be served?

- (a) Authorised Agent

- (b) Family Member
- (c) Employee
- (d) Partner

Ans (a) Authorised Agent

Q3. In case of registered post, if acknowledgment is not received within time, what shall be the date of service of notice?

- (a) Reasonable Time
- (b) Not considered as delivered
- (c) 30 days from sending the registered post
- (d) 45 days from sending the registered post

Ans (a) Reasonable Time

### Statutory provisions

#### **170. Rounding off of tax, etc.**

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

#### **170.1 Introduction**

This provision enables the tax payers and also the departmental authorities to round off the amounts calculated as per the law, if the amounts are in fraction of a rupee.

#### **170.2 Analysis**

- (i) **Amounts covered:** Tax, interest, penalty, fine or any other sum payable, and refund or any other sum due, under the Act.
- (ii) The above amounts shall be rounded off as under:

If amount contains a part of the rupee	Effect
≥ 50 paise	Must be increased to one rupee
< 50 paise	Part to be ignored

- (iii) The rounding off need not be done for every part of the tax contained in the invoice, whereas consolidated payment to Government has to be rounded off.
- (iv) The above provision is applicable for the assessee, for the department (while issuing show cause notice or passing the order, etc.) and also for the Appellate Authorities.

**170.3 Comparative review**

Similar enabling provisions are available in Central Excise Act (Sec.37D), Service Tax Provisions (Sec.83 of the Finance Act 1994) and also in State VAT Provisions.

**170.4 Related provisions**

This provision shall apply to any amount calculated under the other provisions of the Act.

**170.5 FAQs**

Q1. If the Show Cause Notice mentions the tax as Rs.102.30 and penalty as Rs.102.30, then what is the amount payable?

Ans: As per Sec.170, if the paise is less than 50 then that part has to be ignored. Total amount payable is Rs.102 + Rs.102 = Rs.204.

Q2. Whether the rounding off provision applies to Pre-deposit?

Ans: Yes, any amount payable under the act is subject to rounding off provisions. Hence, even Pre-Deposit is rounded off as per the above Section.

Q3. If the assessee has raised multiple invoices, then the rounding off is to be made for the consolidated amount of tax or for the tax amount mentioned in each invoice?

Ans: Rounding off must be made for the tax payable under the Act. It applies to each invoice as tax is payable on each invoice. Further, the rounding off must be made for each part of tax (CGST and SGST separately).

**170.6 MCQs**

Q1. If the amount of tax is Rs.2,15,235.50, then the amount shall be rounded off as:

- (a) 2,15,236
- (b) 2,15,235
- (c) 2,15,235.50
- (d) 2,15,240

Ans (a) 2,15,236

Q2. What are the amounts that can be rounded off as per this section?

- (a) Interest
- (b) Tax
- (c) Penalty
- (d) All of the above

Ans: (d) All of the above

Q3. Which of the following shall be rounded off?

- (a) CGST



- (b) SGST
- (c) Both
- (d) None of the above

Ans: (c) Both

### Statutory provisions

#### **171. Anti-profiteering measure**

- (1) Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices.
- (2) The Central Government may, on recommendations of the Council, by notification, constitute an Authority, or empower an existing Authority constituted under any law for the time being in force, to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.
- (3) The Authority referred to in sub-section (2) shall exercise such powers and discharge such functions as may be prescribed.

### Extract of the relevant rules from the CGST Rules, 2017

#### **122. Constitution of the Authority**

The Authority shall consist of,-

- (a) a Chairman who holds or has held a post equivalent in rank to a Secretary to the Government of India; and
- (b) four Technical Members who are or have been Commissioners of State tax or central tax for at least one year or have held an equivalent post under the existing law, to be nominated by the Council.

#### **123. Constitution of the Standing Committee and Screening Committees**

- (1) The Council may constitute a Standing Committee on Anti-profiteering which shall consist of such officers of the State Government and Central Government as may be nominated by it.
- (2) A State level Screening Committee shall be constituted in each State by the State Governments which shall consist of-
  - (a) one officer of the State Government, to be nominated by the Commissioner, and
  - (b) one officer of the Central Government, to be nominated by the Chief Commissioner.

#### **124. Appointment, salary, allowances and other terms and conditions of service of the Chairman and Members of the Authority**

- (1) The Chairman and Members of the Authority shall be appointed by the Central

Government on the recommendations of a Selection Committee to be constituted for the purpose by the Council.

- (2) The Chairman shall be paid a monthly salary of Rs. 2,25,000 (fixed) and other allowances and benefits as are admissible to a Central Government officer holding posts carrying the same pay:

*Provided that where a retired officer is selected as a Chairman, he shall be paid a monthly salary of Rs. 2,25,000 reduced by the amount of pension.*

- (3) The Technical Member shall be paid a monthly salary and other allowances and benefits as are admissible to him when holding an equivalent Group 'A' post in the Government of India: *Provided that where a retired officer is selected as a Technical Member, he shall be paid a monthly salary equal to his last drawn salary reduced by the amount of pension in accordance with the recommendations of the Seventh Pay Commission, as accepted by the Central Government.*

- (4) The Chairman shall hold office for a term of two years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for reappointment:

*Provided that a person shall not be selected as the Chairman, if he has attained the age of sixty-two years.*

*Provided further that the Central Government with the approval of the Chairperson of the Council may terminate the appointment of the Chairman at any time.*

- (5) The Technical Member of the Authority shall hold office for a term of two years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for reappointment:

*Provided that a person shall not be selected as a Technical Member if he has attained the age of sixty-two years.*

*Provided further that the Central Government with the approval of the Chairperson of the Council may terminate the appointment of the Technical Member at any time.*

#### **125. Secretary to the Authority**

An officer not below the rank of Additional Commissioner (working in the Directorate General of Safeguards) shall be the Secretary to the Authority.

#### **126. Power to determine the methodology and procedure**

The Authority may determine the methodology and procedure for determination as to whether the reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit has been passed on by the registered person to the recipient by way of commensurate reduction in prices.

#### **127. Duties of the Authority**

It shall be the duty of the Authority,-

- (i) to determine whether any reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit has been passed on to the recipient by way of

*commensurate reduction in prices;*

*(ii) to identify the registered person who has not passed on the benefit of reduction in the rate of tax on supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices;*

*(iii) to order,*

*(a) reduction in prices;*

*(b) return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with interest at the rate of eighteen percent. from the date of collection of the higher amount till the date of the return of such amount or recovery of the amount not returned, as the case may be, in case the eligible person does not claim return of the amount or is not identifiable, and depositing the same in the Fund referred to in section 57;*

*(c) imposition of penalty as specified in the Act; and*

*(d) cancellation of registration under the Act.*

*(iv) to furnish a performance report to the Council by the tenth day of the close of each quarter.*

#### **128. Examination of application by the Standing Committee and Screening Committee**

*(1) The Standing Committee shall, within a period of two months from the date of the receipt of a written application, in such form and manner as may be specified by it, from an interested party or from a Commissioner or any other person, examine the accuracy and adequacy of the evidence provided in the application to determine whether there is prima-facie evidence to support the claim of the applicant that the benefit of reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit has not been passed on to the recipient by way of commensurate reduction in prices.*

*(2) All applications from interested parties on issues of local nature shall first be examined by the State level Screening Committee and the Screening Committee shall, upon being satisfied that the supplier has contravened the provisions of section 171, forward the application with its recommendations to the Standing Committee for further action.*

#### **129. Initiation and conduct of proceedings**

*(1) Where the Standing Committee is satisfied that there is a prima-facie evidence to show that the supplier has not passed on the benefit of reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices, it shall refer the matter to the Director General of Safeguards for a detailed investigation.*

*(2) The Director General of Safeguards shall conduct investigation and collect evidence necessary to determine whether the benefit of reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit has been passed on to the recipient by way of commensurate reduction in prices.*

*(3) The Director General of Safeguards shall, before initiation of the investigation, issue a*

notice to the interested parties containing, inter alia, information on the following, namely:-

- (a) the description of the goods or services in respect of which the proceedings have been initiated;
  - (b) summary of the statement of facts on which the allegations are based; and
  - (c) the time limit allowed to the interested parties and other persons who may have information related to the proceedings for furnishing their reply.
- (4) The Director General of Safeguards may also issue notices to such other persons as deemed fit for a fair enquiry into the matter.
- (5) The Director General of Safeguards shall make available the evidence presented to it by one interested party to the other interested parties, participating in the proceedings.
- (6) The Director General of Safeguards shall complete the investigation within a period of three months of the receipt of the reference from the Standing Committee or within such extended period not exceeding a further period of three months for reasons to be recorded in writing as may be allowed by the Authority and, upon completion of the investigation, furnish to the Authority, a report of its findings along with the relevant records.

#### **130. Confidentiality of information**

- (1) Notwithstanding anything contained in sub-rules (3) and (5) of rule 129 and sub-rule (2) of rule 133, the provisions of section 11 of the Right to Information Act, 2005 (22 of 2005), shall apply mutatis mutandis to the disclosure of any information which is provided on a confidential basis.
- (2) The Director General of Safeguards may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of the party providing such information, the said information cannot be summarised, such party may submit to the Director General of Safeguards a statement of reasons as to why summarisation is not possible.

#### **131. Cooperation with other agencies or statutory authorities**

Where the Director General of Safeguards deems fit, he may seek opinion of any other agency or statutory authorities in the discharge of his duties.

#### **132. Power to summon persons to give evidence and produce documents**

- (1) The Director General of Safeguards, or an officer authorised by him in this behalf, shall be deemed to be the proper officer to exercise the power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing under section 70 and shall have power in any inquiry in the same manner, as provided in the case of a civil court under the provisions of the Code of Civil Procedure, 1908 (5 of 1908).
- (2) Every such inquiry referred to in sub-rule (1) shall be deemed to be a judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860).

**133. Order of the Authority**

- (1) *The Authority shall, within a period of three months from the date of the receipt of the report from the Director General of Safeguards determine whether a registered person has passed on the benefit of the reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices.*
- (2) *An opportunity of hearing shall be granted to the interested parties by the Authority where any request is received in writing from such interested parties.*
- (3) *Where the Authority determines that a registered person has not passed on the benefit of the reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices, the Authority may order-*
  - (a) *reduction in prices;*
  - (b) *return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with interest at the rate of eighteen percent. from the date of collection of the higher amount till the date of the return of such amount or recovery of the amount including interest not returned, as the case may be, in case the eligible person does not claim return of the amount or is not identifiable, and depositing the same in the Fund referred to in section 57;*
  - (c) *imposition of penalty as specified under the Act; and*
  - (d) *cancellation of registration under the Act.*
- (4) *If the report of the Director General of Safeguards referred to in sub-rule (6) of rule 129 recommends that there is contravention or even non-contravention of the provisions of section 171 or these rules, but the Authority is of the opinion that further investigation or inquiry is called for in the matter, it may, for reasons to be recorded in writing, refer the matter to the Director General of Safeguards to cause further investigation or inquiry in accordance with the provisions of the Act and these rules.*

**134. Decision to be taken by the majority**

- (1) *A minimum of three members of the Authority shall constitute quorum at its meetings.*
- (2) *If the Members of the Authority differ in their opinion on any point, the point shall be decided according to the opinion of the majority of the members present and voting, and in the event of equality of votes, the Chairman shall have the second or casting vote.*

**135. Compliance by the registered person**

*Any order passed by the Authority under these rules shall be immediately complied with by the registered person failing which action shall be initiated to recover the amount in accordance with the provisions of the Integrated Goods and Services Tax Act or the Central Goods and Services Tax Act or the Union territory Goods and Services Tax Act or the State Goods and Services Tax Act of the respective States, as the case may be.*

**136. Monitoring of the order**

*The Authority may require any authority of central tax, State tax or Union territory tax to monitor the implementation of the order passed by it.*

**137. Tenure of Authority**

*The Authority shall cease to exist after the expiry of two years from the date on which the Chairman enters upon his office unless the Council recommends otherwise.*

*Explanation.-For the purposes of this Chapter,*

- (a) "Authority" means the National Anti-profiteering Authority constituted under rule 122;*
- (b) "Committee" means the Standing Committee on Anti-profiteering constituted by the Council in terms of sub-rule (1) of rule 123 of these rules;*
- (c) "interested party" includes-*
  - a. suppliers of goods or services under the proceedings; and*
  - b. recipients of goods or services under the proceedings;*
  - c. any other person alleging, under sub-rule (1) of rule 128, that a registered person has not passed on the benefit of reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices.*
- (d) "Screening Committee" means the State level Screening Committee constituted in terms of sub-rule (2) of rule 123 of these rules.*

**171.1 Introduction**

The objective of this section is to ensure that with the introduction of GST, taxable persons are not getting excessive profits, but shall pass on the reduction in price to the consumers.

**171.2 Analysis**

The registered person is expected to reduce the price on account of availment of input tax credit or reduction in tax rates. An authority would be notified for this purpose, who would exercise powers and discharge functions in a prescribed manner.

Anti-Profiteering Rules (Rule 122 to Rule 137) as per Chapter-XV of CGST Rules, 2017 as notified by Central Government vide Notification No. 10/2017-Central tax dated 28-Jun-17 w.e.f. 1-Jul-17 which provides for Powers and Duties of Anti-Profiteering Authority and Compliances of Orders Passed by the authority.

On 16<sup>th</sup> November, 2017, the Union Cabinet has approved the establishment of the National Anti-Profiteering Authority. This is against the backdrop of reduction in GST rates for various goods and services effective from 15<sup>th</sup> November, 2017 after the 23<sup>rd</sup> GST Council Meeting on 6<sup>th</sup> November, 2017.

The newly established mechanism empowers the affected consumers to apply for relief to the Screening Committee in their state citing that the reduction in rates or increase of input tax credit has not resulted in a commensurate reduction in prices. Upon examination by the State

Level Screening Committee, the Screening Committee will forward the application along with its recommendations to the Standing Committee. In case, the incident of profiteering relates to an item of mass impact with 'All India Ramification', the application can directly be made to the Standing Committee. After forming a prima facie view that there is an element of profiteering, the Standing Committee will refer the matter for detailed investigation to the Director General of Safeguards, CBEC which will report the finding to the National Anti-Profiteering Authority. If the authority confirms the necessity to apply the anti-profiteering measure, it can order the business to reduce its prices or return the undue benefit along with interest to the recipient of goods or services. If the benefit cannot be passed on to the recipient, it can be ordered to be deposited with the Consumer Welfare Fund. In certain extreme cases, a penalty on the defaulting business entity and even an order for cancellation of GST registration may be issued. Its constitution aims to bolster the confidence of consumers to get the benefit of reduction in GST rates.

**Department of Consumer Affairs allows change in MRP on unsold stock prior to implementation of GST till 30th September 2017**

On account of implementation of GST w.e.f. 1st July, 2017, there may be instances where the retail sale price of a pre-packaged commodity is required to be changed. In this context, Ministry for Consumer Affairs, Food & Public Distribution has vide *Circular No. WM-10(31)/2017 dt. 4<sup>th</sup> July 2017* allowed the manufacturers or packers or importers of pre-packaged commodities to declare the change retail sale price (MRP) on the unsold stock manufactured/ packed/ imported prior to 1st July, 2017 after inclusion of the increased amount of tax due to GST if any, in addition to the existing retail sale price (MRP), for three months w.e.f. 1st July 2017 to 30th September, 2017. Declaration of the changed retail sale price (MRP) shall be made by way of stamping or putting sticker or online printing, as the case may be.

It is also clarified that 'for reducing the Maximum Retail Price (MRP), a sticker with the revised lower MRP (inclusive of all taxes) may be affixed and the same shall not cover the MRP declaration made by the manufacturer or the packer, as the case may be, on the label of the package'.

Use of unexhausted packaging material/wrapper has also been allowed upto 30th September, 2017 after making the necessary corrections.

The phrase "*the increased amount of tax due to GST, if any*" means "the effective increase in the tax liability calculated after taking into consideration extra availability of input tax credit under GST (including deemed credit available to the traders under CGST)"

Thus, the declaration of new MRP on unsold stock manufactured/packed/ imported prior to 1st July 2017 should not be done mechanically but after factoring in and taking into consideration extra availability of input tax credit under GST (including deemed credit available to traders under proviso to subsection (3) of section 140 of the CGST Act, 2017).

**171.3 Decisions of National Anti-Profiteering Authority:**

- a. An application was filed before the National Anti-profiteering Authority alleging that the reduced rate of tax under GST regime was not passed on to the applicant. The application was preferred on the grounds that rate of tax applicable to motor vehicle in preGST regime was 51% which was reduced to 29% in GST regime and such reduced tax rate benefit was not passed on to the applicant. The Authority perusing the details of value and tax charged made an observation that applicable rate of tax in pre-GST regime was 31.254% and not 51% as claimed by the applicant. Accordingly, it was observed that the applicant was only entitled for the tax rate benefit of 2% only which was rightly passed on to the applicant by way of reduction in sale price. As such, it is held that no additional benefit on account of ITC is required to be paid by the respondent and therefore, the application was dismissed as not valid. On these lines, the Authority held that the respondent has not contravened the provisions of Section 171. *[Sh. Dinesh Mohan Bhardwaj vs. M/s Vrandavaneshwree Automotive Private Limited reported in 2018-VIL-01-NAA]*
- b. An application was filed before the National Anti-Profiteering Authority on the grounds that the benefit of reduced rate of tax was not passed on to the consumers of 'India Gate Basmati Rice' since, there is an increase in MRP on the advent of GST which may have led to increase in the margin of the Respondent. The application was examined by the Standing Committee on Anti-Profiteering and was forwarded to the Director General Safeguards (DGSG) for detailed investigations. Upon perusal of the detailed report of the DGSG and the returns filed by the Respondent it was observed that the GST rate of tax applicable to such product is 5% which was at 0% in pre-GST regime. The input tax credit was available to the Respondent in the range of 2.69% to 3% as a percentage of value of taxable supplies and post implementation of GST the purchase price of paddy is also increased. Upon such observations, the Authority dismissed the application on the grounds that the increase in MRP of the product is attributable to the increase in rate of tax and increase in purchase price of paddy and is not on account of non-passing of the GST benefit to the consumers. *[Kumar Gandharv vs. KRBL Ltd., reported in 2018 (5) TMI 760 – National Anti-Profiteering Authority]*

**171.4 Comparative Review**

There is no such provision in the erstwhile tax laws. Similar provisions are there in other countries.

**171.5 FAQs**

Q1. Who will constitute the authority for anti-profiteering measure?

Ans. The Central Government, on recommendation of the Council, would notify.

Q2. What is the responsibility of the authority?

Ans. To examine whether:-

- a. Input tax credit availed by a taxable person have resulted in commensurate reduction in price of goods/ services;



- b. The reduction in price on account of reduction in tax rate has actually resulted in a commensurate reduction in price of goods/services.

### Statutory provisions

#### **172. Removal of difficulties**

- (1) *If any difficulty arises in giving effect to any provisions of this Act, the Government may, on the recommendations of the Council, by a general or a special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act or the rules or regulations made thereunder, as may be necessary or expedient for the purpose of removing the said difficulty:*

*Provided that no such order shall be made after the expiry of a period of three years from the date of commencement of this Act.*

- (2) *Every order made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament.*

#### **172.1 Introduction**

The responsibility to implement the legislatures will be of the appropriate Government. In doing this, the Act empowers the appropriate Government with the necessary power to remove any difficulty that may arise.

#### **172.2 Analysis**

- (i) If the Government identifies that there is a difficulty in implementation of any provision of the GST Legislations, it has powers to issue a general or special order, to carry out anything to remove such difficulty.
- (ii) Such activity of the Government must be consistent with the provisions of the Act and should be necessary or expedient.
- (iii) Maximum Time limit for passing such order shall be 3 years from the date of effect of the CGST Act.

#### **172.3 Comparative review**

The above provisions are present in all tax legislations, to ensure that any practical difficulties in implementation can be addressed.

#### **172.4 Related provisions**

This is an independent Section and would be applicable for implementation of all provisions of the GST Law.

#### **172.5 Relevant orders**

The Central Government has issued order no. 01/2017-central tax under the Central Goods and Services Tax (Removal of Difficulties) Order, 2017 dated 13<sup>th</sup> October, 2017. Through this order it has been clarified that if a person supplies goods and / or services referred to in

clause (b) of paragraph 6 of Schedule II (restaurants, outdoor caterers etc.) and also supplies any exempt services including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, the said person shall not be ineligible for the composition scheme subject to the fulfilment of all other conditions. It is further clarified that in computing his aggregate turnover in order to determine his eligibility for composition scheme, value of supply of any exempt services including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, shall not be taken into account.

**172. 6 FAQs**

Q1. Will the powers include the power to notify the effective date for implementation of provisions?

Ans. Yes. All powers regarding implementation of any provision of the GST law is covered.

Q2. Will the powers include bringing changes in any provision of law?

Ans. No. The Government has power only to decide on the practical implementation of law. But it cannot amend the legislation through this Section.

Q3. What is the maximum time limit for exercising the powers under Section 172?

Ans. The maximum time limit is 3 years from the date of effect of CGST Act.

Q4. Whether the reasons be mentioned in the order?

Ans. The order is issued only when there is a necessity or expediency for it. Specific reasons may not be mentioned in the order.

**172.7 MCQs**

1. Who can issue the Order?

- (a) Central Government
- (b) State Government
- (c) Either
- (d) None

Ans: (a) Central Government

2. Whether Prior approval of the Parliament is necessary?

- (a) Yes
- (b) No

Ans: (b) No

3. What is the maximum period for exercising this power?

- (a) 4 years

- (b) 3 years
- (c) 2 years
- (d) 1 year

Ans: (b) 3 years

### Statutory provisions

#### 173. Amendment of Act 32 of 1994

Save as otherwise provided in this Act, Chapter V of the Finance Act, 1994 shall be omitted.

### Statutory provisions

#### 174. Repeal and Saving

- (1) *Save as otherwise provided in this Act, on and from the date of commencement of this Act, the Central Excise Act, 1944 (except as respects goods included in entry 84 of the Union List of the Seventh Schedule to the Constitution), the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, the Additional Duties of Excise (Goods of Special Importance) Act, 1957, the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978, and the Central Excise Tariff Act, 1985 (hereafter referred to as the repealed Acts) are hereby repealed.*
- (2) *The repeal of the said Acts and the amendment of the Finance Act, 1994 (hereafter referred to as "such amendment" or "amended Act",) to the extent mentioned in the sub-section (1) or section 173 shall not—*
  - (a) *revive anything not in force or existing at the time of such amendment or repeal; or*
  - (b) *affect the previous operation of the amended Act or repealed Acts and orders or anything duly done or suffered thereunder; or*
  - (c) *affect any right, privilege, obligation, or liability acquired, accrued or incurred under the amended Act or repealed Acts or orders under such repealed or amended Acts*  
*Provided that any tax exemption granted as an incentive against investment through a notification shall not continue as privilege if the said notification is rescinded on or after the appointed day; or*
  - (d) *affect any duty, tax, surcharge, fine, penalty, interest as are due or may become due or any forfeiture or punishment incurred or inflicted in respect of any offence or violation committed against the provisions of the amended Act or repealed Acts; or*
  - (e) *affect any investigation, inquiry, verification (including scrutiny and audit),*

*assessment proceedings, adjudication and any other legal proceedings or recovery of arrears or remedy in respect of any such duty, tax, surcharge, penalty, fine, interest, right, privilege, obligation, liability, forfeiture or punishment, as aforesaid, and any such investigation, inquiry, verification (including scrutiny and audit), assessment proceedings, adjudication and other legal proceedings or recovery of arrears or remedy may be instituted, continued or enforced, and any such tax, surcharge, penalty, fine, interest, forfeiture or punishment may be levied or imposed as if these Acts had not been so amended or repealed;*

- (f) *affect any proceedings including that relating to an appeal, review or reference, instituted before on, or after the appointed day under the said amended Act or repealed Acts and such proceedings shall be continued under the said amended Act or repealed Acts as if this Act had not come into force and the said Acts had not been amended or repealed.*
- (3) *The mention of the matters referred to in sub-sections (1) and (2) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal.*

#### 174.1 Introduction

These provisions indicate the extent of erstwhile indirect tax laws, which would continue upon introduction of CGST Act. It also provides for exceptions as to continuation of certain provisions of the erstwhile laws for the sake of smooth transition. Further certain Acts would be repealed upon introduction of CGST Act.

#### 174.2 Analysis

- (a) These provisions have to be read along with the Transition provisions in chapter XX.
- (b) It came into force on the date of enactment of the CGST Act i.e. 01-07-2017.
- (c) Whenever an enactment is repealed or substituted by a new enactment then the new enactment should provide for a clause relating to repeal or saving of certain provisions under the old law.
- (d) This would ensure that the rights, powers, liabilities, duties, privileges, obligations etc. created under the old laws are intact and are not affected by the enactment of new law by repealing the old laws.
- (e) Entry 84 of the Union List and Entry 54 of the State List, both forming part of the VII Schedule to the Constitution as amended by the Constitutional (101<sup>st</sup> Amendment) Act 2016 would continue to apply to certain goods.
- (f) For the said purpose, the General Sales Tax/VAT / CST laws and Central Excise Act, 1944 and Central Excise Tariff Act, 1985 would continue to apply – E.g. Certain petroleum products, tobacco products.

- (g) Thus, these laws would operate even after the GST is introduced and are not repealed.
- (h) In other words, its application is restricted to few products/goods only.
- (i) Subject to the above comments the following laws would be repealed, as the taxes are subsumed by GST law:

— *State laws:*

- (i) *Entry Tax laws;*
- (ii) *Entertainment Tax laws;*
- (iii) *Luxury Tax laws;*
- (iv) *Value added Tax laws;*
- (v) *laws on Advertisement;*
- (vi) *laws on lottery, Betting and Gambling;*
- (vii) *CST Act.*

— *Central laws:*

- (i) *Duty of Excise on Medicinal and Toilet Preparation Act;*
- (ii) *Chapter V of the Finance Act, 1994 (Service Tax law);*
- (iii) *Central Excise Act, 1944; (except in respect of goods included in entry 84 of the seventh schedule to the constitution)*
- (iv) *Additional duties of Excise (Goods of Special Importance Act, 1957);*
- (v) *Additional duties of Excise (Textile and textile products Act, 1978);*
- (vi) *Additional Custom Duty (CVD);*
- (vii) *Special Additional Duty of Customs (SAD).*
- (viii) *Medical & toilet preparations (excise duties) Act, 1955*
- (ix) *Central excise tariff Act, 1985*

- (j) However, such restricted application or repeal of old laws would not affect or revive the following:

- *Revive anything not in force or existing at the time at which the amendment or repeal takes effect. To illustrate, if a person has not taken credit in the earlier regime due to restrictions on time limit, he does not get a chance to claim it after such time limit is removed due to repeal of ST law.*
- *Affect the previous operation of the amended/repealed Acts or anything duly done or suffered there under. To illustrate, if a person has duly filed returns under the old regime it cannot be questioned now by the department. Similarly, if a person has been penalised earlier for delay in filing returns and has paid late filing fee, it cannot be questioned now by the assessee.*

- Affect any right, privilege, obligation, or liability acquired, accrued or incurred under the amended/repealed Acts. *To illustrate, a right of appeal, which accrues under the old regime and duly exercised before the CESTAT or Commissioner (Appeals) does not fail due to restricted application of the old laws. Similarly, the mandatory pre-deposit made under section 35F of the Central Excise Act, 1944, to pursue an appeal cannot be claimed as refund after GST is introduced.*
- Affect any tax, surcharge, penalty, interest as are due or may become due or any forfeiture or punishment incurred or inflicted in respect of any offence or violation committed under the provisions of the amended/repealed Acts. *For example, if a Central Excise case is decided by the Supreme Court after enactment of GST and the party's appeal is rejected then the liabilities can still be enforced even though the CE Act may be repealed or applied in a restricted manner.*
- Affect any investigation, enquiry, assessment proceeding, any other legal proceeding or remedy in respect of any such tax, surcharge, penalty, interest, right, privilege, obligation, liability, forfeiture or punishment, as aforesaid, and any such investigation, enquiry, assessment proceeding, adjudication and other legal proceeding or remedy may be instituted, continued or enforced, and any such tax, surcharge, penalty, interest, forfeiture or punishment may be levied or imposed as if these Acts had not been so restricted or not so enacted. *To illustrate, if on the date of enactment of GST law, the matter is under investigation, it can be continued and the SCN can be issued subsequently invoking the old provisions.*
- Affect any proceeding including that relating to an appeal, revision, review or reference, instituted before the appointed day under the earlier law and such proceeding shall be continued under the earlier law as if this Act had not come into force and the said law had not been repealed. *To illustrate, all the pending matters before the Commissioner (Appeals), Revisionary Authority, CESTAT, High Court and Supreme Court, would be continued and would not abate due to introduction of GST law.*

#### **Section 6 in The General Clauses Act, 1897**

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

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

- (d) *affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or*
- (e) *affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed.*

### 174.3 Comparative review

It would be interesting to refer to the Supreme Court decision in Kolhapur Cane sugar Works Limited Vs UOI, 2000 (119) ELT 257 (SC), which has explained the effect and importance of repeal or saving clause by referring to section 6 of the General Clauses Act, 1887. Since there is a special provision in the GST Act, it would apply. Wherever the specific provision does not address a particular issue relating to repeal or saving, it is necessary to fall back on the provisions of General Clauses Act.

### 174.4 FAQs

Q1. Which are the State laws repealed after introduction of GST?

Ans. Entry Tax laws, Entertainment Tax laws and Luxury Tax laws, Value added Tax, laws on Advertisement, laws on lottery, Betting and Gambling, CST Act.

Q2. Which are the Central laws repealed after introduction of GST?

- Ans. (i) Duty of Excise on Medicinal and Toilet Preparation Act.  
 (ii) Chapter V of the Finance Act, 1994 (Service Tax law).  
 (iii) Central Excise Act;  
 (iv) Additional duties of Excise (Goods of Special Importance);  
 (v) Additional duties of Excise (Textile and textile products);  
 (vi) Additional Custom Duty (CVD);  
 (vii) Special Additional Duty of Customs(SAD)  
 (viii) Medical & toilet preparations (excise duties) Act,1955 Central excise tariff Act,1985

Q3. Which are the State laws applied in a restricted manner after introduction of GST?

Ans. General Sales Tax/VAT would continue to apply on certain goods – E.g. certain petroleum products.

Q4. Which are the Central laws not repealed after enactment of GST?

Ans. CST Act, 1956, CE Act, 1944 and CE Tariff Act, 1985, would continue to apply – E.g. Certain petroleum products.

Q5. Central Excise law would apply to which goods after introduction of GST?

Ans. Certain petroleum products and tobacco products.

Q6. Which are the goods or products to which VAT laws would apply even after GST is introduced?

Ans. Entry 84 of the Union List and Entry 54 of the State List, both forming part of the VII Schedule to the Constitution as amended by the Constitution (101<sup>st</sup> Amendment) Act, 2016, would continue to apply to certain goods. Consequently, VAT laws would continue to that extent.

Q7. After introduction of GST what is the fate of all departmental appeals filed during the pre-GST regime?

Ans. It would continue and would not abate.

Q8. After introduction of GST whether Department can continue to investigate the offences allegedly committed under the old regime?

Ans. Investigation can continue and SCN can be issued later.

Q9. Can the Supreme Court dismiss all indirect tax appeals pending before it on the ground that GST Act has been introduced?

Ans. The appeals already instituted would be heard by the Supreme Court and would not abate or be dismissed.

#### 174.5 MCQs

Q1. The \_\_\_\_\_ law which is not repealed after enactment of GST.

- (a) Entry Tax law
- (b) VAT law
- (c) Company law
- (d) Central Excise law.

Ans. (c) Company Law.

Q2. Central Excise law would continue to apply in respect of goods covered by Entry \_\_\_\_\_ of Union List of VII Schedule to the Constitution.

- (a) 84
- (b) 85
- (c) 54
- (d) 47

Ans. (a) 84

Q3. State sales tax and VAT laws would continue to apply in respect of goods covered by Entry \_\_\_\_\_ of State List of VII Schedule to the Constitution.



- (a) 84
- (b) 85
- (c) 54
- (d) 47

Ans. (c) 54.

Q4. After enactment of GST law, all departmental appeals filed in respect of Central Excise and Service Tax would \_\_\_\_\_

- (a) continue
- (b) abate
- (c) fail
- (d) none of the above.

Ans. (a) continue



**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3,  
SUB-SECTION (i)]**

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE  
CENTRAL BOARD OF EXCISE AND CUSTOMS**

**Notification No. 1/2017 – Central Tax**

New Delhi, the 19th June, 2017

29 Jyaistha, 1939 Saka

G.S.R. ....(E).— In exercise of the powers conferred by sub-section (3) of section 1 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government hereby appoints the 22nd day of June, 2017, as the date on which the provisions of sections 1, 2, 3, 4, 5, 10, 22, 23, 24, 25, 26, 27, 28, 29, 30, 139, 146 and 164 of the said Act shall come into force.

[F. No. 349/72/2017-GST]

(Dr. Sreeparvathy.S.L.)

Under Secretary to the Government of India

**Notification**

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**[TO BE PUBLISHED IN THE GAZETTE OF INDIA EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]**

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE  
CENTRAL BOARD OF EXCISE AND CUSTOMS**

**Notification No. 2/2017-Central Tax**

**New Delhi, the 19<sup>th</sup> June, 2017**

**29 Jyaistha, 1939 Saka**

1. G.S.R (E).- In exercise of the powers under section 3 read with section 5 of the Central Goods and Services Tax Act, 2017 (12 of 2017) and section 3 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Board of Excise and Customs hereby appoints-

- (a) Principal Chief Commissioners of Central Tax and Principal Directors General of Central Tax,
- (b) Chief Commissioners of Central Tax and Directors General of Central Tax,
- (c) Principal Commissioners of Central Tax and Principal Additional Directors General of Central Tax,
- (d) Commissioners of Central Tax and Additional Directors General of Central Tax,
- (e) Additional Commissioners of Central Tax and Additional Directors of Central Tax,
- (f) Joint Commissioners of Central Tax and Joint Directors of Central Tax,
- (g) Deputy Commissioners of Central Tax and Deputy Directors of Central Tax,
- (h) Assistant Commissioners of Central Tax and Assistant Directors of Central Tax,
- (i) Commissioners of Central Tax (Audit),
- (j) Commissioners of Central Tax (Appeals),
- (k) Additional Commissioners of Central Tax (Appeals),

and the central tax officers sub-ordinate to them as central tax officers and vests them with all the powers under both the said Acts and the rules made thereunder with respect to the jurisdiction specified in the Tables given below.

## Notification

2. The Principal Chief Commissioners of Central Tax or the Chief Commissioners of Central Tax, as the case may be, specified in column (2) of Table I, are hereby vested with the territorial jurisdiction over the-
  - (a) Principal Commissioners of Central Tax and Commissioners of Central Tax, as the case may be, specified in the corresponding entry in column (3) of the said Table;
  - (b) Commissioners of Central Tax (Appeals) specified in the corresponding entry in column (4) of the said Table;
  - (c) Additional Commissioners of Central Tax (Appeals) specified in the corresponding entry in column (4) of the said Table; and
  - (d) Commissioners of Central Tax (Audit) specified in the corresponding entry in column (5) of the said Table.
3. The Principal Commissioners of Central Tax or the Commissioners of Central Tax, as the case may be, specified in column (2) of Table II and the central tax officers sub-ordinate to them, are hereby vested with the territorial jurisdiction specified in the corresponding entry in column (3) of the said Table.
4. The Commissioners of Central Tax (Appeals) and Additional Commissioners of Central Tax (Appeals) specified in column (2) of Table III and the central tax officers subordinate to them are hereby vested with the territorial jurisdiction of the Principal Commissioners of Central Tax or the Commissioners of Central Tax, as the case may be, specified in the corresponding entry in column (3) of the said Table.
5. The Commissioners of Central Tax (Audit) specified in column (2) of Table IV and the central tax officers subordinate to them are hereby vested with the territorial jurisdiction of the Principal Commissioners of Central Tax or the Commissioners of Central Tax, as the case may be, specified in the corresponding entry in column (3) of the said Table.

**Table I**

**Jurisdiction of Principal Chief Commissioner/Chief Commissioner of Central Tax in terms of Principal Commissioners/Commissioners of Central Tax, Commissioners of Central Tax (Appeals), Additional Commissioner of Central Tax (Appeals) and Commissioners of Central Tax (Audit)**

Sl. No.	Principal Chief Commissioner / Chief Commissioner of Central Tax	Jurisdiction of Principal Chief Commissioner / Chief Commissioner of Central Tax in terms of Principal Commissioner/Commissioner of Central Tax	Jurisdiction of Principal Chief Commissioner/Chief Commissioner of Central Tax in terms of Commissioner (Appeals) and Additional Commissioner (Appeals)	Jurisdiction of Principal Chief Commissioner / Chief Commissioner of Central Tax in terms of Commissioner (Audit)
(1)	(2)	(3)	(4)	(5)
1	Principal Chief Commissioner Ahmedabad	1.3.1 Commissioner Ahmedabad North	1. 4.1 Commissioner (Appeals) Ahmedabad and Additional	1.5.1 Commissioner (Audit) Ahmedabad

## Notification

Sl. No.	Principal Chief Commissioner / Chief Commissioner of Central Tax	Jurisdiction of Principal Chief Commissioner / Chief Commissioner of Central Tax in terms of Principal Commissioner/ Commissioner of Central Tax	Jurisdiction of Principal Chief Commissioner/ Chief Commissioner of Central Tax in terms of Commissioner (Appeals) and Additional Commissioner (Appeals)	Jurisdiction of Principal Chief Commissioner / Chief Commissioner of Central Tax in terms of Commissioner (Audit)
		1.3.2 Principal Commissioner Ahmedabad South	Commissioner (Appeals) Ahmedabad	
		1.3.3 Commissioner Gandhinagar		
		1.3.4 Commissioner Rajkot	1.4.2 Commissioner (Appeals) Rajkot and Additional Commissioner (Appeals) Rajkot	1.5.2 Commissioner (Audit) Rajkot
		1.3.5 Commissioner Bhavnagar		
		1.3.6 Commissioner Kutch (Gandhidham)		
2	Principal Chief Commissioner Bengaluru	2.3.1 Principal Commissioner Bengaluru East	2.4.1 Commissioner (Appeals I) Bengaluru and Additional Commissioner (Appeals I) Bengaluru	2.5.1 Commissioner (Audit I) Bengaluru
		2.3.2 Commissioner Bengaluru South		
		2.3.3 Commissioner Bengaluru North	2.4.2 Commissioner (Appeals II) Bengaluru and Additional Commissioner (Appeals II) Bengaluru	2.5.2 Commissioner (Audit II) Bengaluru
		2.3.4 Commissioner Bengaluru North West		
		2.3.5 Principal Commissioner Bengaluru West	2.4.3 Commissioner (Appeals) Mysuru and Additional Commissioner (Appeals) Mysuru	2.5.3 Commissioner (Audit) Mysuru
		2.3.6 Principal Commissioner Mysuru		
		2.3.7 Commissioner Belgavi	2.4.4 Commissioner (Appeals) Belgavi and Additional Commissioner (Appeals) Belgavi	2.5.4 Commissioner (Audit) Belgavi
		2.3.8 Commissioner Mangalore		
3	Chief Commissioner Bhopal	3.3.1 Principal Commissioner Bhopal	3.4.1 Commissioner (Appeals) Bhopal and Additional Commissioner (Appeals) Bhopal	3.5.1 Commissioner (Audit) Bhopal

## Notification

Sl. No.	Principal Chief Commissioner / Chief Commissioner of Central Tax	Jurisdiction of Principal Chief Commissioner / Chief Commissioner of Central Tax in terms of Principal Commissioner/ Commissioner of Central Tax	Jurisdiction of Principal Chief Commissioner/ Chief Commissioner of Central Tax in terms of Commissioner (Appeals) and Additional Commissioner (Appeals)	Jurisdiction of Principal Chief Commissioner / Chief Commissioner of Central Tax in terms of Commissioner (Audit)
			Bhopal	
		3.3.2 Commissioner Jabalpur		
		3.3.3 Principal Commissioner Raipur	3.4.2 Commissioner (Appeals) Raipur and Additional Commissioner (Appeals) Raipur	3.5.2 Commissioner (Audit) Raipur
		3.3.4 Commissioner Indore	3.4.3 Commissioner (Appeals) Indore and Additional Commissioner (Appeals)	3.5.3 Commissioner (Audit) Indore
		3.3.5 Commissioner Ujjain	Indore	
4	Chief Commissioner Bhubaneswar	4.3.1 Principal Commissioner Bhubaneswar	4.4.1 Commissioner (Appeals) Bhubaneswar and Additional Commissioner (Appeals) Bhubaneswar	4.5.1 Commissioner (Audit) Bhubaneswar
		4.3.2 Commissioner Rourkela		
5	Chief Commissioner Chandigarh	5.3.1 Principal Commissioner Chandigarh	5.4.1 Commissioner (Appeals) Chandigarh and Additional Commissioner (Appeals) Chandigarh	5.5.1 Commissioner (Audit) Chandigarh
		5.3.2 Commissioner Shimla		
		5.3.3 Commissioner Jammu	5.4.2 Commissioner (Appeals) Jammu and Additional Commissioner (Appeals) Jammu	5.5.2 Commissioner (Audit) Jammu
		5.3.4 Principal Commissioner Ludhiana	5.4.3 Commissioner (Appeals) Ludhiana and Additional Commissioner (Appeals) Ludhiana	5.5.3 Commissioner (Audit) Ludhiana
		5.3.5 Commissioner Jalandhar		
6	Principal Chief Commissioner Chennai	6.3.1 Principal Commissioner Chennai North	6.4.1 Commissioner (Appeals) I) Chennai and Additional Commissioner (Appeals) I) Chennai	6.5.1 Commissioner (Audit) I) Chennai

## Notification

Sl. No.	Principal Chief Commissioner / Chief Commissioner of Central Tax	Jurisdiction of Principal Chief Commissioner / Chief Commissioner of Central Tax in terms of Principal Commissioner/ Commissioner of Central Tax	Jurisdiction of Principal Chief Commissioner/ Chief Commissioner of Central Tax in terms of Commissioner (Appeals) and Additional Commissioner (Appeals)	Jurisdiction of Principal Chief Commissioner / Chief Commissioner of Central Tax in terms of Commissioner (Audit)
		6.3.2 Commissioner Puducherry		
		6.3.3 Commissioner Chennai South	6.4.2 Commissioner (Appeals II) Chennai and Additional Commissioner (Appeals II) Chennai	6.5.2 Commissioner (Audit II) Chennai
		6.3.4 Commissioner Chennai Outer		
		6.3.5 Principal Commissioner Coimbatore	6.4.3 Commissioner (Appeals) Coimbatore and Additional Commissioner (Appeals) Coimbatore	6.5.3 Commissioner (Audit) Coimbatore
		6.3.6 Commissioner Tiruchirapally		
		6.3.7 Commissioner Madurai		
		6.3.8 Commissioner Salem		
7	Principal Chief Commissioner Delhi	7.3.1 Principal Commissioner Delhi North	7.4.1 Commissioner (Appeals I) Delhi and Additional Commissioner (Appeals I) Delhi	7.5.1 Commissioner (Audit I) Delhi
		7.3.2 Commissioner Delhi East		
		7.3.3 Principal Commissioner Delhi South	7.4.2 Commissioner (Appeals II) Delhi and Additional Commissioner (Appeals II) Delhi	7.5.2 Commissioner (Audit II) Delhi
		7.3.4 Commissioner Delhi West		
8	Chief Commissioner Guwahati	8.3.1 Principal Commissioner Guwahati	8.4.1 Commissioner (Appeals) Guwahati and Additional Commissioner (Appeals) Guwahati and Additional	8.5.1 Commissioner (Audit) Shillong



## Notification

Sl. No.	Principal Chief Commissioner / Chief Commissioner of Central Tax	Jurisdiction of Principal Chief Commissioner / Chief Commissioner of Central Tax in terms of Principal Commissioner/ Commissioner of Central Tax	Jurisdiction of Principal Chief Commissioner/ Chief Commissioner of Central Tax in terms of Commissioner (Appeals) and Additional Commissioner (Appeals)	Jurisdiction of Principal Chief Commissioner / Chief Commissioner of Central Tax in terms of Commissioner (Audit)
			Commissioner (Appeals) Shillong	
		8.3.2 Commissioner Dibrugarh		
		8.3.3 Commissioner Shillong		
		8.3.4 Commissioner Itanagar		
		8.3.5 Commissioner Dimapur		
		8.3.6 Commissioner Imphal		
		8.3.7 Commissioner Aizawl		
		8.3.8 Commissioner Agartala		
9	Chief Commissioner Hyderabad	9.3.1 Principal Commissioner Hyderabad	9.4.1 Commissioner (Appeals I) Hyderabad and Additional Commissioner (Appeals I) Hyderabad	9.5.1 Commissioner (Audit I) Hyderabad
		9.3.2 Commissioner Rangareddy		
		9.3.3 Commissioner Medchal	9.4.2 Commissioner (Appeals II) Hyderabad and Additional Commissioner (Appeals II) Hyderabad	9.5.2 Commissioner (Audit II) Hyderabad
		9.3.4 Commissioner Secunderabad		
10	Chief Commissioner Jaipur	10.3.1 Principal Commissioner Jaipur	10.4.1 Commissioner (Appeals) Jaipur and Additional Commissioner (Appeals) Jaipur	10.5.1 Commissioner (Audit) Jaipur
		10.3.2 Commissioner Alwar		
		10.3.3 Commissioner Jodhpur	10.4.2 Commissioner (Appeals) Jodhpur and Additional Commissioner (Appeals) Jodhpur	10.5.2 Commissioner (Audit) Jodhpur
		10.3.4 Commissioner Udaipur		
11	Principal Chief Commissioner Kolkata	11.3.1 Principal Commissioner Kolkata North	11.4.1 Commissioner (Appeals I) Kolkata and Additional Commissioner (Appeals I) Kolkata	11.5.1 Commissioner (Audit I) Kolkata
		11.3.2 Commissioner Kolkata South		

## Notification

Sl. No.	Principal Chief Commissioner / Chief Commissioner of Central Tax	Jurisdiction of Principal Chief Commissioner / Chief Commissioner of Central Tax in terms of Principal Commissioner/ Commissioner of Central Tax		Jurisdiction of Principal Chief Commissioner/ Chief Commissioner of Central Tax in terms of Commissioner (Appeals) and Additional Commissioner (Appeals)		Jurisdiction of Principal Chief Commissioner / Chief Commissioner of Central Tax in terms of Commissioner (Audit)	
		11.3.3	Commissioner Howrah	11.4.2	Commissioner (Appeals II) Kolkata and Additional Commissioner (Appeals II) Kolkata	11.5.2	Commissioner (Audit II) Kolkata
		11.3.4	Commissioner Haldia				
		11.3.5	Commissioner Siliguri	11.4.3	Commissioner (Appeals) Siliguri and Additional Commissioner (Appeals)	11.5.3	Commissioner (Audit) Durgapur
		11.3.6	Commissioner Bolpur		Siliguri		
12	Principal Chief Commissioner Lucknow	12.3.1	Principal Commissioner Lucknow	12.4.1	Commissioner (Appeals) Lucknow and Additional Commissioner (Appeals) Lucknow	12.5.1	Commissioner (Audit) Lucknow
		12.3.2	Commissioner Agra				
		12.3.3	Commissioner Kanpur	12.4.2	Commissioner (Appeals) Allahabad and Additional Commissioner (Appeals) Allahabad	12.5.2	Commissioner (Audit) Kanpur
		12.3.4	Commissioner Allahabad				
		12.3.5	Commissioner Varanasi				
13	Chief Commissioner Meerut	13.3.1	Principal Commissioner Meerut	13.4.1	Commissioner (Appeals) Meerut and Additional Commissioner (Appeals) Meerut	13.5.1	Commissioner (Audit) Meerut
		13.3.2	Commissioner Ghaziabad				
		13.3.3	Principal Commissioner Noida	13.4.2	Commissioner (Appeals) Noida and Additional Commissioner (Appeals) Noida	13.5.2	Commissioner (Audit) Noida

## Notification

Sl. No.	Principal Chief Commissioner / Chief Commissioner of Central Tax	Jurisdiction of Principal Chief Commissioner / Chief Commissioner of Central Tax in terms of Principal Commissioner/ Commissioner of Central Tax	Jurisdiction of Principal Chief Commissioner/ Chief Commissioner of Central Tax in terms of Commissioner (Appeals) and Additional Commissioner (Appeals)	Jurisdiction of Principal Chief Commissioner / Chief Commissioner of Central Tax in terms of Commissioner (Audit)
		13.3.4 Commissioner Gautam Buddh Nagar		
		13.3.5 Commissioner Dehradun	13.4.3 Commissioner (Appeals) Dehradun and Additional Commissioner (Appeals) Dehradun	13.5.3 Commissioner (Audit) Dehradun
14	Principal Chief Commissioner Mumbai	14.3.1 Principal Commissioner Mumbai South	14.4.1 Commissioner (Appeals I) Mumbai and Additional Commissioner (Appeals I) Mumbai	14.5.1 Commissioner (Audit I) Mumbai
		14.3.2 Principal Commissioner Mumbai East	14.4.2 Commissioner (Appeals II) Mumbai and Additional Commissioner (Appeals II) Mumbai	14.5.2 Commissioner (Audit II) Mumbai
		14.3.3 Commissioner Mumbai Central		
		14.3.4 Commissioner Mumbai West	14.4.3 Commissioner Appeals III) Mumbai and Additional Commissioner (Appeals III) Mumbai	14.5.3 Commissioner (Audit III) Mumbai
		14.3.5 Commissioner Palghar		
		14.3.6 Commissioner Raigarh	14.4.4 Commissioner (Appeals) Raigarh and Additional Commissioner	14.5.4 Commissioner (Audit) Raigarh
		14.3.7 Commissioner Navi Mumbai	(Appeals) Raigarh	
		14.3.8 Commissioner Belapur		
		14.3.9 Commissioner Thane	14.4.5 Commissioner (Appeals) Thane and Additional Commissioner	14.5.5 Commissioner (Audit) Thane

## Notification

Sl. No.	Principal Chief Commissioner / Chief Commissioner of Central Tax	Jurisdiction of Principal Chief Commissioner / Chief Commissioner of Central Tax in terms of Principal Commissioner/ Commissioner of Central Tax	Jurisdiction of Principal Chief Commissioner/ Chief Commissioner of Central Tax in terms of Commissioner (Appeals) and Additional Commissioner (Appeals)	Jurisdiction of Principal Chief Commissioner / Chief Commissioner of Central Tax in terms of Commissioner (Audit)
		14.3.10 Commissioner Thane Rural	(Appeals) Thane	
		14.3.11 Commissioner Bhiwandi		
15	Chief Commissioner Nagpur	15.3.1 Principal Commissioner Nagpur-I	15.4.1 Commissioner (Appeals) Nagpur and Additional Commissioner	15.5.1 Commissioner (Audit) Nagpur
		15.3.2 Commissioner Nagpur-II	(Appeals) Nagpur	
		15.3.3 Commissioner Nashik	15.4.2 Commissioner (Appeals) Nashik and Additional Commissioner	15.5.2 Commissioner (Audit) Nashik
		15.3.4 Commissioner Aurangabad	(Appeals) Nashik	
16	Chief Commissioner Panchkula	16.3.1 Principal Commissioner Gurugram	16.4.1 Commissioner (Appeals) Gurugram and Additional Commissioner (Appeals) Gurugram	16.5.1 Commissioner (Audit) Gurugram
		16.3.2 Commissioner Faridabad		
		16.3.3 Commissioner Panchkula	16.4.2 Commissioner (Appeals) Panchkula and Additional Commissioner	16.5.2 Commissioner (Audit) Panchkula
		16.3.4 Commissioner Rohtak	(Appeals) Panchkula	
17	Chief Commissioner Pune	17.3.1 Principal Commissioner Pune-I	17.4.1 Commissioner (Appeals) Pune-I and Additional Commissioner (Appeals) Pune-I	17.5.1 Commissioner (Audit I) Pune
		17.3.2 Commissioner Kolhapur		
		17.3.3 Commissioner Pune-II	17.4.2 Commissioner (Appeals) Pune-II and Additional	17.5.2 Commissioner (Audit II) Pune

## Notification

Sl. No.	Principal Chief Commissioner / Chief Commissioner of Central Tax	Jurisdiction of Principal Chief Commissioner / Chief Commissioner of Central Tax in terms of Principal Commissioner/ Commissioner of Central Tax	Jurisdiction of Principal Chief Commissioner/ Chief Commissioner of Central Tax in terms of Commissioner (Appeals) and Additional Commissioner (Appeals)	Jurisdiction of Principal Chief Commissioner / Chief Commissioner of Central Tax in terms of Commissioner (Audit)
			Commissioner (Appeals) Pune-II	
		17.3.4 Commissioner Goa	17.4.3 Commissioner (Appeals) Goa and Additional Commissioner (Appeals) Goa	
18	Chief Commissioner Ranchi	18.3.1 Principal Commissioner Patna-I	18.4.1 Commissioner (Appeals) Patna and Additional Commissioner (Appeals) Patna	18.5.1 Commissioner (Audit) Patna
		18.3.2 Commissioner Patna-II		
		18.3.3 Principal Commissioner Ranchi	18.4.2 Commissioner (Appeals) Ranchi and Additional Commissioner (Appeals) Ranchi	18.5.2 Commissioner (Audit) Ranchi
		18.3.4 Commissioner Jamshedpur		
19	Chief Commissioner Thiruvananthapuram	19.3.1 Commissioner Thiruvananthapuram	19.4.1 Commissioner (Appeals) Kochi and Additional Commissioner (Appeals) Kochi	19.5.1 Commissioner (Audit) Kochi
		19.3.2 Principal Commissioner Kochi		
		19.3.3 Commissioner Kozhikode		
20	Chief Commissioner Vadodara	20.3.1 Principal Commissioner Vadodara-I	20.4.1 Commissioner (Appeals) Vadodara and Additional Commissioner (Appeals) Vadodara	20.5.1 Commissioner (Audit) Vadodara
		20.3.2 Commissioner Vadodara-II		
		20.3.3 Commissioner	20.4.2 Commissioner	20.5.2 Commissioner

## Notification

Sl. No.	Principal Chief Commissioner / Chief Commissioner of Central Tax	Jurisdiction of Principal Chief Commissioner / Chief Commissioner of Central Tax in terms of Principal Commissioner/ Commissioner of Central Tax		Jurisdiction of Principal Chief Commissioner/ Chief Commissioner of Central Tax in terms of Commissioner (Appeals) and Additional Commissioner (Appeals)		Jurisdiction of Principal Chief Commissioner / Chief Commissioner of Central Tax in terms of Commissioner (Audit)	
			Surat		(Appeals) Surat and Additional Commissioner (Appeals) Surat		(Audit) Surat
		20.3.4	Commissioner Daman				
21	Chief Commissioner Visakhapatnam (Amaravathi)	21.3.1	Principal Commissioner Visakhapatnam	21.4.1	Commissioner (Appeals) Guntur and Additional Commissioner (Appeals) Guntur	21.5.1	Commissioner (Audit) Guntur
		21.3.2	Commissioner Guntur				
		21.3.3	Commissioner Tirupati				

**Notification****Table II****Territorial Jurisdiction of Principal Commissioner/Commissioner of Central Tax**

<b>Sl. No.</b>	<b>Principal Commissioner/ Commissioner of Central Tax</b>	<b>Territorial Jurisdiction</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>
1	Agartala	State of Tripura.
2	Agra	Districts of Agra, Firozabad, Mahamaya Nagar, Mathura, Aligarh, Auraiya, Etawah, Kasi Ram Nagar and Etahin the State of Uttar Pradesh.
3	Ahmedabad North	Entire area on the eastern side of Sabarmati river starting from Nehru Bridge towards northern side of Relief road extending up to Kalupur, on southern side to the east of railway tracks from Kalupur bridge to Sarangpur Bridge. From Sarangpur Bridge to the northern side of the road from Sarangpur Bridge to the corner of Patel Mills on Rakhial Road via Hathikhai. From Patel Mills, there is an imaginary boundary lying on the outer boundary of Patel Mills and Raipur Mills (including both mills) and, then, the wall separating the Raipur Mills and Vivekanand Mill, the imaginary boundary runs through the roads between Rakhial Society and Rakhial Village passing through the backside of Monogram Mills upto Naroda Highway. From there, it includes the area lying on the eastern side of Narol-Naroda Highway upto the intersection of Narol- Naroda Highway and Odhav Road at Indian Oil Corporation, and Muthia, Ainasan, Pardhol, Vehlal, Juka, NarodaLialis, Navrangpur Village of Dascroi Taluk. The jurisdiction also includes the entire area of City Taluka west of Sabarmati River (excluding the area falling South from the line running from Nehru Bridge to Navrangpur Police Station via Ashram Road, Swastik Char Rasta, Commerce Six Road towards Drive-in Road upto Thaltej Cross Road on S.G. Highway, from Thaltej Cross Road upto the Sanand Cross Road Road on S G highway on west side, on south side Ahmedabad City Taluka limit and on east side Sabarmati river from Nehru bridge upto Ahmedabad City Taluka limit towards South) and all villages of Daskroi Taluka, on the western side of Sabarmati River. The jurisdiction also includes Sanand, Dholka, Dholera, Bavla, Mandal, Dhanduka, Viramgam and Detroj- Rampura Taluka of Ahmedabad District in the State of Gujarat.
4	Ahmedabad South	Area covering the City Taluka and the Daskroi Taluka in the District of Ahmedabad excluding (1) The area to the North of the

## Notification

Sl. No.	Principal Commissioner/ Commissioner of Central Tax	Territorial Jurisdiction
(1)	(2)	(3)
		Road starting from Riverfront near Times of India Office till S.G. highway via Swastik Char Rasta, Vijay Char Rasta, Memnagar Cross Road and Drive-in Road. (2) Area to the west of S.G. highway starting from Thaltej Cross Roads towards Sanand Crossroads till the limits of city taluka. (3) The portions and villages of both the talukas included in the jurisdiction of Ahmedabad North Commissionerate in the State of Gujarat.
5	Aizawl	State of Mizoram
6	Allahabad	Districts of Allahabad, SantRavidas Nagar, Jaunpur, Sultanpur, Amethi (Gauriganj), Pratapgarh, Kaushambi, Chitrakoot, Banda, Fatehpur, Basti, Ambedkar Nagar, Faizabad and Raebareli in the State of Uttar Pradesh.
7	Alwar	Districts of Alwar, Bharatpur, Dholpur, Dausa, Karauli, SawaiMadhopur, Sikar and Jhunjhunu in the State of Rajasthan.
8	Aurangabad	Districts of Aurangabad, Jalna, Hingoli, Parbhani, Nanded, Latur, Osmanabad and Beed in the State of Maharashtra.
9	Belapur	The areas falling under following pin codes: 400614, 400701 to 400707, 400709 and 400710 in the State of Maharashtra.
10	Belgavi	Districts of Bidar, Gulbarga, Bijapur, Raichur, Bagalkot, Belgaum, Dharwar, Gadag, Bellary, Koppal, and Yadgir in the State of Karnataka covered under the postal pin code including: 580001, 580002, 580003, 580004, 580005, 580006, 580007, 580008, 580009, 580011, 580020, 580021, 580023, 580024, 580025, 580026, 580028, 580029, 580030, 580031, 580032, 580112, 580114, 580118, 581103, 581105, 581107, 581113, 581117, 581195, 581196, 581201, 581204, 581206, 581207, 581209, 582101, 582102, 582103, 582111, 582112, 582113, 582114, 582115, 582116, 582117, 582118, 582119, 582120, 582201, 582202, 582203, 582204, 582205, 582206, 582207, 582208, 582209, 582210, 582211, 583101, 583102, 583103, 583104, 583111, 583112, 583113, 583114, 583115, 583116, 583117, 583118, 583119, 583120, 583121, 583122, 583123, 583124, 583126, 583128, 583129, 583130, 583132, 583134, 583135, 583136, 583152, 583201, 583203, 583211, 583212, 583214, 583215, 583216, 583217, 583218, 583219, 583220, 583221, 583222, 583223, 583224, 583225, 583226,



**Notification**

Sl. No.	Principal Commissioner/ Commissioner of Central Tax	Territorial Jurisdiction
(1)	(2)	(3)
		583227, 583228, 583229, 583230, 583231, 583232, 583233, 583234, 583235, 583236, 583237, 583238, 583239, 583268, 583275, 583276, 583277, 583278, 583279, 583280, 583281, 583282, 583283, 584101, 584102, 584103, 584111, 584113, 584115, 584116, 584118, 584120, 584122, 584123, 584124, 584125, 584126, 584127, 584128, 584129, 584132, 584133, 584134, 584135, 584136, 584138, 584139, 584140, 584143, 584167, 584170, 584202, 584203, 585101, 585102, 585103, 585104, 585105, 585106, 585201, 585202, 585210, 585211, 585212, 585213, 585214, 585215, 585216, 585217, 585218, 585219, 585220, 585221, 585222, 585223, 585224, 585225, 585226, 585227, 585228, 585229, 585236, 585237, 585265, 585287, 585290, 585291, 585292, 585301, 585302, 585303, 585304, 585305, 585306, 585307, 585308, 585309, 585310, 585311, 585312, 585313, 585314, 585315, 585316, 585317, 585318, 585319, 585320, 585321, 585322, 585323, 585324, 585325, 585326, 585327, 585328, 585329, 585330, 585331, 585353, 585355, 585401, 585402, 585403, 585411, 585412, 585413, 585414, 585415, 585416, 585417, 585418, 585419, 585421, 585436, 585437, 585443, 586101, 586102, 586103, 586104, 586108, 586109, 586111, 586112, 586113, 586114, 586115, 586116, 586117, 586118, 586119, 586120, 586121, 586122, 586123, 586124, 586125, 586127, 586128, 586129, 586130, 586201, 586202, 586203, 586204, 586205, 586206, 586207, 586208, 586209, 586210, 586211, 586212, 586213, 586214, 586215, 586216, 586217, 587101, 587102, 587103, 587111, 587112, 587113, 587114, 587115, 587116, 587117, 587118, 587119, 587120, 587121, 587122, 587124, 587125, 587154, 587155, 587201, 587202, 587203, 587204, 587205, 587206, 587207, 587301, 587311, 587312, 587313, 587314, 587315, 587316, 587330, 590001, 590003, 590005, 590006, 590008, 590009, 590010, 590011, 590014, 590015, 590016, 590018, 590019, 591101, 591102, 591103, 591104, 591106, 591107, 591108, 591109, 591110, 591111, 591112, 591113, 591114, 591115, 591116, 591117, 591118, 591119, 591120, 591121, 591122, 591123, 591124, 591125, 591126, 591127, 591128, 591129, 591130, 591131, 591136, 591143, 591147, 591153, 591156, 591173, 591201, 591211, 591212, 591213, 591214, 591215, 591216, 591217, 591218, 591219, 591220, 591221, 591222, 591223, 591224, 591225, 591226, 591227, 591228, 591229, 591230, 591231, 591232, 591233, 591234, 591235, 591236, 591237, 591238, 591239, 591240,

## Notification

Sl. No.	Principal Commissioner/ Commissioner of Central Tax	Territorial Jurisdiction
(1)	(2)	(3)
		591241, 591242, 591243, 591244 , 591245, 591246, 591247, 591248, 591254, 591263, 591265, 591287, 591301, 591302, 591303, 591304, 591305, 591306, 591307, 591308, 591309, 591310, 591311, 591312, 591313, 591314, 591315, 591316, 591317, 591340 and 591344.
11	Bengaluru East	<p>Areas falling under the following postal pin codes in the jurisdiction of part of Bengaluru Urban District, part of Bengaluru Rural District, Kolar District, in the State of Karnataka:</p> <p>560005, 560007, 560008, 560016, 560017, 560025, 560033, 560035, 560036, 560037, 560038, 560042, 560043, 560047, 560048, 560049, 560066, 560067, 560071, 560075, 560084, 560087, 560093, 560103, 562114, 562122, 562125, 562129, 563101, 563102, 563103, 563113, 563114, 563115, 563116, 563117, 563118, 563119, 563120, 563121, 563122, 563126, 563127, 563128, 563129, 563130, 563131, 563132, 563133, 563134, 563135, 563136, 563137, 563138, 563139, 563160, 563161 and 563162.</p> <p>Any other pin codes falling within Kolar District which are not mentioned specifically in the jurisdiction of any of the Commissionerates.</p>
12	Bengaluru North	<p>The areas falling under the following postal pin codes in the jurisdiction of part of Bengaluru Urban District, part of Bengaluru Rural District, Chikkaballapura District in the State of Karnataka:</p> <p>560001, 560003, 560006, 560009, 560012, 560014, 560020, 560021, 560024, 560032, 560045, 560046, 560051, 560052, 560054, 560055, 560063, 560064, 560065, 560077, 560080, 560092, 560094, 560097, 560106, 560300, 561203, 561204, 561205, 561206, 561207, 561208, 561209, 561210, 561211, 561212, 561213, 561228, 562101, 562102, 562103, 562104, 562105, 562110, 562135, 562149, 562157, 562163, 562164, 563123, 563124, 563125, 563146 and 563159.</p> <p>Any other pin codes falling within the jurisdiction of Bengaluru Rural District and Chikkaballapura District which are not mentioned specifically in the jurisdiction of any of the Commissionerates.</p>
13	Bengaluru North West	<p>The areas falling under the following postal pin codes in the jurisdiction of part of Bengaluru Urban District, part of Bengaluru Rural District, Tumkur District, Chitradurga District, Davangere District and Haveri District in the State of Karnataka:</p> <p>560013, 560015, 560022, 560031, 560057, 560058, 560073, 560088,</p>

**Notification**

Sl. No.	Principal Commissioner/ Commissioner of Central Tax	Territorial Jurisdiction
(1)	(2)	(3)
		<p>560089, 560090, 560091, 560107, 561202, 562111, 562123, 562132, 562162, 572101, 572102, 572103, 572104, 572105, 572106, 572107, 572111, 572112, 572113, 572114, 572115, 572116, 572117, 572118, 572119, 572120, 572121, 572122, 572123, 572124, 572125, 572126, 572127, 572128, 572129, 572130, 572132, 572133, 572134, 572135, 572136, 572137, 572138, 572139, 572140, 572141, 572142, 572143, 572144, 572145, 572168, 572175, 572201, 572202, 572211, 572212, 572213, 572214, 572215, 572216, 572217, 572218, 572219, 572220, 572221, 572222, 572223, 572224, 572225, 572226, 572227, 572228, 573114, 577001, 577002, 577003, 577004, 577005, 577006, 577213, 577215, 577217, 577218, 577219, 577221, 577223, 577224, 577230, 577231, 577501, 577502, 577511, 577512, 577513, 577514, 577515, 577516, 577517, 577518, 577519, 577520, 577521, 577522, 577523, 577524, 577525, 577526, 577527, 577528, 577529, 577530, 577531, 577532, 577533, 577534, 577535, 577536, 577537, 577538, 577539, 577540, 577541, 577542, 577543, 577544, 577545, 577546, 577551, 577552, 577553, 577554, 577555, 577556, 577557, 577558, 577566, 577589, 577596, 577597, 577598, 577599, 577601, 577602, 581101, 581102, 581104, 581106, 581108, 581109, 581110, 581111, 581112, 581115, 581116, 581118, 581119, 581120, 581123, 581126, 581128, 581145, 581148, 581193, 581197, 581198, 581202, 581203, 581205, 581208, 581210, 581211, 581212, 581213, 583125, 583127, 583131, 583137 and 583213.</p> <p>Any other pin codes falling within the jurisdiction of Tumkur District, Chitradurga District, Davangere District and Haveri District which are not mentioned specifically in the jurisdiction of any of the Commissionerates</p>
14	Bengaluru South	<p>The areas falling under the following postal pin codes in the jurisdiction of part of Bengaluru Urban District in the State of Karnataka:</p> <p>560002, 560004, 560011, 560027, 560029, 560030, 560034, 560041, 560068, 560069, 560076, 560078, 560081, 560083, 560095, 560099, 560100, 560102, 560105, 560108, 560111, 560112, 560114, 560210, 561229, 562106, 562107, 562158. Any other pin codes falling within the jurisdiction of Bengaluru Urban Districts which are not mentioned specifically in the jurisdiction of any of the Commissionerates.</p>

## Notification

Sl. No.	Principal Commissioner/ Commissioner of Central Tax	Territorial Jurisdiction
(1)	(2)	(3)
15	Bengaluru West	<p>Areas falling under the following postal pin codes in the jurisdiction of part of Bengaluru Urban District and Ramnagaram District, in the State of Karnataka:</p> <p>560010, 560018, 560019, 560023, 560026, 560028, 560039, 560040, 560044, 560050, 560053, 560056, 560059, 560060, 560061, 560062, 560070, 560072, 560074, 560079, 560082, 560085, 560086, 560096, 560098, 560104, 560109, 560110, 561101, 561201, 562108, 562109, 562112, 562117, 562119, 562120, 562121, 562126, 562127, 562128, 562130, 562131, 562138, 562145, 562159, 562160, 562161, 571501 and 571511.</p> <p>Any other pin codes falling within the jurisdiction of Ramnagaram District which are not mentioned specifically in the jurisdiction of any of the Commissionerates.</p>
16	Bhavnagar	Districts of Bhavnagar, Surendranagar, Amreli, Junagadh, Porbandar, Gir- Somnath and Botad in the State of Gujarat.
17	Bhiwandi	The areas falling under following pin codes: 400607, 400608, 400615, 401204, 421101, 421302, 421305, 421308, 421311 and 421312 in the State of Maharashtra.
18	Bhopal	Districts of Bhopal, Vidisha, Raisen, Hoshangabad, Harda, Sehore, Betul, Sagar, Rajgarh, Gwalior, Guna, Bhind, Morena, Sheopur, Shivpuri, Ashoknagar, Datia in the State of Madhya Pradesh.
19	Bhubaneswar	<p>Districts of Khurda, Cuttack, Kendrapara, Jagatsinghpur, Puri, Jajpur, Bhadrak, Balasore, Dhenkanal, Nayagarh, Ganjam, Rayagada, Gajapati, Koraput, Malkangiri, Nabrangpur, Kandhamal and Kalahandi in the State of Odisha.</p> <p>The territorial waters and the seabed and sub-soil underlying such waters from where the nearest point of the appropriate baseline is located in the state of Odisha.</p>
20	Bolpur	Districts of Murshidabad, Birbhum, Purulia, Purba Bardhaman, Paschim Bardhaman and Bankura in the State of West Bengal.
21	Chandigarh	Union Territory of Chandigarh.
22	Chennai North	<p>Chennai Corporation Zone Nos. I to IX.(From Ward no. 1 to 126 in existence as on 01-04-2017) in the State of Tamil Nadu.</p> <p>The continental shelf and exclusive economic zone contiguous to the</p>

## Notification

Sl. No.	Principal Commissioner/ Commissioner of Central Tax	Territorial Jurisdiction
(1)	(2)	(3)
		eastern coast of India. Explanation: The eastern coast of India refers to the coast adjacent to the states or Union Territories, as the case may be, of West Bengal, Odisha, Andhra Pradesh, Puducherry, Tamil Nadu and Andaman and Nicobar Islands.
23	Chennai Outer	Districts of Villupuram, Thiruvannamalai, Vellore, Thiruvallur, Kanchipuram and areas covered under Pallavaram Cantonment Board excluding Chennai Corporation Zone Nos. I to XV (from Ward No. 1 to 200 in existence as on 01.04.2017) and St. Thomas Mount Cantonment Board in the State of Tamil Nadu.
24	Chennai South	Areas comprising of Chennai Corporation Zones Nos. X to XV (From Ward No. 127 to 200 in existence as on 01-04-2017) and St. Thomas Mount Cantonment Board in the State of Tamil Nadu.
25	Coimbatore	Districts of Coimbatore, Nilgiris and the District of Tirupur excluding Dharapuram, Kangeyam and Uthukkuli Taluks in the State of Tamil Nadu.
26	Daman	Union territories of Daman and Diu and Dadra and Nagar Haveli.
27	Dehradun	State of Uttarakhand.
28	Delhi East	Areas falling under the following postal pin codes in the jurisdiction of part of Revenue Districts namely, East Delhi, South Delhi, New Delhi, North East Delhi, Shahdara and South East Delhi in the Union Territory of Delhi. 110003, 110013, 110014, 110019, 110024, 110025, 110031, 110032, 110044, 110049, 110051, 110053, 110065, 110090, 110091, 110092, 110093, 110094, 110095, 110096, 110098, 110099.
29	Delhi North	Areas falling under the following postal pin codes in the jurisdiction of part of Revenue Districts namely, Central Delhi, North Delhi and North West Delhi in the Union Territory of Delhi. 110002, 110005, 110006, 110007, 110009, 110033, 110035, 110036, 110039, 110040, 110042, 110054, 110055, 110060, 110082, 110084, 110088.
30	Delhi South	Areas falling under the following postal pin codes in the jurisdiction of part of Revenue Districts namely, New Delhi, South Delhi, South East Delhi and South West Delhi in the Union Territory of Delhi.

## Notification

Sl. No.	Principal Commissioner/ Commissioner of Central Tax	Territorial Jurisdiction
(1)	(2)	(3)
		110001, 110004, 110010, 110011, 110012, 110016, 110017, 110020, 110021, 110022, 110023, 110028, 110029, 110030, 110037, 110038, 110043, 110045, 110046, 110047, 110048, 110050, 110057, 110061, 110062, 110066, 110067, 110068, 110069, 110070, 110071, 110072, 110073, 110074, 110075, 110076, 110077, 110078, 110079, 110080, 110097.
31	Delhi West	Areas falling under the following postal pin codes in the jurisdiction of part of Revenue Districts namely, North Delhi, West Delhi, Central Delhi and North West Delhi in the Union Territory of Delhi. 110008, 110015, 110018, 110026, 110027, 110034, 110041, 110052, 110056, 110058, 110059, 110063, 110064, 110081, 110083, 110085, 110086, 110087, 110089.
32	Dibrugarh	Districts of Tinsukia, Dibrugarh, Charaideo, Sivasagar, Jorhat, Golaghat, Majuli, Darrang, Udalguri, Sonitpur, Biswanath, Lakhimpur and Dhemaji in the State of Assam.
33	Dimapur	State of Nagaland
34	Faridabad	Districts namely Faridabad, Palwal, Mewat, Rewari and Mahendergarh in the State of Haryana.
35	Gandhinagar	Districts of Gandhinagar, Sabarkantha, Aravalli, Mehsana, Banaskantha and Patan districts in the State of Gujarat.
36	Gautam Buddha Nagar	District of Gautam Buddha Nagar (excluding the areas falling under the jurisdiction of New Okhla Industrial Development Authority (NOIDA) in the District of Gautam Buddha Nagar) and Districts of Bulandshahr, Bareilly, Badaun, Sambhal and Pilibhit in the State of Uttar Pradesh.
37	Ghaziabad	District of Ghaziabad in the State of Uttar Pradesh.
38	Goa	State of Goa. The territorial waters and the seabed and sub soil underlying such waters from where the nearest point of the appropriate baseline is located in the state of Goa.
39	Guntur	Districts of Guntur, Krishna, West Godavari, Potti Sriramulu Nellore and Prakasam in the State of Andhra Pradesh. The territorial waters and the seabed and sub soil underlying such waters from where the nearest point of the appropriate baseline is located in the state of Andhra Pradesh.

## Notification

Sl. No.	Principal Commissioner/ Commissioner of Central Tax	Territorial Jurisdiction
(1)	(2)	(3)
40	Gurugram	Revenue District of Gurugram in the State of Haryana.
41	Guwahati	Districts of Kamrup (Metro), Kamrup (Rural), Baksa, Kokrajhar, Bongaigon, Chirang, Barapeta, Dhubri, South Salmara-Mankachar, Nalbari, Goalpara, Morigaon, Nagoan, Hojai, East KarbiAnglong, West KarbiAnglong, DimaHasao, Cachar, Hailakandi and Karimganj in the State of Assam.
42	Haldia	Union Territory of Andaman and Nicobar Islands, Districts of Purba Medinipur, Paschim Medinipur, Jhargram and Block Amta-I, Amta-II, Bagnan I, Jagatballavpur, Panchala, Udaynarayanpur, Domjur and Uluberia II of Howrah District in the State of West Bengal.  The territorial waters and the seabed and sub soil underlying such waters from where the nearest point of the appropriate baseline is located in the state of West Bengal and the Union territory of Andaman and Nicobar Islands.
43	Howrah	Districts of Hooghly and Howrah except Blocks Amta-I, Amta II, Bagnan-I, Jagatballavpur, Panchala, Udaynarayanpur, Domjur and Uluberia II in the district of Howrah in the State of West Bengal.
44	Hyderabad	Ward No. 24,26 to 80,89 and 91 to 103 of Greater Hyderabad Municipal Corporation falling in Hyderabad District and Rajendranagar Mandal of Rangareddy District in the State of Telangana.
45	Imphal	State of Manipur.
46	Indore	Districts of Indore and Dewas in the State of Madhya Pradesh
47	Itanagar	State of Arunachal Pradesh.
48	Jabalpur	Districts of Jabalpur, Narsinghpur, Mandla, Dindori, Katni, Umaria, Shahdol, Anuppur, Chhindwara, Seoni, Balaghat, Satna, Panna, Rewa, Sidhi, Singroli, Damoh, Chhatarpur and Tikamgarh in the State of Madhya Pradesh.
49	Jaipur	Districts of Jaipur, Ajmer, and Tonk in the State of Rajasthan.
50	Jalandhar	Districts of Amritsar, Tarn Taran, Gurdaspur, Jalandhar, Kapurthala, Pathankot, Shaheed Bhagat Singh Nagar and Hoshiarpur in the State of Punjab.
51	Jammu	State of Jammu and Kashmir.

**Notification**

Sl. No.	Principal Commissioner/ Commissioner of Central Tax	Territorial Jurisdiction
(1)	(2)	(3)
52	Jamshedpur	Districts of East Singbhum, West Singbhum and Saraikela – Kharsawan in the State of Jharkhand.
53	Jodhpur	Districts of Jodhpur, Nagaur, Pali, Sirohi, Jalore, Barmer, Jaisalmer, Bikaner, Churu, Ganganagar and Hanumangarh in the state of Rajasthan.
54	Kanpur	Districts of Kanpur Nagar, Kanpur Dehat, Lalitpur, Jhansi, Mahoba, Hamirpur, Jalaun, Kannauj, Mainpuri and Farrukhabad in the State of Uttar Pradesh.
55	Kochi	Union Territory of Lakshadweep and Districts of Ernakulam, Idukki, Thrissur in the State of Kerala. The territorial waters and the seabed and sub soil underlying such waters from where the nearest point of the appropriate baseline is located in the state of Kerala and the Union territory of Lakshadweep.
56	Kolhapur	Districts of Satara, Sangli, Kolhapur, Ratnagiri and Sindhudurg in the State of Maharashtra.
57	Kolkata North	Ward No. 1 to 62 of Kolkata Municipal Corporation and Districts of North 24 Paraganas and Nadia in the State of West Bengal.
58	Kolkata South	Ward No. 63 to 144 of Kolkata Municipal Corporation and the entire Districts of South 24 Paraganas in the State of West Bengal.
59	Kozhikode	Districts of Palakkad, Malappuram, Kozhikode, Wayanad, Kannur and Kasaragod in the State of Kerala.
60	Kutch (Gandhidham)	District of Kutch in the State of Gujarat.
61	Lucknow	Districts of Lucknow, Barabanki, Balrampur, Shravasti, Behraich, Gonda, Unnao, Sitapur, Lakhimpur, Shahjahanpur and Hardoi in the State of Uttar Pradesh.
62	Ludhiana	Districts of Ludhiana, Moga, Firozpur, Faridkot, Muktsar, Fazilka, Barnala, Sangrur, Mansa, Bhatinda, Patiala, Rupnagar, Ajitgarh and Fatehgarh Sahib in the State of Punjab.
63	Madurai	Districts of Madurai, Ramanathapuram, Sivagangai, Virudhunagar, Tuticorin, Tirunelveli, Kanyakumari, Theni, Dindigul (except D. Gudalur Village of Palayam Firka of Veda sandur Taluk) in the State of Tamil Nadu.



# Notification

Sl. No.	Principal Commissioner/ Commissioner of Central Tax	Territorial Jurisdiction
(1)	(2)	(3)
		The territorial waters and the seabed and sub soil underlying such waters from where the nearest point of the appropriate baseline is located in the state of Tamil Nadu and the Union territory of Puducherry.
64	Mangalore	<p>Areas in the Revenue District of Dakshina Kannada, Udupi, Uttara Kannada in the state of Karanataka covered under the postal pin code including:</p> <p>574101, 574102, 574103, 574104, 574105, 574106, 574107, 574108, 574109, 574110, 574111, 574112, 574113, 574114, 574115, 574116, 574117, 574118, 574119, 574122, 574129, 574141, 574142, 574143, 574144, 574145, 574146, 574148, 574150, 574153, 574154, 574197, 574198, 574199, 574201, 574203, 574210, 574211, 574212, 574213, 574214, 574216, 574217, 574218, 574219, 574220, 574221, 574222, 574223, 574224, 574225, 574226, 574227, 574228, 574229, 574230, 574231, 574232, 574233, 574234, 574235, 574236, 574237, 574238, 574239, 574240, 574241, 574242, 574243, 574248, 574253, 574259, 574260, 574265, 574267, 574274, 574279, 574285, 574313, 574314, 574323, 574324, 574325, 574326, 574327, 574328, 574509, 575001, 575002, 575003, 575004, 575006, 575007, 575008, 575010, 575013, 575015, 575016, 575017, 575018, 575019, 575020, 575022, 575023, 575025, 575028, 575029, 575030, 576101, 576102, 576103, 576104, 576105, 576106, 576107, 576108, 576111, 576112, 576113, 576114, 576115, 576117, 576120, 576121, 576122, 576124, 576201, 576210, 576211, 576212, 576213, 576214, 576215, 576216, 576217, 576218, 576219, 576220, 576221, 576222, 576223, 576224, 576225, 576226, 576227, 576228, 576229, 576230, 576231, 576232, 576233, 576234, 576235, 576247, 576257, 576282, 581121, 581129, 581186, 581187, 581301, 581302, 581303, 581304, 581305, 581306, 581307, 581308, 581314, 581315, 581316, 581317, 581318, 581319, 581320, 581321, 581322, 581323, 581324, 581325, 581326, 581327, 581328, 581329, 581330, 581331, 581332, 581333, 581334, 581335, 581336, 581337, 581338, 581339, 581340, 581341, 581342, 581343, 581344, 581345, 581346, 581347, 581348, 581349, 581350, 581351, 581352, 581353, 581354, 581355, 581356, 581357, 581358, 581359, 581360, 581361, 581362, 581363, 581365, 581384, 581396, 581400, 581401, 581402, 581403, 581411, 581412, 581421, 581423, 581440, 581450, 581453.</p>

## Notification

Sl. No.	Principal Commissioner/ Commissioner of Central Tax	Territorial Jurisdiction
(1)	(2)	(3)
		The territorial waters and the seabed and sub soil underlying such waters from where the nearest point of the appropriate baseline is located in the state of Karnataka.
65	Medchal	Districts of Adilabad, Jagtial, Kamareddy, Karimnagar, Komaran Bheem (Asifabad), Mancherial, Medak, Nirmal, Nizamabad, Peddapalli, Rajanna, (Sircilla), Sangareddy, Siddipet, Vikarabad and Secunderabad Cantonment Board Area and Medchal (Malkajgiri) District (Ward Nos. 114 to 141 of Greater Hyderabad Municipal Corporation but excluding Uppal, Kapra, Medipally and Ghatkesar Mandals) in the State of Telangana.
66	Meerut	Districts of Meerut, Baghpat, Muzaffarnagar, Saharanpur, Shamli, Amroha, Moradabad, Bijnore and Rampur in the State of Uttar Pradesh.
67	Mumbai Central	The areas falling under following pin codes: 400003, 400008 to 400018, 400025 to 400028, 400030, 400033 and 400034 in the State of Maharashtra.
68	Mumbai East	The areas falling under following pin codes: 400019, 400022, 400024, 400029, 400031, 400037, 400041, 400051, 400059, 400060, 400063, 400065, 400069, 400070, 400072, 400077, 400084, 400086, 400089, 400093, 400096, 400097, 400098 and 400099 in the State of Maharashtra.
69	Mumbai South	The areas falling under following pin codes: 400001, 400002, 400004 to 400007, 400020, 400021, 400023, 400032, 400035, 400036, 400038 and 400039 in the State of Maharashtra. The continental shelf and exclusive economic zone contiguous to the western coast of India. Explanation: The western coast of India refers to the coast adjacent to the states or Union Territories, as the case may be, of Gujarat, Maharashtra, Goa, Daman and Diu, Karnataka, Kerala and Lakshwadeep
70	Mumbai West	The areas falling under following pin codes: 400040, 400047 to 400050, 400052 to 400058, 400061, 400062, 400064, 400090, 400095, 400102, 400104, 400105 in the State of Maharashtra. The territorial waters and the seabed and sub soil underlying such waters from where the nearest point of the appropriate baseline is located in the state of Maharashtra.

**Notification**

Sl. No.	Principal Commissioner/ Commissioner of Central Tax	Territorial Jurisdiction
(1)	(2)	(3)
71	Mysuru	Area in the revenue districts of Mysuru, Mandya, Chamarajanagar, Kodagu, Hassan, Chikmagalur and Shivamogga in the state of Karnataka covered under postal pin codes including: 570001, 570002, 570003, 570004, 570005, 570006, 570007, 570008, 570009, 570010, 570011, 570012, 570014, 570015, 570016, 570017, 570018, 570019, 570020, 570022, 570023, 570025, 570026, 570027, 570028, 570029, 570030, 570031, 571101, 571102, 571103, 571104, 571105, 571106, 571107, 571108, 571109, 571110, 571111, 571114, 571116, 571117, 571118, 571119, 571120, 571121, 571122, 571124, 571125, 571126, 571127, 571128, 571129, 571134, 571187, 571189, 571201, 571211, 571212, 571213, 571214, 571215, 571216, 571217, 571218, 571219, 571231, 571232, 571234, 571235, 571236, 571237, 571247, 571248, 571249, 571250, 571251, 571252, 571253, 571254, 571301, 571302, 571311, 571312, 571313, 571314, 571315, 571316, 571320, 571401, 571403, 571404, 571405, 571415, 571416, 571417, 571418, 571419, 571421, 571422, 571423, 571424, 571425, 571426, 571427, 571429, 571430, 571431, 571432, 571433, 571434, 571435, 571436, 571438, 571439, 571440, 571441, 571442, 571443, 571444, 571445, 571446, 571448, 571450, 571455, 571457, 571463, 571475, 571476, 571477, 571478, 571490, 571601, 571602, 571603, 571604, 571605, 571606, 571607, 571610, 571617, 571802, 571807, 571811, 571812, 573101, 573102, 573103, 573111, 573112, 573113, 573115, 573116, 573117, 573118, 573119, 573120, 576121, 573122, 573123, 573124, 573125, 573126, 573127, 573128, 573129, 573130, 573131, 573133, 573134, 573135, 573136, 573137, 573141, 573142, 573144, 573150, 573162, 573164, 573165, 573201, 573202, 573211, 573212, 573214, 573215, 573216, 573217, 573218, 573219, 573220, 573225, 573226, 577101, 577102, 577111, 577112, 577113, 577114, 577115, 577116, 577117, 577120, 577121, 577122, 577123, 577124, 577125, 577126, 577127, 577128, 577129, 577130, 577131, 577132, 577133, 577134, 577135, 577136, 577137, 577138, 577139, 577140, 577142, 577144, 577145, 577146, 577160, 577168, 577175, 577179, 577180, 577181, 577182, 577201, 577202, 577203, 577204, 577205, 577211, 577213, 577214, 577215, 577216, 577217, 577218, 577219, 577220, 577221, 577222, 577223, 577224, 577225, 577226, 577227, 577228, 577229, 577230, 577231, 577232, 577233, 577243, 577245, 577301, 577302, 577401, 577411, 577413, 577414, 577415, 577416, 577417,

## Notification

Sl. No.	Principal Commissioner/ Commissioner of Central Tax	Territorial Jurisdiction
(1)	(2)	(3)
		577418, 577419, 577421, 577423, 577424, 577425, 577426, 577427, 577428, 577429, 577430, 577431, 577432, 577433, 577434, 577435, 577436, 577448, 577451, 577452, 577453, 577544, 577548, 577549, 577550, 577551 and 577552.
72	Nagpur I	<p>1. Following Areas of Nagpur District:</p> <p>(a) Area covered by Municipal limits of Nagpur city lying south of interconnected Sections of National Highway/State Highway/Internal Roads as under:</p> <p>(i) Section of National Highway 6 from Wadi end till Variety Square,</p> <p>(ii) Section of National Highway 7 connecting Variety Square and Panchsheel Square,</p> <p>(iii) Sections of Internal Roads connecting Panchsheel Square and Ashok Square via Dhantoli Police station and Baidyanath Square,</p> <p>(iv) Section of State Highway 9 from Ashok Square towards Umrer.</p> <p>(b) Parts of Nagpur (Rural) Tehsil adjoining Tehsils of Hingna, Nagpur (Urban), Kamptee, Umrer and Kuhi of Nagpur District,</p> <p>(c) Tehsils of Hingna, Umrer, Bhiwapur and Kuhi of Nagpur District.</p> <p>2. District of Wardha (Excluding Tehsils of Ashti, Arvi and Karanja), and</p> <p>3. Districts of Bhandara, Gondia, Chandrapur and Gadchiroli in the State of Maharashtra.</p>
73	Nagpur II	<p>1. Following Areas of Nagpur District:</p> <p>(a) Municipal limits of Nagpur city excluding the areas covered by Nagpur-I</p> <p>(b) Parts of Nagpur (Rural) Tehsil excluding the areas covered by Nagpur-I.</p> <p>(c) All other Tehsils of Nagpur District excluding the Tehsils covered by Nagpur-I.</p> <p>2. Tehsils of Ashti, Arvi and Karanja in Wardha District; and</p>

## Notification

Sl. No.	Principal Commissioner/ Commissioner of Central Tax	Territorial Jurisdiction
(1)	(2)	(3)
		3. Districts of Amravati, Yavatmal, Akola, Washim and Buldhana in the State of Maharashtra.
74	Nashik	Districts of Nashik, Dhule, Nandurbar, Jalgaon and Ahmednagar in the State of Maharashtra.
75	Navi Mumbai	The areas falling under following pin codes 400042, 400043, 400046, 400071, 400073 to 400076, 400078 to 400083, 400085, 400087, 400088, 400094, 400603, 400611, 400612, 400708 in the State of Maharashtra.
76	Noida	Areas falling under the jurisdiction of New Okhla Industrial Development Authority (NOIDA) in the District of Gautam Buddh Nagar and area falling in district of Hapur in the state of Uttar Pradesh.
77	Palghar	The areas falling under following pin codes : 401102, 401103, 401201 to 401203, 401205 to 401210, 401301 to 401306, 401401 to 401407, 401501 to 401506, 401601 to 401610, 401701 to 401703 in the State of Maharashtra.
78	Panchkula	Revenue Districts namely Panchkula, Panipat, Yamuna Nagar, Ambala, Karnal, Kaithal and Kurukshetra in the State of Haryana.
79	Patna I	Districts of Patna, Buxar, Kaimur (Bhabhua), Bhojpur, Rohtas, Arwal, Jehanabad, Aurangabad, Gaya, Nawada, Nalanda, Sheikhpura, Lakhisarai, Jamui, Munger, Banka and Bhagalpur in the State of Bihar.
80	Patna II	Districts of Vaishali, Saran, Gopalganj, Muzaffarpur, West Champaran, East Champaran, Sitamarhi, Sheohar, Madhubani, Darbhanga, Supaul, Begusarai, Saharsa, Madhepura, Khagaria, Purnia, Araria, Katihar, Kishanganj, Samastipur and Siwan in the State of Bihar.
81	Puducherry	Union Territory of Puducherry including Karaikal, Mahe and Yanam.
82	Pune –I	(i) Area of Junnar, Ambegaon, Khed, Shirur, Maval and Mulshi Talukas of Pune District; and (ii) Part of Haveli Taluka of Pune district comprising of PIN Code 411001, 411006, 411012, 411013, 411014, 411015, 411017, 411018, 411019, 411026, 411027, 411031, 411032, 411033, 411034, 411035, 411036, 411039, 411044, 411047, 411057, 411061, 411062, 412101, 412109, 412110, 412201, 412202, 412216, 412207 and 412307; and

## Notification

Sl. No.	Principal Commissioner/ Commissioner of Central Tax	Territorial Jurisdiction
(1)	(2)	(3)
		(iii) Area of PIN code 412202 falling in Haveli and Daund Talukas of Pune District in the State of Maharashtra.
83	Pune II	(i) Area of Velhe, Bhore, Purandhar, Baramati, Indapur Talukas of Pune District; and (ii) Part of Haveli Taluka of Pune District comprising of PIN code numbers 411002, 411003, 411004, 411005, 411007, 411008, 411009, 411011, 411016, 411020, 411021, 411022, 411023, 411024, 411025, 411028, 411030, 411037, 411038, 411040, 411041, 411042, 411043, 411045, 411046, 411048, 411051, 411052, 411058, 411060, 412205 and 412308; and (iii) Daund Taluka of Pune district except the area falling in PIN Code number 412202; and (iv) District of Solapur in the State of Maharashtra.
84	Raigarh	The areas falling under following pin codes: 402101 to 402118, 402120, 402122, 402125, 402126, 402201 to 402210, 402301 to 402309, 402401 to 402406, 410101, 410102, 410201 to 410212, 410216 to 410222 and 415213 in the State of Maharashtra.
85	Raipur	State of Chhattisgarh.
86	Rajkot	Districts of Rajkot, Morbi, Jamnagar, and Devbhumi Dwarka in the State of Gujarat. The territorial waters and the seabed and sub soil underlying such waters from where the nearest point of the appropriate baseline is located in the state of Gujarat and the Union territories of Daman and Diu.
87	Ranchi	Districts of Ranchi, Lohardaga, Simdega, Gumla, Khunti, Ramgarh, Hazaribagh, Chatra, Palamu, Garhwa, Latehar, Bokaro, Giridih, Koderma, Dhanbad, Deogarh, Jamtara, Pakur, Sahibganj, Godda and Dumka in the State of Jharkhand.
88	Rangareddy	Districts of Bhadrachalam, Jogulamba (Gadwal), Khammam, Mahaboobnagar, Nagarkurnool, Nalgonda, Suryapet and Wanaparthy and Rangareddy District (Ward Nos. 11 to 23, 25 and 104 to 110 of Greater Hyderabad Municipal Corporation but excluding Rajendranagar Mandal) in the State of Telangana.
89	Rohtak	Districts namely Rohtak, Jhajjar, Bhiwani, Charkhi Dadri, Jind, Hisar, Sirsa, Fatehabad and Sonapat in the State of Haryana.

**Notification**

Sl. No.	Principal Commissioner/ Commissioner of Central Tax	Territorial Jurisdiction
(1)	(2)	(3)
90	Rourkela	Districts of Anugul, Sundergarh, Sambalpur, Deogarh, Jharsuguda, Subarnapur (Sonepur), Boudh, Bargarh, Bolangir, Keonjhar, Mayurbhanj and Nuapada in the State of Odisha.
91	Salem	Districts of Salem, Namakkal, Erode, Dharmapuri, Krishnagiri and Dharampuram, Kangayam Taluk and Uthukkuli Taluks in the district of Tirupur in the State of Tamil Nadu.
92	Secunderabad	Districts of Jangaon, Jayashankar, Mahboobabad, Warangal (Rural), Warangal (Urban) and Yadadri and Ward Nos. 1 to 10, 81 to 88, 90 and 142 to 150 of Greater Hyderabad Municipal Corporation (falling in Hyderabad, Rangareddy and Medchal Districts) along with Uppal, Kapra, Medipally and Ghatkesar Mandals of Medchal District in the State of Telangana.
93	Shillong	State of Meghalaya.
94	Shimla	State of Himachal Pradesh.
95	Siliguri	State of Sikkim and Districts of Darjeeling, Kalimpong, Jalpaiguri, Coochbehar, Alipurduar, Uttar Dinajpur, Dakshin Dinajpur and Malda in the State of West Bengal.
96	Surat	Districts of Surat, Navsari, Valsad, Dangs and Tapi in the State of Gujarat.
97	Thane	The areas falling under following pin codes: 400066, 400067, 400068, 400091, 400092, 400101, 400103, 400601, 400602, 400604, 400605, 400606, 400609, 400610, 400613, 400616, 401101, 401104 to 401107 in the State of Maharashtra.
98	Thane Rural	The areas falling under following pin codes: 421001 to 421005, 421102, 421103, 421201 to 421206, 421301, 421303, 421304, 421306, 421401 to 421403, 421501 to 421506, 421601 to 421605 in the State of Maharashtra.
99	Thiruvananthapuram	Districts of Thiruvananthapuram, Kollam, Pathanamthitta, Alappuzha and Kottayam in the State of Kerala.
100	Tiruchirapalli	Districts of Tiruchirapalli, Perambalur, Ariyalur, Karur, Pudukottai, Thanjavur, Thiruvarur, Nagapattinam, Cuddalore, and D. Gudalur village of Palayam Firka of Veda sandur Taluk of Dindigul District in the State of Tamil Nadu.

**Notification**

Sl. No.	Principal Commissioner/ Commissioner of Central Tax	Territorial Jurisdiction
(1)	(2)	(3)
101	Tirupati	Districts of Chittoor, Anantapur, Dr. Y. S. Rajasekhareddy Cuddapah (Kadapa) and Kurnool in the State of Andhra Pradesh.
102	Udaipur	Districts of Udaipur, Rajasamand, Bhilwara, Chittorgarh, Pratapgarh, Dungarpur, Banswara, Bundi, Baran, Kota and Jhalawar in the State of Rajasthan.
103	Ujjain	Districts of Dhar, Khargone, Badwani, Khandwa, Burhanpur, Ratlam, Mandsaur, Neemuch, Jhabua, Alirajpur, Ujjain, Agar Malwa, Shajapur in the State of Madhya Pradesh.
104	Vadodara I	Vadodara District (excluding Savli and Desar Taluka), Anand, Kheda and Mahisagar Districts in the State of Gujarat
105	Vadodara II	Districts of Panchmahal, Dahod, Chhota Udepur, Bharuch, Narmada and Savli-Desar Taluka of Vadodara District in the State of Gujarat.
106	Varanasi	Districts of Sonbhadra, Mirzapur, Varanasi, Chandauli, Ghazipur, Ballia, Mau, Azamgarh, Deoria, Kushinagar, Gorakhpur, Maharajganj, Sant Kabir Nagar and Siddharth Nagar in the State of Uttar Pradesh.
107	Visakhapatnam	Districts of Srikakulam, Vizianagram, Visakhapatnam and East Godavari in the State of Andhra Pradesh.

**Table III**  
**Jurisdiction of Commissioner of Central Tax (Appeals) and Additional Commissioner of Central Tax (Appeals)**

Sl. No.	Commissioner of Central Tax (Appeals) and Additional Commissioner of Central Tax (Appeals)	Jurisdiction in terms of Principal Commissioner or Commissioner of Central Tax
(1)	(2)	(3)
1	Ahmedabad	Ahmedabad North, Ahmedabad South, Gandhinagar
2	Allahabad	Allahabad, Kanpur, Varanasi
3	Belgavi	Belgavi, Mangalore
4	Bengaluru I	Bengaluru East, Bengaluru South
5	Bengaluru II	Bengaluru North, Bengaluru North West
6	Bhopal	Bhopal, Jabalpur
7	Bhubaneswar	Bhubaneswar, Rourkela



**Notification**

8	Chandigarh	Chandigarh, Shimla
9	Chennai I	Chennai North, Puducherry
10	Chennai II	Chennai South, Chennai Outer
11	Coimbatore	Coimbatore, Tiruchirapally, Madurai, Salem
12	Dehradun	Dehradun
13	Delhi I	Delhi North, Delhi East
14	Delhi II	Delhi South, Delhi West
15	Goa	Goa
16	Guntur	Visakhapatnam, Guntur, Tirupati
17	Gurugram	Gurugram, Faridabad
18	Commissioner (Appeals) Guwahati	Guwahati, Dibrugarh, Shillong, Itanagar, Dimapur, Imphal, Aizawl, Agartala
	Additional Commissioner (Appeals) Guwahati	Guwahati, Dibrugarh, Itanagar
	Additional Commissioner (Appeals) Shillong	Shillong, Dimapur, Imphal, Aizawl, Agartala
19	Hyderabad I	Hyderabad, Rangareddy
20	Hyderabad II	Medchal, Secunderabad
21	Indore	Indore, Ujjain
22	Jaipur	Jaipur, Alwar
23	Jammu	Jammu
24	Jodhpur	Jodhpur, Udaipur
25	Kochi	Thiruvananthapuram ,Kochi, Kozhikode
26	Kolkata I	Kolkata North, Kolkata South
27	Kolkata II	Howrah, Haldia
28	Lucknow	Lucknow, Agra
29	Ludhiana	Ludhiana, Jalandhar
30	Meerut	Meerut, Ghaziabad
31	Mumbai I	Mumbai South
32	Mumbai II	Mumbai East, Mumbai Central
33	Mumbai III	Mumbai West, Palghar
34	Mysuru	Mysuru, Bengaluru West
35	Nagpur	Nagpur-I , Nagpur-II
36	Nashik	Nashik, Aurangabad
37	Noida	Noida , Gautam Buddh Nagar
38	Panchkula	Panchkula, Rohtak

**Notification**

39	Patna	Patna-I ,Patna-II
40	Pune-I	Pune-I , Kolhapur
41	Pune-II	Pune-II
42	Raigarh	Raigarh, Navi Mumbai, Belapur
43	Raipur	Raipur
44	Rajkot	Rajkot, Bhavnagar, Kutch (Gandhidham)
45	Ranchi	Ranchi, Jamshedpur
46	Siliguri	Siliguri, Bolpur
47	Surat	Surat, Daman
48	Thane	Thane, Thane Rural, Bhiwandi
49	Vadodara	Vadodara-I, Vadodara-II

**Table IV**  
**Jurisdiction of Commissioner of Central Tax (Audit)**

Sl. No.	Commissioner of Central Tax (Audit)	Jurisdiction in terms of Principal Commissioner or Commissioner of Central Tax
(1)	(2)	(3)
1	Ahmedabad	Ahmedabad North, Ahmedabad South, Gandhinagar
2	Belgavi	Belgavi, Mangalore
3	Bengaluru I	Bengaluru East, Bengaluru South
4	Bengaluru II	Bengaluru North, Bengaluru North West
5	Bhopal	Bhopal, Jabalpur
6	Bhubaneswar	Bhubaneswar, Rourkela
7	Chandigarh	Chandigarh, Shimla
8	Chennai I	Chennai North, Puducherry
9	Chennai II	Chennai South, Chennai Outer
10	Coimbatore	Coimbatore, Tiruchirapally, Madurai, Salem
11	Dehradun	Dehradun
12	Delhi I	Delhi North, Delhi East
13	Delhi II	Delhi South, Delhi West
14	Durgapur	Siliguri, Bolpur
15	Guntur	Visakhapatnam, Guntur, Tirupati
16	Gurugram	Gurugram, Faridabad
17	Hyderabad I	Hyderabad, Rangareddy
18	Hyderabad II	Medchal, Secunderabad

**Notification**

19	Indore	Indore, Ujjain
20	Jaipur	Jaipur, Alwar
21	Jammu	Jammu
22	Jodhpur,	Jodhpur, Udaipur
23	Kanpur	Kanpur, Allahabad, Varanasi
24	Kochi	Thiruvananthapuram, Kochi, Kozhikode
25	Kolkata I	Kolkata North, Kolkata South
26	Kolkata II	Howrah, Haldia
27	Lucknow	Lucknow, Agra
28	Ludhiana	Ludhiana, Jalandhar
29	Meerut	Meerut, Ghaziabad
30	Mumbai I	Mumbai South
31	Mumbai II	Mumbai East, Mumbai Central
32	Mumbai III	Mumbai West, Palghar
33	Mysuru	Mysuru, Bengaluru West
34	Nagpur	Nagpur-I , Nagpur-II
35	Nashik	Nashik, Aurangabad
36	Noida	Noida , Gautam Buddh Nagar
37	Panchkula	Panchkula, Rohtak
38	Patna	Patna-I ,Patna-II
39	Pune-I	Pune-I , Kolhapur
40	Pune-II	Pune-II, Goa
41	Raigarh	Raigarh, Navi Mumbai, Belapur
42	Raipur	Raipur
43	Rajkot	Rajkot, Bhavnagar, Kutch (Gandhidham)
44	Ranchi	Ranchi, Jamshedpur
45	Shillong	Shillong, Guwahati, Dibrugarh, Itanagar, Dimapur, Imphal, Aizawl, Agartala
46	Surat	Surat, Daman
47	Thane	Thane, Thane Rural, Bhiwandi
48	Vadodara	Vadodara-I, Vadodara-II

6. This notification shall come into force on the 22<sup>nd</sup> day of June, 2017.

[F.No 349/52/2017-GST]

(Dr. Sreeparvathy S. L.)  
Under Secretary to the Government of India

**Notification**

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**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]**

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE  
CENTRAL BOARD OF EXCISE AND CUSTOMS**

**Notification No. 5/2017 – Central Tax**

**New Delhi, the 19<sup>th</sup> June, 2017**

**29 Jyaistha, 1939 Saka**

G.S.R. (E).- In exercise of the powers conferred by sub-section (2) of section 23 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government hereby specifies the persons who are only engaged in making supplies of taxable goods or services or both, the total tax on which is liable to be paid on reverse charge basis by the recipient of such goods or services or both under sub-section (3) of section 9 of the said Act as the category of persons exempted from obtaining registration under the aforesaid Act.

2. This notification shall come into force on the 22<sup>nd</sup> day of June, 2017.

[F. No. 349/72/2017-GST]

(Dr. Sreeparvathy.S.L.)

Under Secretary to the Government of India

Notification

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[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE  
CENTRAL BOARD OF EXCISE AND CUSTOMS

Notification No. 6/2017 – Central Tax

New Delhi, the 19<sup>th</sup> June, 2017

29 Jyaistha, 1939 Saka

**G.S.R. (E).**- In exercise of the powers conferred by sub-rule (1) of rule 26 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said Rules), the Central Board of Excise and Customs hereby notifies the following modes of verification, for the purpose of the said rule, namely:-

- (i) Aadhaar based Electronic Verification Code (EVC);
- (ii) **Electronic verification code generated through net banking login on the common portal;**
- (iii) **Electronic verification code generated on the common portal \***

Provided that where the mode of authentication of any document is through any of the aforesaid modes, such verification shall be done within two days of furnishing the documents.

2. This notification shall come into force on the 22<sup>nd</sup> day of June, 2017.

[F. No. 349/72/2017-GST]

(Dr. Sreeparvathy.S.L.)

Under Secretary to the Government of India

\* Substituted vide Notification No. 11/2017- Central Tax dt 28-06-2017

## Notification

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[TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (i) OF THE GAZETTE OF INDIA, EXTRAORDINARY]

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(Department of Revenue)**

**Notification No. 8/2017-Central Tax**

**New Delhi, the 27th June, 2017**

G.S.R. (E).- In exercise of the powers conferred under the proviso to sub-section (1) of section 10 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act), the Central Government, on the recommendations of the Council, hereby prescribes that an eligible registered person, whose aggregate turnover in the preceding financial year did not exceed **seventy five lakh rupees<sup>@</sup>**, may opt to pay, in lieu of the central tax payable by him, an amount calculated at the rate of,—

- (i) **one** & per cent. of the turnover in State in case of a manufacturer,
- (ii) two and a half per cent. of the turnover in State in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II of the said Act, and
- (iii) **half per cent. of the turnover<sup>\$</sup>**: in State in case of other suppliers

Provided that the aggregate turnover in the preceding financial year shall be **fifty lakh rupees<sup>#</sup>** in the case of an eligible registered person, registered under section 25 of the said Act, in any following States, namely: -

- (i) Arunachal Pradesh,
- (ii) Assam,
- (iii) Manipur,
- (iv) Meghalaya,
- (v) Mizoram,
- (vi) Nagaland,
- (vii) Sikkim,
- (viii) Tripura,
- (ix) Himachal Pradesh:

Provided further that the registered person shall not be eligible to opt for composition levy under sub-section (1) of section 10 of the said Act if such person is a manufacturer of the goods, the description of which is specified in column (3) of the Table below and falling under

## Notification

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the tariff item, sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Table:

**TABLE**

<b>S. No.</b>	<b>Tariff item, sub-heading, heading or Chapter</b>	<b>Description</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>
1.	2105 00 00	Ice cream and other edible ice, whether or not containing cocoa.
2.	2106 90 20	Pan masala
3.	24	All goods, i.e. Tobacco and manufactured tobacco substitutes

*Explanation. –*

1 In this Table, “tariff item”, “sub-heading”, “heading” and “chapter” shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

2 The rules for the interpretation of the First Schedule to the said Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.

[F.No.354/117/2017-TRU]

(Mohit Tewari)

Under Secretary to the Government of India

@ Substituted to **one crore rupees** vide Notification No. 46/2017- Central Tax dt 13-10-2017

# Substituted to **seventy-five lakh rupees** vide Notification No. 46/2017- Central Tax dt 13-10-2017

& Substituted to **half per cent** vide Notification No. 1/2018- Central Tax dt. 01-01-2018

\$ Substituted to **half per cent. of the turnover of taxable supplies of goods** vide Notification No. 1/2018- Central Tax dt. 01-01-2018

**Notification**

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**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]**

**Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs**

**Notification No. 9/2017 – Central Tax**

**New Delhi, the 28<sup>th</sup> June, 2017  
7 Ashadha, 1939 Saka**

G.S.R. ....(E).— In exercise of the powers conferred by sub-section (3) of section 1 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government hereby appoints the 1<sup>st</sup> day of July, 2017, as the date on which the provisions of sections 6 to 9, 11 to 21, 31 to 41, 42 except the proviso to sub-section (9) of section 42, 43 except the proviso to sub-section (9) of section 43, 44 to 50, 53 to 138, 140 to 145, 147 to 163, 165 to 174 of the said Act, shall come into force.

[F. No. 349/72/2017-GST]

(Dr. Sreeparvathy S.L.)  
Under Secretary to the Government of India



## Notification

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[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

**Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs**

**Notification No. 12/2017 – Central Tax**

**New Delhi, the 28<sup>th</sup> June, 2017**

**7 Ashadha, 1939 Saka**

G.S.R. ....(E).— In pursuance of the first proviso to rule 46 of the Central Goods and Services Tax Rules, 2017, the Central Board of Excise and Customs, on the recommendations of the Council, hereby notifies that a registered person having annual turnover in the preceding financial year as specified in column (2) of the Table below shall mention the digits of Harmonised System of Nomenclature (HSN) Codes, as specified in the corresponding entry in column (3) of the said Table, in a tax invoice issued by him under the said rules.

**Table**

Serial Number	Annual Turnover in the preceding Financial Year	Number of Digits of HSN Code
(1)	(2)	(3)
1.	Upto rupees one crore fifty lakhs	Nil
2.	more than rupees one crore fifty lakhs and upto rupees five crores	2
3.	more than rupees five crores	4

2. This notification shall come into force from the 1<sup>st</sup> day of July, 2017.

[F. No.349/72/2017-GST]

(Dr. Sreeparvathy S.L.)

Under Secretary to the Government of India

## Notification

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[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

**Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs**

**Notification No. 13/2017 – Central Tax**

**New Delhi, the 28<sup>th</sup> June, 2017  
7 Ashadha, 1939 Saka**

G.S.R. ....(E).—In exercise of the powers conferred by sub-sections (1) and (3) of section 50, sub-section (12) of section 54 and section 56 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby fixes the rate of interest per annum, for the purposes of the sections as specified in column (2) of the Table below, as mentioned in the corresponding entry in column (3) of the said Table.

Table

Serial Number	Section	Rate of interest (in per cent)
(1)	(2)	(3)
1.	Sub-section (1) of section 50	18
2.	sub-section (3) of section 50	24
3.	sub-section (12) of section 54	6
4.	section 56	6
5.	proviso to section 56	9

2. This notification shall come into force from the 1<sup>st</sup> day of July, 2017.

[F. No.349/72/2017-GST]

(Dr. Sreeparvathy S.L.)  
Under Secretary to the Government of India

## Notification

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[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

**Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs**

**Notification No. 14/2017 – Central Tax**

**New Delhi, the 1<sup>st</sup> July, 2017**

**10 Ashadha, 1939 Saka**

G.S.R (E).- In exercise of the powers conferred under section 3 read with section 5 of the Central Goods and Services Tax Act, 2017 (12 of 2017) and section 3 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Board of Excise and Customs hereby appoints the officers in the Directorate General of Goods and Services Tax Intelligence, Directorate General of Goods and Services Tax and Directorate General of Audit as specified in column (2) of the Table below, as central tax officers and invests them with all the powers under the Central Goods and Services Tax Act, 2017 and the Integrated Goods and Services Tax Act, 2017 and the rules made there under, throughout the territory of India, as are exercisable by the central tax officers of the corresponding rank as specified in column (3) of the said Table, namely:-

TABLE

Sl. No.	Officers	Officers whose powers are to be exercised
(1)	(2)	(3)
1.	Principal Director General, Goods and Services Tax Intelligence or Principal Director General, Goods and Services Tax	Principal Chief Commissioner
2.	Director General, Audit	Chief Commissioner
3.	Principal Additional Director General, Goods and Services Tax Intelligence or Principal Additional Director General, Goods and Services Tax or Principal Additional Director General, Audit	Principal Commissioner
4.	Additional Director General, Goods and Services Tax Intelligence or Additional Director General,	Commissioner

**Notification**

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	Goods and Services Tax or Additional Director General, Audit	
5.	Additional Director, Goods and Services Tax Intelligence or Additional Director, Goods and Services Tax or Additional Director, Audit	Additional Commissioner
6.	Joint Director, Goods and Services Tax Intelligence or Joint Director, Goods and Services Tax or Joint Director, Audit	Joint Commissioner
7.	Deputy/Assistant Director, Goods and Services Tax Intelligence or Deputy/Assistant Director, Goods and Services Tax or Deputy/Assistant Director, Audit	Deputy Commissioner or Assistant Commissioner
8.	Senior Intelligence Officer, Goods and Services Tax Intelligence or Superintendent, Goods and Services Tax or Superintendent, Audit	Superintendent
9.	Intelligence Officer, Goods and Services Tax Intelligence or Inspector, Goods and Services Tax or Inspector, Audit	Inspector

2. This notification shall come into force with effect from the 1<sup>st</sup> day of July, 2017.

[F. No. 349/52/2017-GST]

(Dr. Sreeparvathy S.L.)

Under Secretary to the Government of India

## Notification

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[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUBSECTION (i)]

**Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs**

**Notification No. 16/2017 – Central Tax**

**New Delhi, the 7<sup>th</sup> July, 2017**

G.S.R... ( )E.- In exercise of the powers conferred by sub-rule (5) of rule 96A of the Central Goods and Services Tax Rules, 2017, the Central Board of Excise and Customs hereby specifies the conditions and safeguards for the registered person who intends to supply goods or services for export without payment of integrated tax, for furnishing a Letter of Undertaking in place of a Bond.

i. The following registered person shall be eligible for submission of Letter of Undertaking in place of a bond:-

- (a) a status holder as specified in paragraphs 3.20 & 3.21 of the Foreign Trade Policy 2015-2020; or
- (b) who has received the due foreign inward remittances amounting to a minimum of 10% of the export turnover, which should not be less than one crore rupees, in the preceding financial year,

and he has not been prosecuted for any offence under the Central Goods and Services Tax Act, 2017 (12 of 2017) or under any of the existing laws in case where the amount of tax evaded exceeds two hundred and fifty lakh rupees.

ii. The Letter of Undertaking shall be furnished in duplicate for a financial year in the annexure to FORM GST RFD – 11 referred to in sub-rule (1) of rule 96A of the Central Goods and Services Tax Rules, 2017 and it shall be executed by the working partner, the Managing Director or the Company Secretary or the proprietor or by a person duly authorised by such working partner or Board of Directors of such company or proprietor on the letter head of the registered person.

[F. No. 349/74/2017 – GST]

(Dr. Sreeparvathy S. L.)

Under Secretary to the Government of India

**Notification**

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**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (I)]**

**Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs**

**Notification No.28 /2017 - Central Tax**

New Delhi, the 01st September, 2017

G.S.R. ( )E.- In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby waives the late fee payable under section 47 of the said Act, for all registered persons who failed to furnish the return in FORM GSTR-3B for the month of July, 2017 by the due date.

[F. No. 349/74/2017-GST(Pt.)]

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(Dr. Sreeparvathy S.L.)

Under Secretary to the Government of India

## Notification

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[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (I)]

**Government of India**  
**Ministry of Finance Department of Revenue**  
**Central Board of Excise and Customs**

**Notification No. 32/2017 - Central Tax**

**New Delhi, the 15<sup>th</sup> September, 2017**

**G.S.R. (E).**—In exercise of the powers conferred by sub-section (2) of section 23 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby specifies the casual taxable persons making taxable supplies of handicraft goods as the category of persons exempted from obtaining registration under the aforesaid Act:

Provided that the aggregate value of such supplies, to be computed on all India basis, does not exceed an amount of twenty lakh rupees in a financial year:

Provided further that the aggregate value of such supplies, to be computed on all India basis, does not exceed an amount of ten lakh rupees in case of Special Category States, other than the State of Jammu and Kashmir.

2. The casual taxable persons mentioned in the preceding paragraph shall obtain a Permanent Account Number and generate an e-way bill in accordance with the provisions of rule 138 of the Central Goods and Services Tax Rules, 2017.

3. The above exemption shall be available to such persons who are making inter-State taxable supplies of handicraft goods and are availing the benefit of notification No. 8/2017 - Integrated Tax dated the 14<sup>th</sup> September, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 1156(E), dated the 14<sup>th</sup> September, 2017.

4. *Explanation* - For the purposes of this notification, the expression "handicraft goods" means the products mentioned in column (2) of the Table below and the Harmonized System of Nomenclature (HSN) code mentioned in the corresponding entry in column (3) of the said Table, when made by the craftsmen predominantly by hand even though some machinery may also be used in the process:-

**Notification****TABLE**

<b>Sl. No. (1)</b>	<b>Products (2)</b>	<b>HSN Code (3)</b>
1.	Leather articles (including bags, purses, saddlery, harness, garments)	4201, 4202, 4203
2.	Carved wood products (including boxes, inlay work, cases, casks)	4415, 4416
3.	Carved wood products (including table and kitchenware)	4419
4.	Carved wood products	4420
5.	Wood turning and lacquer ware	4421
6.	Bamboo products [decorative and utility items]	46
7.	Grass, leaf and reed and fibre products, mats, pouches, wallets	4601, 4602
8.	Paper mache articles	4823
9.	<b>Textile (handloom products), Handmade shawls, stoles and scarves<sup>#</sup></b>	<b>including 50, 58, 61, 62, 63</b>
10.	Textiles hand printing	50, 52, 54
11.	Zari thread	5605
12.	Carpet, rugs and durries	57
13.	Textiles hand embroidery	58
14.	Theatre costumes	61, 62, 63
15.	Coir products (including mats, mattresses)	5705, 9404
16.	Leather footwear	6403, 6405
17.	Carved stone products (including statues, statuettes, figures of animals, writing sets, ashtray, candle stand)	6802
18.	Stones inlay work	68
19.	Pottery and clay products, including terracotta	6901, 6909, 6911, 6912, 6913, 6914
20.	Metal table and kitchen ware (copper, brass ware)	7418
21.	Metal statues, images/statues vases, urns and crosses of the type used for decoration of metals of chapters 73 and 74	8306
22.	Metal bidriware	8306



**Notification**

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23.	Musical instruments	92
24.	Horn and bone products	96
25.	Conch shell crafts	96
26.	Bamboo furniture, cane/Rattan furniture	
27.	Dolls and toys	9503
28.	Folk paintings, madhubani, patchitra, Rajasthani miniature	97
29	<b>Chain stitch #</b>	<b>Any chapter</b>
30	<b>Crewel, namda, gabba#</b>	<b>Any chapter</b>
31	<b>Wicker willow products#</b>	<b>Any chapter</b>
32	<b>Toran#</b>	<b>Any chapter</b>
33	<b>Articles made of shola#</b>	<b>Any chapter".</b>

[F. No. 349/58/2017-GST(Pt.)]

(Dr. Sreeparvathy. S.L.)

Under Secretary to the Government of India

**# Inserted vide Notification No. 38/2017- Central tax dt 13-10-2017**

## Notification

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**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (I)]**

**Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs**

**Notification No. 33/2017 - Central Tax**

**New Delhi, the 15<sup>th</sup> September, 2017**

G.S.R ...(E).— In exercise of the powers conferred by sub-section (3) of section 1 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government hereby appoints the 18<sup>th</sup> day of September, 2017 as the date on which the provisions of sub-section (1) of section 51 of the said Act shall come into force with respect to persons specified under clauses (a) and (b) of sub-section (1) of section 51 of the said Act and the persons specified below under clause (d) of sub-section (1) of section 51 of the said Act, namely:-

- ..... (a) an authority or a board or any other body, -
  - ..... (i) set up by an Act of Parliament or a State Legislature; or
  - ..... (ii) established by any Government,  
with fifty-one percent or more participation by way of equity or control, to carry out any function;
- (b) society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860 (21 of 1860);
- (c) public sector undertakings:

Provided that the said persons shall be liable to deduct tax from the payment made or credited to the supplier of taxable goods or services or both with effect from a date to be notified subsequently, on the recommendations of the Council, by the Central Government.

[F. No. 349/58/2017-GST(Pt.)]

(Dr. Sreeparvathy S.L.)  
Under Secretary to the Government of India

## Notification

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[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (I)]

**Government of India**  
**Ministry of Finance Department of Revenue**  
**Central Board of Excise and Customs**

**Notification No. 35/2017 - Central Tax**

**New Delhi, 15<sup>th</sup> September, 2017**

G.S.R ..... (E).— In exercise of the powers conferred by section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with sub-rule (5) of rule 61 of the Central Goods and Services Tax Rules, 2017 and notification No. 21/2017-Central Tax dated the 08<sup>th</sup> August, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide G.S.R. number 997 (E), the Commissioner, on the recommendations of the Council, hereby specifies that the return for the month as specified in column (2) of the Table below shall be furnished in FORM GSTR-3B electronically through the common portal on or before the last dates as specified in the corresponding entry in column (3) of the said Table, namely:-

**Table**

Sl. No.	Month	Last Date for filing of return in FORM GSTR-3B
(1)	(2)	(3)
1.	August, 2017	20 <sup>th</sup> September, 2017
2.	September, 2017	20 <sup>th</sup> October, 2017.
3.	October, 2017	20 <sup>th</sup> November, 2017
4.	November, 2017	20 <sup>th</sup> December, 2017.
5.	December, 2017	20 <sup>th</sup> January, 2018

2. **Payment of taxes for discharge of tax liability as per FORM GSTR-3B:** Every registered person furnishing the return in FORM GSTR-3B shall, subject to the provisions of section 49 of the said Act, discharge his liability towards tax, interest, penalty, fees or any

**Notification**

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other amount payable under the said Act by debiting the electronic cash ledger or electronic credit ledger, as the case may be, not later than the last date, as detailed in column (3) of the said Table, on which he is required to furnish the said return.

**[F. No.349 /74 /2017-GST (Pt.)]**

(Dr. Sreeparvathy S.L.)  
Under Secretary to the Government of India

## Notification

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**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (I)]**

**Government of India  
Ministry of Finance (Department of Revenue)  
[Central Board of Excise and Customs]**

**Notification No. 37 /2017 - Central Tax**

**New Delhi, the 4<sup>th</sup> October, 2017**

G.S.R....(E).- In exercise of the powers conferred by section 54 of the Central Goods and Services Tax Act, 2017, and section 20 of the Integrated Goods and Services Tax Act, 2017, sub-rule (5) of rule 96A of the Central Goods and Services Tax Rules, 2017, and in supersession of notification No. 16/2017-Central Tax, dated the 7<sup>th</sup> July, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 848 (E), dated the 7<sup>th</sup> July, 2017 except as respects things done or omitted to be done before such supersession, the Central Board of Excise and Customs hereby specifies conditions and safeguards for furnishing a Letter of Undertaking in place of a Bond by a registered person who intends to supply goods or services for export without payment of integrated tax -

- (i) all registered persons who intend to supply goods or services for export without payment of integrated tax shall be eligible to furnish a Letter of Undertaking in place of a bond except those who have been prosecuted for any offence under the Central Goods and Services Tax Act, 2017 (12 of 2017) or the Integrated Goods and Services Tax Act, 2017 (13 of 2017) or any of the existing laws in force in a case where the amount of tax evaded exceeds two hundred and fifty lakh rupees;
- (ii) the Letter of Undertaking shall be furnished on the letter head of the registered person, in duplicate, for a financial year in the annexure to FORM GST RFD - 11 referred to in sub-rule (1) of rule 96A of the Central Goods and Services Tax Rules, 2017 and it shall be executed by the working partner, the Managing Director or the Company Secretary or the proprietor or by a person duly authorised by such working partner or Board of Directors of such company or proprietor;
- (iii) where the registered person fails to pay the tax due along with interest, as specified under sub-rule (1) of rule 96A of Central Goods and Services Tax Rules, 2017, within the period mentioned in clause (a) or clause (b) of the said sub-rule, the facility of export without payment of integrated tax will be deemed

## Notification

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to have been withdrawn and if the amount mentioned in the said sub-rule is paid, the facility of export without payment of integrated tax shall be restored.

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

[F. No. 349/74/2017-GST (Pt.) Vol.-II]

(Rohan)

Under Secretary to the Government of India

## Notification

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[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (I)]

Government of India  
Ministry of Finance Department of Revenue  
Central Board of Excise and Customs

Notification No. 39/2017 - Central Tax

New Delhi, the 13<sup>th</sup> October, 2017

G.S.R....(E).- In exercise of the powers conferred by sub-section (1) of section 6 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the "CGST Act"), on the recommendations of the Council, the Central Government hereby specifies that the officers appointed under the respective State Goods and Services Tax Act, 2017 or the Union Territory Goods and Service Tax Act, 2017 (14 of 2017) (hereafter in this notification referred to as "the said Acts") who are authorized to be the proper officers for the purposes of section 54 or section 55 of the said Acts (hereafter in this notification referred to as "the said officers") by the Commissioner of the said Acts, shall act as proper officers for the purpose of sanction of refund under section 54 or section 55 of the CGST Act read with the rules made thereunder **except rule 96\*** of the Central Goods and Services Tax Rules, 2017, in respect of a registered person located in the territorial jurisdiction of the said officers who applies for the sanction of refund to the said officers.

[F. No.349/74/2017-GST(Pt.)]

(Dr. Sreeparvathy S.L.)

Under Secretary to the Government of India

\* **Substituted to** "except sub rules (1) to (8) and sub rule (10) of rule 96" vide Notification No. 10/2018- Central Tax dt 23<sup>rd</sup> January, 2018

## **Notification**

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**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (I)]**

**Government of India  
Ministry of Finance Department of Revenue  
Central Board of Excise and Customs**

**Notification No. 40/2017 - Central Tax**

**New Delhi, the 13<sup>th</sup> October, 2017**

G.S.R. ...(E).- In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the 'said Act'), the Central Government, on the recommendations of the Council, hereby notifies the registered person whose aggregate turnover in the preceding financial year did not exceed one crore and fifty lakh rupees or the registered person whose aggregate turnover in the year in which such person has obtained registration is likely to be less than one crore and fifty lakh rupees and who did not opt for the composition levy under section 10 of the said Act as the class of persons who shall pay the central tax on the outward supply of goods at the time of supply as specified in clause (a) of sub-section (2) of section 12 of the said Act including in the situations attracting the provisions of section 14 of the said Act, and shall accordingly furnish the details and returns as mentioned in Chapter IX of the said Act and the rules made thereunder and the period prescribed for the payment of tax by such class of registered persons shall be such as specified in the said Act.

[F. No. 349/74/2017-GST (Pt.)]

(Dr. Sreeparvathy S.L.)  
Under Secretary to the Government of India



## Notification

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[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY PART II, SECTION 3, SUB-SECTION (i)]

**Government of India Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs**

**Notification No. 48/2017-Central Tax**

**New Delhi, the 18<sup>th</sup> October, 2017**

G.S.R. (E).- In exercise of the powers conferred by section 147 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby notifies the supplies of goods listed in column (2) of the Table below as deemed exports, namely:-

<b>S.No. (1)</b>	<b>Table Description of supply (2)</b>
1.	Supply of goods by a registered person against Advance Authorisation
2.	Supply of capital goods by a registered person against Export Promotion Capital Goods Authorisation
3.	Supply of goods by a registered person to Export Oriented Unit
4.	Supply of gold by a bank or Public Sector Undertaking specified in the notification No. 50/2017-Customs, dated the 30 <sup>th</sup> June, 2017 (as amended) against Advance Authorisation.

*Explanation -*

For the purposes of this notification, -

1. "Advance Authorisation" means an authorisation issued by the Director General of Foreign Trade under Chapter 4 of the Foreign Trade Policy 2015-20 for import or domestic procurement of inputs on pre-import basis for physical exports.
2. Export Promotion Capital Goods Authorisation means an authorisation issued by the Director General of Foreign Trade under Chapter 5 of the Foreign Trade Policy 2015-20 for import of capital goods for physical exports.

**Notification**

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3. "Export Oriented Unit" means an Export Oriented Unit or Electronic Hardware Technology Park Unit or Software Technology Park Unit or Bio-Technology Park Unit approved in accordance with the provisions of Chapter 6 of the Foreign Trade Policy 2015-20.

[F.No. 349/58/2017-GST(Pt)]

(Gunjan Kumar Verma)  
Under Secretary to the Government of India

## Notification

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[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY PART II, SECTION 3, SUB-SECTION (i)]

**Government of India**  
**Ministry of Finance Department of Revenue**  
**Central Board of Excise and Customs**

**Notification No. 49/2017-Central Tax**

**New Delhi, the 18<sup>th</sup> October, 2017**

G.S.R. (E).- In exercise of the powers conferred by clause (g) of sub-rule (2) of rule 89 of the Central Goods and Services Tax Rules, 2017 read with notification No. 48/2017-Central Tax, dated the 18<sup>th</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 1305 (E), dated the 18<sup>th</sup> October, 2017, the Central Government hereby notifies the following, as detailed in column (2) of the Table below, as evidences which are required to be produced by the supplier of deemed export supplies for claiming refund, namely:-

Table

<b>S.No. (1)</b>	<b>Evidence (2)</b>
1.	Acknowledgment by the jurisdictional Tax officer of the Advance Authorisation holder or Export Promotion Capital Goods Authorisation holder, as the case may be, that the said deemed export supplies have been received by the said Advance Authorisation or Export Promotion Capital Goods Authorisation holder, or a copy of the tax invoice under which such supplies have been made by the supplier, duly signed by the recipient Export Oriented Unit that said deemed export supplies have been received by it.
2.	An undertaking by the recipient of deemed export supplies that no input tax credit on such supplies has been availed of by him.
3.	An undertaking by the recipient of deemed export supplies that he shall not claim the refund in respect of such supplies and the supplier may claim the refund.

[F.No. 349/58/2017-GST(Pt)]

(Gunjan Kumar Verma)  
Under Secretary to the Government of India

**Notification**

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**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (I)]**

**Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs**

**Notification No. 50/2017 - Central Tax**

**New Delhi, the 24th October, 2017**

G.S.R. (E):- In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby waives the late fee payable under section 47 of the said Act, for all registered persons who failed to furnish the return in FORM GSTR-3B for the months of August and September, 2017 by the due date.

[F. No. 349/74/2017-GST(Pt.)]

(Dr. Sreeparvathy S.L.)  
Under Secretary to the Government of India

## Notification

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**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (I)]**

**Government of India  
Ministry of Finance Department of Revenue  
Central Board of Excise and Customs**

**Notification No. 52/2017 - Central Tax**

**New Delhi, the 28<sup>th</sup> October, 2017**

G.S.R .....(E). In pursuance of section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter referred to as the said Act) and clause (b) of sub-rule (1) of rule 40 of the Central Goods and Services Tax Rules, 2017, the Central Government hereby makes the following amendments in the notification number 44/2017-Central Tax, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (i), vide number G.S.R. 1258 (E), dated the 13th October, 2017, namely:-

In the said notification, for the words, figures and letters "the 31<sup>st</sup> day of October, 2017", the words, figures and letters "the 30<sup>th</sup> day of November, 2017" shall be substituted.

[F. No.349/58/2017-GST(Pt.II)]

(Dr. Sreeparvathy S.L.)

Under Secretary to Government of India

**Note:** The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (i) vide notification No. 44/2017-Central Tax, dated the 13<sup>th</sup> October, 2017, published vide number G.S.R. 1258 (E), dated the 13<sup>th</sup> October, 2017.

## Notification

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[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (I)]

**Government of India**  
**Ministry of Finance (Department of Revenue)**  
**[Central Board of Excise and Customs]**

**Notification No. 56/2017 - Central Tax**

**New Delhi, the 15<sup>th</sup> November, 2017**

G.S.R ..... (E):- In exercise of the powers conferred by section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with sub-rule (5) of rule 61 of the Central Goods and Services Tax Rules, 2017, the Commissioner, on the recommendations of the Council, hereby specifies that the return in **FORM GSTR-3B** for the month as specified in column (2) of the Table shall be furnished electronically through the common portal, on or before the last date as specified in the corresponding entry in column (3) of the said Table, namely:-

**Table**

Sl No.	Month	Last date for filing of return in FORM GSTR-3B
(1)	(2)	(3)
1.	January, 2018	20 <sup>th</sup> February, 2018
2.	February, 2018	20 <sup>th</sup> March, 2018
3.	March, 2018	20 <sup>th</sup> April, 2018

2. **Payment of taxes for discharge of tax liability as per FORM GSTR-3B:** Every registered person furnishing the return in **FORM GSTR-3B** shall, subject to the provisions of section 49 of the said Act, discharge his liability towards tax, interest, penalty, fees or any other amount payable under the said Act by debiting the electronic cash ledger or electronic credit ledger, as the case may be, not later than the last date, as mentioned in column (3) of the said Table, on which he is required to furnish the said return.

[F. No.349/58/2017-GST (Pt)]

(Dr. Sreeparvathy S.L.)  
Under Secretary to the Government of India

## Notification

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[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (I)]

**Government of India**  
**Ministry of Finance**  
**(Department of Revenue)**  
**[Central Board of Excise and Customs]**  
**Notification No. 57/2017 - Central Tax**

**New Delhi, the 15<sup>th</sup> November, 2017**

G.S.R. (E):— In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, notifies the registered persons having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year, as the class of registered persons who shall follow the special procedure as detailed below for furnishing the details of outward supply of goods or services or both.

2. The said persons shall furnish the details of outward supply of goods or services or both in **FORM GSTR-1** effected during the quarter as specified in column (2) of the Table below till the time period as specified in the corresponding entry in column (3) of the said Table, namely: -

**Table**

<b>Sl No. (1)</b>	<b>Quarter for which the details in FORM GSTR-1 are furnished (2)</b>	<b>Time period for furnishing the details in FORM GSTR-1 (3)</b>
1	July - September, 2017	31 <sup>st</sup> December, 2017
2	October - December, 2017	15 <sup>th</sup> February, 2018
3	January - March, 2018	30 <sup>th</sup> April, 2018

3. The special procedure or extension of the time limit for furnishing the details or return, as the case may be, under sub-section (2) of section 38 and sub-section (1) of section 39 of the Act, for the months of July, 2017 to March, 2018 shall be subsequently notified in the Official Gazette.

[F. No. 349/58/2017-GST(Pt.)]

(Dr. Sreeparvathy S.L.)  
Under Secretary to the Government of India

**Notification**

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**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (I)]**

**Government of India  
Ministry of Finance Department of Revenue  
Central Board of Excise and Customs  
Notification No. 64/2017 - Central Tax**

**New Delhi, the 15<sup>th</sup> November, 2017**

G.S.R (E):- In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Central Government, on the recommendations of the Council, hereby waives the amount of late fee payable by any registered person for failure to furnish the return in FORM GSTR-3B for the month of October, 2017 onwards by the due date under section 47 of the said Act, which is in excess of an amount of twenty five rupees for every day during which such failure continues:

Provided that where the total amount of central tax payable in the said return is nil, the amount of late fee payable by such registered person for failure to furnish the said return for the month of October, 2017 onwards by the due date under section 47 of the said Act shall stand waived to the extent which is in excess of an amount of ten rupees for every day during which such failure continues.

[F. No. 349/58/2017-GST(Pt)]

(Dr. Sreeparvathy S.L.)

Under Secretary to the Government of India



**Notification**

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**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (I)]**

**Government of India  
Ministry of Finance (Department of Revenue)  
[Central Board of Excise and Customs]**

**Notification No. 65/2017 - Central Tax**

New Delhi, the 15<sup>th</sup> November, 2017

G.S.R (E).— In exercise of the powers conferred by sub-section (2) of section 23 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Central Government, on the recommendations of the Council, hereby specifies the persons making supplies of services, other than supplies specified under sub-section (5) of section 9 of the said Act through an electronic commerce operator who is required to collect tax at source under section 52 of the said Act, and having an aggregate turnover, to be computed on all India basis, not exceeding an amount of twenty lakh rupees in a financial year, as the category of persons exempted from obtaining registration under the said Act:

Provided that the aggregate value of such supplies, to be computed on all India basis, should not exceed an amount of ten lakh rupees in case of "special category States" as specified in sub-clause (g) of clause (4) of article 279A of the Constitution, other than the State of Jammu and Kashmir.

[F. No.349/58/2017-GST(Pt)]

(Dr. Sreeparvathy S.L.)

Under Secretary to the Government of India

## Notification

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**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (I)]**

**Government of India  
Ministry of Finance (Department of Revenue)  
[Central Board of Excise and Customs]**

**Notification No. 66/2017 - Central Tax**

**New Delhi, the 15<sup>th</sup> November, 2017**

G.S.R. (E):— In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act) and in supersession of notification No. 40/2017-Central Tax, dated the 13<sup>th</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.1254(E), dated the 13<sup>th</sup> October, 2017, except as respects things done or omitted to be done before such supersession, the Central Government, on the recommendations of the Council, hereby notifies the registered person who did not opt for the composition levy under section 10 of the said Act as the class of persons who shall pay the central tax on the outward supply of goods at the time of supply as specified in clause (a) of sub-section (2) of section 12 of the said Act including in the situations attracting the provisions of section 14 of the said Act, and shall accordingly furnish the details and returns as mentioned in Chapter IX of the said Act and the rules made thereunder and the period prescribed for the payment of tax by such class of registered persons shall be such as specified in the said Act.

[F. No. 349/58/2017-GST(Pt)]

(Dr.Sreeparvathy S.L.)

Under Secretary to the Government of India

Note: The principal notification No.40/2017-Central Tax, dated the 13<sup>th</sup> October, 2017 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 1254(E), dated the 13<sup>th</sup> October, 2017.

## Notification

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[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (I)]

Government of India  
Ministry of Finance  
(Department of Revenue)  
[Central Board of Excise and Customs]

Notification No. 73/2017 – Central Tax

New Delhi, the 29th December, 2017

G.S.R.....(E):- In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Central Government, on the recommendations of the Council, hereby waives the amount of late fee payable under section 47 of the said Act, by any registered person for failure to furnish the return in **FORM GSTR-4** by the due date, which is in excess of an amount of twenty five rupees for every day during which such failure continues:

Provided that where the total amount payable in lieu of central tax in the said return is nil, the amount of late fee payable under section 47 of the said Act, by any registered person for failure to furnish the said return by the due date shall stand waived to the extent which is in excess of an amount of ten rupees for every day during which such failure continues.

[F. No. 349/58/2017-GST(Pt.)]

(Ruchi Bisht)  
Under Secretary to the Government of India

**Notification**

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**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (I)]**

**Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs  
Notification No. 74/2017 – Central Tax**

**New Delhi, the 29th December, 2017**

G.S.R. ....(E).— In exercise of the powers conferred by section 164 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government hereby appoints the 1st day of February, 2018, as the date from which the provisions of serial numbers 2(i) and 2(ii) of notification No. 27/2017 – Central Tax dated the 30th August, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1121 (E), dated the 30th August, 2017, shall come into force.

[F. No.349/58/2017-GST(Pt)]

(Ruchi Bisht)  
Under Secretary to the Government of India

**Notification**

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**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]**

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE  
CENTRAL BOARD OF EXCISE AND CUSTOMS**

**Notification No. 4/2018 – Central Tax**

**New Delhi, the 23<sup>rd</sup> January, 2018**

G.S.R.....(E):- In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Central Government, on the recommendations of the Council, hereby waives the amount of late fee payable by any registered person for failure to furnish the details of outward supplies for any month/quarter in **FORM GSTR-1** by the due date under section 47 of the said Act, which is in excess of an amount of twenty-five rupees for every day during which such failure continues:

Provided that where there are no outward supplies in any month/quarter, the amount of late fee payable by such registered person for failure to furnish the said details by the due date under section 47 of the said Act shall stand waived to the extent which is in excess of an amount of ten rupees for every day during which such failure continues.

[F. No.349/58/2017-GST(Pt.)]

(Dr. Sreeparvathy S.L.)

Under Secretary to the Government of India

**Notification**

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**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]**

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE  
CENTRAL BOARD OF EXCISE AND CUSTOMS**

**Notification No. 5/2018 – Central Tax**

**New Delhi, the 23<sup>rd</sup> January, 2018**

G.S.R.....(E):- In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Central Government, on the recommendations of the Council, hereby waives the amount of late fee payable by any registered person for failure to furnish the return in **FORM GSTR-5** by the due date under section 47 of the said Act, which is in excess of an amount of twenty-five rupees for every day during which such failure continues:

Provided that where the total amount of central tax payable in the said return is nil, the amount of late fee payable by such registered person for failure to furnish the said return by the due date under section 47 of the said Act shall stand waived to the extent which is in excess of an amount of ten rupees for every day during which such failure continues.

[F. No.349/58/2017-GST(Pt.)]

(Dr. Sreeparvathy S.L.)  
Under Secretary to the Government of India

**Notification**

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**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]**

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE  
CENTRAL BOARD OF EXCISE AND CUSTOMS**

**Notification No. 7/2018 – Central Tax**

**New Delhi, the 23<sup>rd</sup> January, 2018**

G.S.R.....(E):- In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Central Government, on the recommendations of the Council, hereby waives the amount of late fee payable by any registered person for failure to furnish the return in **FORM GSTR-6** by the due date under section 47 of the said Act, which is in excess of an amount of twenty-five rupees for every day during which such failure continues.

[F. No.349/58/2017-GST(Pt.)]

(Dr. Sreeparvathy S.L.)

Under Secretary to the Government of India

## Notification

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[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE  
CENTRAL BOARD OF EXCISE AND CUSTOMS**

**Notification No. 9/2018 – Central Tax**

**New Delhi, the 23<sup>rd</sup> January, 2018**

G.S.R....(E).- In exercise of the powers conferred by section 146 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), and in supersession of the notification of the Government of India in the Ministry of Finance, Department of Revenue No. 4/2017 - Central Tax dated 19th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 606 (E), dated the 19th June, 2017, except as respects things done or omitted to be done before such supersession, the Central Government hereby notifies [www.gst.gov.in](http://www.gst.gov.in) as the Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns and computation and settlement of integrated tax and [www.ewaybillgst.gov.in](http://www.ewaybillgst.gov.in) as the Common Goods and Services Tax Electronic Portal for furnishing electronic way bill.

*Explanation.-*

- (1) For the purposes of this notification, “[www.gst.gov.in](http://www.gst.gov.in)” means the website managed by the Goods and Services Tax Network, a company incorporated under the provisions of section 8 of the Companies Act, 2013 (18 of 2013); and
- (2) For the purposes of this notification, “[www.ewaybillgst.gov.in](http://www.ewaybillgst.gov.in)” means the website managed by the National Informatics Centre, Ministry of Electronics & Information Technology, Government of India.

2. This notification shall be deemed to have come into force with effect from the 16<sup>th</sup> day of January, 2018.

[F. No.349/58/2017-GST(Pt.)]

(Dr. Sreeparvathy S.L.)

Under Secretary to the Government of India

Note: The principal notification No.4/2017-Central Tax, dated the 19<sup>th</sup> June, 2017 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 606 (E), dated the 19<sup>th</sup> June, 2017.



**Notification**

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**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]**

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE  
CENTRAL BOARD OF EXCISE AND CUSTOMS**

**Notification No. 15/2018 – Central Tax**

**New Delhi, the 23<sup>rd</sup> March 2018**

G.S.R. ....(E).— In exercise of the powers conferred by section 164 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government hereby appoints the 1<sup>st</sup> day of April, 2018, as the date from which the provisions of sub-rules (ii) [other than clause (7)], (iii), (iv), (v), (vi) and (vii) of rule 2 of notification No. 12/2018 – Central Tax, dated the 7<sup>th</sup> March, 2018, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 204 (E), dated the 7<sup>th</sup> March, 2018, shall come into force.

[F. No.349/58/2017-GST(Pt)]

(Dr. Sreeparvathy S.L.)  
Under Secretary to the Government of India

## Notification

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[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE  
CENTRAL BOARD OF EXCISE AND CUSTOMS**

**Notification No. 16 /2018 – Central Tax**

**New Delhi, the 23<sup>rd</sup> March, 2018**

G.S.R.....(E). - In exercise of the powers conferred by section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the Act) read with sub-rule (5) of rule 61 of the Central Goods and Services Tax Rules, 2017, the Commissioner, on the recommendations of the Council, hereby specifies that the return in FORM GSTR-3B for the month as specified in column (2) of the Table below shall be furnished electronically through the common portal, on or before the last date as specified in the corresponding entry in column (3) of the said Table, namely:-

**TABLE**

<b>Sl. No</b>	<b>Month</b>	<b>Last date for filing of return in FORM GSTR-3B</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>
1.	April, 2018	20 <sup>th</sup> May, 2018
2.	May, 2018	20 <sup>th</sup> June, 2018
3.	June, 2018	20 <sup>th</sup> July, 2018

2. Payment of taxes for discharge of tax liability as per FORM GSTR-3B: Every registered person furnishing the return in FORM GSTR-3B shall, subject to the provisions of section 49 of the Act, discharge his liability towards tax, interest, penalty, fees or any other amount payable under the Act by debiting the electronic cash ledger or electronic credit ledger, as the case may be, not later than the last date, as mentioned in column (3) of the said Table, on which he is required to furnish the said return.

[F. No. 349/58/2017-GST (Pt.)]

(Dr. Sreeparvathy S.L.)  
Under Secretary to the Government of India

## Notification

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[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE  
CENTRAL BOARD OF EXCISE AND CUSTOMS**

**Notification No. 17/2018 – Central Tax**

**New Delhi, the 28<sup>th</sup> March, 2018**

G.S.R.....(E). - — In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the Act), the Central Government, on the recommendations of the Council, hereby notifies the registered persons having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year, as the class of registered persons who shall follow the special procedure as mentioned below for furnishing the details of outward supply of goods or services or both.

2. The said persons shall furnish the details of outward supply of goods or services or both in **FORM GSTR-1** effected during the quarter April to June, 2018 till the 31<sup>st</sup> day of July, 2018.

3. The special procedure or extension of the time limit for furnishing the details or return, as the case may be, under sub-section (2) of section 38 and sub-section (1) of section 39 of the Act, for the months of April to June, 2018 shall be, subsequently, notified in the Official Gazette.

[F. No. 349/58/2017-GST (Pt.)]

(Ruchi Bisht)  
Under Secretary to the Government of India

## Notification

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[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE  
CENTRAL BOARD OF EXCISE AND CUSTOMS**

**Notification No. 18/2018 – Central Tax**

**New Delhi, the 28<sup>th</sup> March, 2018**

G.S.R.....(E). - In exercise of the powers conferred by the second proviso to subsection (1) of section 37 read with section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the Act), the Commissioner, on the recommendations of the Council, hereby extends the time limit for furnishing the details of outward supplies in FORM GSTR-1 under sub-section (1) of section 37 of the Act for the months as specified in column (2) of the Table, by such class of registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year, till the time period as specified in the corresponding entry in column (3) of the said Table, namely:

**TABLE**

Sl. No	Month	Last date for filing of return in FORM GSTR-1
(1)	(2)	(3)
1.	April, 2018	31 <sup>st</sup> May, 2018
2.	May, 2018	10 <sup>th</sup> June, 2018
3.	June, 2018	10 <sup>th</sup> July, 2018

2. The extension of the time limit for furnishing the details or return, as the case may be, under sub-section (2) of section 38 and sub-section (1) of section 39 of the Act, for the months of April to June, 2018 shall be, subsequently, notified in the Official Gazette.

[F. No. 349/58/2017-GST (Pt.)]

(Ruchi Bisht)  
Under Secretary to the Government of India

[TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (i) OF THE GAZETTE OF INDIA, EXTRAORDINARY]

GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(Department of Revenue)

Notification No.2/2017-Central Tax (Rate)

New Delhi, the 28th June, 2017

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts intra-State supplies of goods, the description of which is specified in column (3) of the Schedule appended to this notification, falling under the tariff item, sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Schedule, from the whole of the central tax leviable thereon under section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017).

Schedule

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
(1)	(2)	(3)
1.	0101	Live asses, mules and hinnies
2.	0102	Live bovine animals
3.	0103	Live swine
4.	0104	Live sheep and goats
5.	0105	Live poultry, that is to say, fowls of the species Gallus domesticus, ducks, geese, turkeys and guinea fowls.
6.	0106	Other live animal such as Mammals, Birds, Insects
7.	0201	Meat of bovine animals, fresh and chilled.
8.	0203, 0204, 0205, 0206, 0207, 0208, 0209 @	All goods, fresh or chilled

## Notification

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
9.	0202, 0203, 0204, 0205, 0206, 0207, 0208, 0209, 0210@	All goods [other than fresh or chilled] other than those put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily], subject to the conditions as in the ANNEXURE I ]
Serial No. 10 to 17 deleted vide Notification No. 42/2017- CT(Rate) dated 14.11.2017		
18.	3	Fish seeds, prawn / shrimp seeds whether or not processed, cured or in frozen state [other than goods falling under Chapter 3 and attracting 2.5%]
19.	0301	Live fish.
20.	0302	Fish, fresh or chilled, excluding fish fillets and other fish meat of heading 0304
21.	0304, 0306, 0307, 0308@	All goods, fresh or chilled
22.	0303, 0304, 0305, 0306, 0307, 0308@	All goods [other than fresh or chilled] and other than those put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily], subject to the conditions as in the ANNEXURE I ],
Serial No. 23 to 24 deleted vide Notification No. 42/2017- CT(Rate) dated 14.11.2017		
25.	0401	Fresh milk and pasteurised milk, including separated milk, milk and cream, not concentrated nor containing added sugar or other sweetening matter, excluding Ultra High Temperature (UHT) milk
26.	0403	Curd; Lassi; Butter milk
27.	0406	Chena or paneer, "other than those put up in unit container and,- (a) bearing a registered brand name; or

## Notification

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
		(b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily, subject to the conditions as in the ANNEXURE I]”, shall be substituted;*
28.	0407	Birds' eggs, in shell, fresh, preserved or cooked
29.	0409	Natural honey, other than those put up in unit container and,- (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily, subject to the conditions as in the ANNEXURE I]” *
30.	0501	Human hair, unworked, whether or not washed or scoured; waste of human hair
30A	504	All goods, fresh or chilled@
30B	504	All goods [other than fresh or chilled] other than those put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily], subject to the conditions as in the ANNEXURE I ] @
31.	0506	All goods i.e. Bones and horn-cores, unworked, defatted, simply prepared (but not cut to shape), treated with acid or gelatinised; powder and waste of these products
32.	0507 90	All goods i.e. Hoof meal; horn
33.	0511	Semen including frozen semen
34.	6	Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage
35.	0701	Potatoes, fresh or chilled.
36.	0702	Tomatoes, fresh or chilled.

## Notification

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
37.	0703	Onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled.
38.	0704	Cabbages, cauliflowers, kohlrabi, kale and similar edible brassicas, fresh or chilled.
39.	0705	Lettuce ( <i>Lactuca sativa</i> ) and chicory ( <i>Cichorium spp.</i> ), fresh or chilled.
40.	0706	Carrots, turnips, salad beetroot, salsify, celeriac, radishes and similar edible roots, fresh or chilled.
41.	0707	Cucumbers and gherkins, fresh or chilled.
42.	0708	Leguminous vegetables, shelled or unshelled, fresh or chilled.
43.	0709	Other vegetables, fresh or chilled.
43A	0710	Vegetables (uncooked or cooked by steaming or boiling in water), frozen, other than those put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily], subject to the conditions as in the ANNEXURE I] @
45.	0713	Dried leguminous vegetables, shelled, whether or not skinned or split.
46.	0714	Manioc, arrowroot, salep, Jerusalem artichokes, sweet potatoes and similar roots and tubers with high starch or inulin content, fresh or Chilled, dried@; sago pith.
46A	0714	Manioc, arrow root, salep, Jerusalem artichokes, sweet potatoes and similar roots and tubers with high starch or inulin content, frozen, whether or not sliced or in the form of pellets other than those put up in unit container and, (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of



## Notification

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
		such brand name has been foregone voluntarily], subject to the conditions as in the ANNEXURE I] @
46B	08	Dried makhana, whether or not shelled or peeled [other than those put up in unit container and,- (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily], subject to the conditions as in the ANNEXURE I] @
47.	0801	Coconuts, fresh or dried, whether or not shelled or peeled
48.	0801	Brazil nuts, fresh, whether or not shelled or peeled
49.	0802	Other nuts, Other nuts, fresh such as Almonds, Hazelnuts or filberts (Corylus spp.), walnuts, Chestnuts (Castanea spp.), Pistachios, Macadamia nuts, Kola nuts (Cola spp.), Areca nuts, fresh, whether or not shelled or peeled
50.	0803	Bananas, including plantains, fresh or dried
51.	0804	Dates, figs, pineapples, avocados, guavas, mangoes and mangosteens, fresh.
52.	0805	Citrus fruit, such as Oranges, Mandarins (including tangerines and satsumas); clementines, wilkings and similar citrus hybrids, Grapefruit, including pomelos, Lemons (Citrus limon, Citrus limonum) and limes (Citrus aurantifolia, Citrus latifolia), fresh.
53.	0806	Grapes, fresh
54.	0807	Melons (including watermelons) and papaws (papayas), fresh.
55.	0808	Apples, pears and quinces, fresh.
56.	0809	Apricots, cherries, peaches (including nectarines), plums and sloes, fresh.
57.	0810	Other fruit such as strawberries, raspberries, blackberries, mulberries and loganberries, black, white or red currants and gooseberries, cranberries, bilberries and other fruits of the genus vaccinium, Kiwi fruit, Durians, Persimmons, Pomegranates, Tamarind, Sapota (chico), Custard-apple (ata), Bore, Lichi, fresh.

## Notification

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
58.	0814	Peel of citrus fruit or melons (including watermelons), fresh.
59.	9	All goods of seed quality
60.	0901	Coffee beans, not roasted
61.	0902	Unprocessed green leaves of tea
62.	0909	Seeds of anise, badian, fennel, coriander, cumin or caraway; juniper berries [of seed quality]
63.	0910 11 10	Fresh ginger, other than in processed form
64.	0910 30 10	Fresh turmeric, other than in processed form
65.	1001	Wheat and meslin [other than those put up in unit container and,- (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily, subject to the conditions as in the ANNEXURE I]" *]
66.	1002	Rye [other than those put up in unit container and,- (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily, subject to the conditions as in the ANNEXURE I]" *]
67.	1003	Barley [other than those put up in unit container and,- (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily, subject to the conditions as in the ANNEXURE I]" *]
68.	1004	Oats [other than those put up in unit container and,-

## Notification

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
		(a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily, subject to the conditions as in the ANNEXURE I]" *
69.	1005	Maize (corn) [other than those put up in unit container and,- (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily, subject to the conditions as in the ANNEXURE I]" *
70.	1006	Rice [other than those put up in unit container and,- (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily, subject to the conditions as in the ANNEXURE I]" *
71.	1007	Grain sorghum [other than those put up in unit container and,- (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily, subject to the conditions as in the ANNEXURE I]" *
72.	1008	Buckwheat, millet and canary seed; other cereals such as Jawar, Bajra, Ragi] [other than those put up in unit container and,- (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of

## Notification

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
		such brand name has been foregone voluntarily, subject to the conditions as in the ANNEXURE I]" *
73.	1101	Wheat or meslin flour [other than those put up in unit container and,- (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily, subject to the conditions as in the ANNEXURE I]" *
74.	1102	Cereal flours other than of wheat or meslin, [maize (corn) flour, Rye flour, etc.] [other than those put up in unit container and,- (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily, subject to the conditions as in the ANNEXURE I]" *
75.	1103	Cereal groats, meal and pellets [other than those put up in unit container and,- (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily, subject to the conditions as in the ANNEXURE I]" *
76.	1104	Cereal grains hulled
77.	1105	Flour, powder, flakes, granules or pellets of potatoes@ [other than those put up in unit container and,- (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily, subject to the conditions as in the ANNEXURE I]" *

## Notification

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
78.	1106	Flour, of the dried leguminous vegetables of heading 0713 (pulses) [other than guar meal 1106 10 10 and guar gum refined split 1106 10 90], of sago or of roots or tubers of heading 0714 or of the products of Chapter 8 i.e. of tamarind, of singoda, mango flour, etc. other than those put up in unit container and,- (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily, subject to the conditions as in the ANNEXURE I]" *]
78A.	1106-1010	Guar meal@
79.	12	All goods of seed quality
80.	1201	Soya beans, whether or not broken, of seed quality.
81.	1202	Ground-nuts, not roasted or otherwise cooked, whether or not shelled or broken, of seed quality.
82.	1204	Linseed, whether or not broken, of seed quality.
83.	1205	Rape or colza seeds, whether or not broken, of seed quality.
84.	1206	Sunflower seeds, whether or not broken, of seed quality.
85.	1207	Other oil seeds and oleaginous fruits (i.e. Palm nuts and kernels, cotton seeds, Castor oil seeds, Sesamum seeds, Mustard seeds, Safflower (Carthamus tinctorius) seeds, Melon seeds, Poppy seeds, Ajams, Mango kernel, Niger seed, Kokam) whether or not broken, of seed quality.
86.	1209	Seeds, fruit and spores, of a kind used for sowing.
87.	1210	Hop cones, fresh.
87A.	1210 10 00	Hop cones, neither ground nor powdered nor in the form of pellets@
88.	1211	Plants and parts of plants (including seeds and fruits), of a kind used primarily in perfumery, in pharmacy or for insecticidal, fungicidal or similar purpose, fresh or chilled.
89.	1212	Locust beans, seaweeds and other algae, sugar beet and sugar

## Notification

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
		cane, fresh or chilled.
90.	1213	Cereal straw and husks, unprepared, whether or not chopped, ground, pressed or in the form of pellets
91.	1214	Swedes, mangolds, fodder roots, hay, lucerne (alfalfa), clover, sainfoin, forage kale, lupines, vetches and similar forage products, whether or not in the form of pellets.
92.	1301	Lac and Shellac
93.	1404 90 40	Betel leaves
93A	1404 90 60	coconut shell, unworked @
94.	1701 or 1702	Jaggery of all types including Cane Jaggery (gur) and Palmyra Jaggery; Khandsari Sugar @
95.	1904	Puffed rice, commonly known as Muri, flattened or beaten rice, commonly known as Chira, parched rice, commonly known as khoi, parched paddy or rice coated with sugar or gur, commonly known as Murki
96.	1905	Pappad, by whatever name it is known, except when served for consumption
97.	1905	Bread (branded or otherwise), except when served for consumption and pizza bread
98.	2106	Prasadam supplied by religious places like temples, mosques, churches, gurudwaras, dargahs, etc.
99.	2201	Water [other than aerated, mineral, purified, distilled, medicinal, ionic, battery, de-mineralized and water sold in sealed container]
100.	2201	Non-alcoholic Toddy, Neera including date and palm neera
101.	2202 90 90	Tender coconut water other than those put up in unit container and,- (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily, subject to the conditions as in the ANNEXURE

## Notification

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
		I] *
102.	2301, 2302, 2308, 2309*	Aquatic feed including shrimp feed and prawn feed, poultry feed & cattle feed, including grass, hay & straw, supplement & husk of pulses, concentrates & additives, wheat bran & de-oiled cake [other than rice-bran] \$
102A.	2302	De-oiled rice bran \$
102B.	2306	Cotton seed oil cake *
103.	2501	Salt (including table salt and denatured salt) and pure sodium chloride, whether or not in aqueous solutions or containing added anti-caking or free flowing agents; sea water @
104.	2716 00 00	Electrical energy
105.	2835	Dicalcium phosphate (DCP) of animal feed grade conforming to IS specification No.5470: 2002
106.	3002	Human Blood and its components
107.	3006	All types of contraceptives
108.	3101	All goods and organic manure [other than those put up in unit container and,- (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily, subject to the conditions as in the ANNEXURE I] *
109.	3304	Kajal [other than kajal pencil sticks], Kumkum, Bindi, Sindur, Alta
110.	3825	Municipal waste, sewage sludge, clinical waste
111.	3926	Plastic bangles
112.	4014	Condoms and contraceptives
113.	4401	Firewood or fuel wood
114.	4402	Wood charcoal (including shell or nut charcoal), whether or not agglomerated

## Notification

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
115.	4802 / 4907	Judicial, Non-judicial stamp papers, Court fee stamps when sold by the Government Treasuries or Vendors authorized by the Government
116.	4817 / 4907	Postal items, like envelope, Post card etc., sold by Government
117.	48 / 4907	Rupee notes when sold to the Reserve Bank of India
118.	4907	Cheques, loose or in book form
119.	4901	Printed books, including Braille books
120.	4902	Newspapers, journals and periodicals, whether or not illustrated or containing advertising material
121.	4903	Children's picture, drawing or colouring books
122.	4905	Maps and hydrographic or similar charts of all kinds, including atlases, wall maps, topographical plans and globes, printed
122A.	4907	Duty Credit Scrips #
123.	5001	Silkworm laying, cocoon
124.	5002	Raw silk
125.	5003	Silk waste
126.	5101	Wool, not carded or combed
127.	5102	Fine or coarse animal hair, not carded or combed
128.	5103	Waste of wool or of fine or coarse animal hair
129.	52	Gandhi Topi
130.	52	Khadi yarn
130A.	50 to 55	Khadi fabric, sold through Khadi and Village Industries Commission(KVIC) and KVIC certified institutions/outlets*
131.	5303	Jute fibres, raw or processed but not spun
132.	5305	Coconut, coir fibre
133.	63	Indian National Flag
134.	6703	Human hair, dressed, thinned, bleached or otherwise worked
135.	6912 00 40	Earthen pot and clay lamps



## Notification

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
135A	69	Idols made of clay *
136.	7018	Glass bangles (except those made from precious metals)
136A	7117 \$	Bangles of lac/ shellac @
137.	8201	Agricultural implements manually operated or animal driven i.e. Hand tools, such as spades, shovels, mattocks, picks, hoes, forks and rakes; axes, bill hooks and similar hewing tools; secateurs and pruners of any kind; scythes, sickles, hay knives, hedge shears, timber wedges and other tools of a kind used in agriculture, horticulture or forestry <b>other than ghamella</b> \$
138.	8445	Charkha for hand spinning of yarns, including amber charkha*
139.	8446	Handloom [weaving machinery]
140.	8802 60 00	Spacecraft (including satellites) and suborbital and spacecraft launch vehicles
141.	8803	Parts of goods of heading 8801
142.	9021	Hearing aids
143.	92	Indigenous handmade musical instruments as listed in ANNEXURE II", *
144.	9603	Muddhas made of sarkanda Brooms or brushes, consisting of twigs or other vegetable materials, bound together, with or without handles *
145.	9609	Slate pencils and chalk sticks
146.	9610 00 00	Slates
147.	9803	Passenger baggage
148.	Any chapter	Puja samagri namely,- (i) Rudraksha, rudraksha mala, tulsi kanthi mala, panchgavya (mixture of cowdung, desi ghee, milk and curd); (ii) Sacred thread (commonly known as yagnopavit); (iii) Wooden khadau; (iv) Panchamrit, (v) Vibhuti sold by religious institutions, \$

## Notification

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
		(vi) Unbranded honey [proposed GST Nil] (vii) Wick for diya (viii) Roli (ix) Kalava (Raksha sutra) (x) Chandan tika
149.	-	Supply of lottery by any person other than State Government, Union Territory or Local authority subject to the condition that the supply of such lottery has suffered appropriate central tax, State tax, Union territory tax or integrated tax, as the case may be, when supplied by State Government, Union Territory or local authority, as the case may be, to the lottery distributor or selling agent appointed by the State Government, Union Territory or local authority, as the case may be.
150	-	Supply of goods by a Government entity to Central Government, State Government, Union territory, local authority or any person specified by Central Government, State Government, Union territory or local authority, against consideration received from Central Government, State Government, Union territory or local authority in the form of grants #
151	Any Chapter	Parts for manufacture of hearing aids \$

*Explanation.-* For the purposes of this Schedule,-

- (i) The phrase "unit container" means a package, whether large or small (for example, tin, can, box, jar, bottle, bag, or carton, drum, barrel, or canister) designed to hold a pre-determined quantity or number, which is indicated on such package.
- (ii) (a) The phrase "brand name" means brand name or trade name, that is to say, a name or a mark, such as symbol, monogram, label, signature or invented word or writing which is used in relation to such specified goods for the purpose of indicating, or so as to indicate a connection in the course of trade between such specified goods and some person using such name or mark with or without any indication of the identity of that person. \*
- (b) The phrase "registered brand name" means, -@

## Notification

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- (A) a brand registered as on or after the 15th May 2017 under the Trade Marks Act, 1999 irrespective of whether or not the brand is subsequently deregistered;
  - (B) a brand registered as on or after the 15th May 2017 under the Copyright Act, 1957 (14 of 1957);
  - (C) a brand registered as on or after the 15th May 2017 under any law for the time being in force in any other country.
- (iii) "Tariff item", "sub-heading" "heading" and "Chapter" shall mean respectively a tariff item, heading, sub-heading and Chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).
  - (iv) The rules for the interpretation of the First Schedule to the said Customs Tariff Act, 1975, including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.
  - (v) The phrase "Government Entity" shall mean an authority or a board or any other body including a society, trust, corporation, which is:
    - (a) set up by an Act of Parliament or State Legislature; or
    - (b) established by any Government,with 90 percent or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State government, Union territory or a local authority #
2. This notification shall come into force with effect from the 1<sup>st</sup> day of July, 2017.

## ANNEXURE I

For foregoing an actionable claim or enforceable right on a brand name, -

- (a) the person undertaking packing of such goods in unit containers which bears a brand name shall file an affidavit to that effect with the jurisdictional commissioner of Central tax that he is voluntarily foregoing his actionable claim or enforceable right on such brand name as defined in Explanation (ii)(a); and
- (b) the person undertaking packing of such goods in unit containers which bear a brand name shall, on each such unit containers, clearly print in indelible ink, both in English and the local language, that in respect of the brand name as defined in Explanation (ii)(a) printed on the unit containers he has foregone his actionable claim or enforceable right voluntarily.

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Provided that, if the person having an actionable claim or enforceable right on a brand name and the person undertaking packing of such goods in unit containers are two different persons, then the person having an actionable claim or enforceable right on a brand name shall file an affidavit to that effect with the jurisdictional Commissioner of Central tax of the person undertaking packing of such goods that he is voluntarily foregoing his actionable claim or enforceable right on such brand name as defined in Explanation (ii)(a); and he has authorised the person [undertaking packing of such goods in unit containers bearing said brand name] to print on such unit containers in indelible ink, both in English and the local language, that in respect of such brand name he [the person owning the brand name] is voluntarily foregoing the actionable claim or enforceable right voluntarily on such brand name.<sup>#</sup>

### ANNEXURE II

#### List of indigenous handmade musical instruments

1.	Bulbul Tarang
2.	Dotar, Dotora, or Dotara
3.	Ektara
4.	Getchu Vadyam or Jhallari
5.	Gopichand or Gopiyatra or Khamak
6.	Gottuvadhyam or Chitravina
7.	Katho
8.	Sarod
9.	Sitar
10.	Surbahar
11.	Surshringar
12.	Swarabat
13.	Swarmandal
14.	Tambura
15.	Tumbi
16.	Tuntuna
17.	Magadi Veena
18.	Hansaveena
19.	Mohan Veena
20.	Nakula Veena

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21.	Nanduni
22.	Rudra Veena
23.	Saraswati Veena
24.	Vichitra Veena
25.	Yazh
26.	Ranjan Veena
27.	Triveni Veena
28.	Chikara
29.	Dilruba
30.	Ektara violin
31.	Esraj
32.	Kamaicha
33.	Mayuri Vina or Taus
34.	Onavillu
35.	Behala(violin type)
36.	Pena or Bana
37.	Pulluvan veena - one stringed violin
38.	Ravanahatha
39.	Folk sarangi
40.	Classical sarangi
41.	Sarinda
42.	Tar shehnai
43.	Gethu or Jhallari
44.	Gubguba or Jamuku - Percussion string instrument
45.	Pulluvan kutam
46.	Santoor - Hammered chord box
47.	Pepa
48.	Pungi or Been
49.	Indian Harmonium: Double reed
50.	Kuzhal

## Notification

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51.	Nadaswaram
52.	Shehnai
53.	Sundari
54.	Tangmuri
55.	Alghoza - double flute
56.	Bansuri
57.	Venu (Carnatic flute) Pullanguzhal
58.	Mashak
59.	Titti
60.	Sruti upanga
61.	Gogona
62.	Morsing
63.	Shruti box
64.	Harmonium (hand-pumped)
65.	Ekkalam
66.	Karnal
67.	Ramsinga
68.	Kahal
69.	Nagphani
70.	Turi
71.	Dhad
72.	Damru
73.	Dimadi
74.	Dhol
75.	Dholak
76.	Dholki
77.	Duggi
78.	Ghat singhari or gada singari
79.	Ghumot
80.	Gummata

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81.	Kanjira
82.	Khol
83.	Kinpar and Dhopar (tribal drums)
84.	Maddale
85.	Maram
86.	Mizhavu
87.	Mridangam
88.	Pakhavaj
89.	Pakhavaj jori - Sikh instrument similar to tabla
90.	Panchamukha vadyam
91.	Pung
92.	Shuddha madalam or Maddalam
93.	Tabala/tabla/chameli - goblet drum
94.	Tabla
95.	Tabla tarang - set of tablas
96.	Tamte
97.	Thanthi Panai
98.	Thimila
99.	Tumbak, tumbaknari, tumbaknaer
100.	Daff, duff, daf or duf Dimdi or dimri - small frame drum without jingles
101.	Kanjira - small frame drum with one jingle
102.	Kansi - small without jingles
103.	Patayani thappu - medium frame drum played with hands
104.	Chenda
105.	Dollu
106.	Dhak
107.	Dhol
108.	Dholi
109.	Idakka
110.	Thavil

## Notification

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111.	Udukai
112.	Chande
113.	Nagara - pair of kettledrums
114.	Pambai - unit of two cylindrical drums
115.	Parai thappu, halgi - frame drum played with two sticks
116.	Sambal
117.	Stick daff or stick duff - daff in a stand played with sticks
118.	Tamak'
119.	Tasha - type of kettledrum
120.	Urumee
121.	Jaltarang Chimpta - fire tong with brass jingles
122.	Chengila - metal disc
123.	Elathalam
124.	Geger - brass vessel
125.	Ghatam and Matkam (Earthenware pot drum)
126.	Ghungroo
127.	Khartal or Chiplya
128.	Manjeera or jhanj or taal
129.	Nut - clay pot
130.	Sankarjang - lithophone
131.	Thali - metal plate
132.	Thattukazhi mannai
133.	Kanch tarang, a type of glass harp
134.	Kashtha tarang, a type of xylophone."

\$ Inserted vide Notification No. 7/2018- Central Tax (Rate)/ Notification No. 8/2018- Integrated Tax (Rate) dt 25-01-2018

@ Inserted vide Notification No. 42/2017- Central Tax (Rate) dt 14-11-2017

# Inserted vide Notification No. 35/2017- Central Tax (Rate) dt 13-10-2017

\* Inserted vide Notification No. 28/2017- Central Tax (Rate) dt 22-09-2017

*Note: Similar provisions have been incorporated under UTGST Act vide Notification No. 02/2017-Union Territory Tax (Rate),dt. 28-06-2017 amended vide Notification No. 7/2018 dt*



## Notification

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*25-01-2018, Notification No.42/2017 dt 14-11-2017, Notification No.35/2017 dt 13/10/2017, Notification No.28/2017 dt 22-09-2017 and under IGST Act vide Notification No. 02/2017-Integrated Tax (Rate) dt 28-06-2017 amended vide Notification No.8/2018 dt 25-01-2018, Notification No.44/2017 dt 14-11-2017, Notification No.36/2017 dt 13/10/2017, Notification No.28/2017 dt 22-09-2017.*

## Notification

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[TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (i) OF THE GAZETTE OF INDIA, EXTRAORDINARY]

GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(Department of Revenue)

Corrigendum

New Delhi, the 12th July, 2017

G.S.R. (E).- In the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.2/2017-Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 674(E), dated the 28th June, 2017, -

(i) at page 315, in line 37, *for* "Dried leguminous vegetables, shelled, whether or not skinned or split", *read* "Dried leguminous vegetables, shelled, whether or not skinned or split [other than put up in unit container and bearing a registered brand name]";

(ii) at page 319, in line 17, omit "[proposed GST Nil]".

[F.No.354/117/2017-TRU Pt.]

(Mohit Tewari)

Under Secretary to the Government of India

## Notification

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[TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (i) OF THE GAZETTE OF INDIA, EXTRAORDINARY]

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(Department of Revenue)**

**Corrigendum**

New Delhi, the 27th July, 2017

G.S.R. (E).- In the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.2/2017-Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 674(E), dated the 28th June, 2017,-

In the Schedule,-

- (i) in S.No.59, in column (2), for "9", read "7, 9 or 10";
- (ii) in S.No.102, in column (2), for "2302", read "2301, 2302".

[F.No.354/117/2017-TRU]

(Mohit Tewari)

Under Secretary to the Government of India

## Notification

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[TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (i) OF THE GAZETTE OF INDIA, EXTRAORDINARY]

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(Department of Revenue)**

**Notification No.3/2017-Central Tax (Rate)**

New Delhi, the 28th June, 2017

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts intra-State supplies of goods, the description of which is specified in column (3) of the Table below read with relevant List appended hereto and falling under the tariff item, sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Table, from so much of the central tax leviable thereon under section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017) as is in excess of the amount calculated at the rate specified in the corresponding entry in column (4) of the said Table and subject to the relevant conditions annexed to this notification, as specified in the corresponding entry in column (5) of the Table aforesaid.

**TABLE**

S. No.	Chapter/ Heading/ Sub- heading/ Tariff item	Description of Goods	Rate	Condition No.
(1)	(2)	(3)	(4)	(5)
1.	Any Chapter	Goods specified in the List annexed to this Table required in connection with: (1) Petroleum operations undertaken under petroleum exploration licenses or mining leases, granted by the Government of India or any State Government to the Oil and Natural Gas Corporation or Oil India		

## Notification

		<p>Limited on nomination basis, or</p> <p>(2) Petroleum operations undertaken under specified contracts, or</p> <p>(3) Petroleum operations undertaken under specified contracts under the New Exploration Licensing Policy, or</p> <p>(4) Petroleum operations undertaken under specified contracts under the Marginal Field Policy (MFP), or</p> <p>(5) Coal bed methane operations undertaken under specified contracts under the Coal Bed Methane Policy.</p>		
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## ANNEXURE

Condition No.	Conditions
1	<p>If,-</p> <p>(a) the goods are supplied to,-</p> <p>(i) the Oil and Natural Gas Corporation or Oil India Limited (hereinafter referred to as the "licensee") or a sub-contractor of the licensee and in each case in connection with petroleum operations to be undertaken under petroleum exploration licenses or mining leases, as the case may be, granted by the Government of India or any State Government on nomination basis; or</p> <p>(ii) an Indian Company or Companies, a Foreign Company or Companies, or a consortium of an Indian Company or Companies and a Foreign Company or Companies (hereinafter referred to as the "contractor") or a sub-contractor of the contractor and in each case in connection with petroleum operations to be undertaken under a contract with the Government of India; or</p> <p>(iii) an Indian Company or Companies, a Foreign Company or Companies, or a consortium of an Indian Company or Companies and a Foreign Company or Companies (hereinafter referred to as the "contractor") or a sub-contractor of such Company or Companies or such consortium and in each case in connection with petroleum operations or coal bed methane operations, as the case may be, to be undertaken under a contract signed with the Government of India, on or after the 1st day of April, 1998, under the New Exploration Licensing Policy, or on or after the 1st day of April 2001 in terms of</p>

## Notification

	<p>the Coal Bed Methane Policy, or on or after the 14th day of October, 2015 in terms of the Marginal Field Policy, as the case may be;</p> <p>(b) where the recipient of outward supply of goods,-</p> <p>(i) is a licensee, he produces to the Deputy Commissioner of Central tax or the Assistant Commissioner of Central tax or the Deputy Commissioner of State tax or the Assistant Commissioner of State tax, as the case may be, having jurisdiction over the supplier of goods, at the time of outward supply of goods, the following, namely, a certificate from a duly authorised officer of the Directorate General of Hydro Carbons in the Ministry of Petroleum and Natural Gas, Government of India, to the effect that the goods are required for petroleum operations referred to in sub-clause (i) of clause (a);</p> <p>(ii) is a contractor, he produces to the Deputy Commissioner of Central tax or the Assistant Commissioner of Central tax or the Deputy Commissioner of State tax or the Assistant Commissioner of State tax, as the case may be, having jurisdiction over the supplier of goods, at the time of outward supply of goods, a certificate from a duly authorised officer of the Directorate General of Hydro Carbons in the Ministry of Petroleum and Natural Gas, Government of India, to the effect that the goods are required for</p> <p>(A) petroleum operations referred to in sub-clause (ii) of clause (a) under the contract referred to in that sub-clause, or</p> <p>(B) petroleum operations or coal bed methane operations referred to in sub-clause (iii) of clause (a), as the case may be, under a contract signed under the New Exploration Licensing Policy or the Coal Bed Methane Policy or the Marginal Field Policy, as the case may be;</p> <p>(c) where the recipient of outward supply of goods is a sub-contractor, he produces to the Deputy Commissioner of Central tax or the Assistant Commissioner of Central tax or the Deputy Commissioner of State tax or the Assistant Commissioner of State tax, as the case may be, having jurisdiction over the supplier of goods, at the time of outward supply, the following, namely :-</p> <p>(i) a certificate from a duly authorised officer of the Directorate General of Hydro Carbons in the Ministry of Petroleum and Natural Gas, Government of India, to the effect that the goods are required for :-</p> <p>(A) petroleum operations referred to in sub-clause (i) of clause (a) under the licenses or mining leases, as the case may be, referred to in that sub-clause and containing the name of such sub-contractor, or</p>
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	<p>(B) petroleum operations referred to in sub-clause (ii) of clause (a) under the contract referred to in that sub-clause and containing, the name of such sub- contractor, or</p> <p>(C) petroleum operations or coal bed methane operations, as the case may be, referred to in sub- clause (iii) of clause (a) under a contract signed under the New Exploration Licensing Policy or the Coal Bed Methane Policy or the Marginal Field Policy, as the case may be, and containing the name of such sub- contractor;</p> <p>(ii) an affidavit to the effect that such sub-contractor is a bonafide subcontractor of the licensee or lessee or contractor, as the case may be;</p> <p>(iii) an undertaking from such licensee or lessee or contractor, as the case may be, binding him to pay any tax, fine or penalty that may become payable, if any of the conditions of this entry are not complied with by such sub-contractor or licensee or lessee or contractor, as the case may be;</p> <p>(d) where the goods so supplied to the licensee or a sub-contractor of the licensee, or the contractor or a sub-contractor of the contractor are sought to be transferred to another sub-contractor of the licensee or another licensee or a sub- contractor of such licensee, or another subcontractor of the contractor or another contractor or a subcontractor of such contractor (hereinafter referred to as the "transferee"), such transferee produces to the Deputy Commissioner of Central tax or the Assistant Commissioner of Central tax or the Deputy Commissioner of State tax or the Assistant Commissioner of State tax, as the case may be, having jurisdiction over such transferee, at the time of such transfer, the following, namely:-</p> <p>(i) a certificate from a duly authorised officer of the Directorate General of Hydro Carbons in the Ministry of Petroleum and Natural Gas, Government of India, to the effect that the said goods may be transferred in the name of the transferee and that the said goods are required for petroleum operations to be undertaken under :-</p> <p>(A) petroleum exploration or mining leases referred to in sub-clause (i) of clause (a), or</p> <p>(B) petroleum operations to be undertaken under a contract referred to in sub-clause (ii) of clause (a), or</p> <p>(C) petroleum operations or coal bed methane operations, as the case may be, to be undertaken under a contract referred to in sub-clause (iii) of clause (a)</p>
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	<p>(ii) undertaking from the transferee to comply with all the conditions of this entry, including that he shall pay tax, fine or penalty that may become payable, if any of the conditions of this entry are not complied with by himself, where he is the licensee/ contractor or by the licensee/ contractor of the transferee where such transferee is a sub-contractor;</p> <p>(iii) a certificate,-</p> <p>(A) in the case of a petroleum exploration license or mining lease, as the case may be, granted by the Government of India or any State Government on nomination basis, that no foreign exchange remittance is made for the transfer of such goods undertaken by the transferee on behalf of the licensee or lessee, as the case may be;</p> <p>(B) in the case of a contract entered into by the Government of India and a Foreign Company or Companies or, the Government of India and a consortium of an Indian Company or Companies and a Foreign Company or Companies, that no foreign exchange remittance is made for the transfer of such goods undertaken by the transferee on behalf of the Foreign Company or Companies, as the case may be:</p> <p>Provided that nothing contained in this sub-clause shall apply if such transferee is an Indian Company or Companies.</p> <p>(e) where the goods so supplied are sought to be disposed of, the recipient of outward supply or the transferee, as the case may be, may pay the tax which would have been payable but for the exemption contained herein, on the depreciated value of such goods subject to the condition that the recipient of outward supply or the transferee, as the case may be, produces before the Deputy Commissioner of Central tax or the Assistant Commissioner of Central tax or the Deputy Commissioner of State tax or the Assistant Commissioner of State tax, as the case may be, having jurisdiction over the supplier of goods, a certificate from a duly authorised officer of the Directorate General of Hydro Carbons in the Ministry of Petroleum and Natural Gas, Government of India, to the effect that the said goods are no longer required for the petroleum operations or coal bed methane operations, and the depreciated value of the goods shall be equal to the original value of the goods at the time of import reduced by the percentage points calculated by straight line method as specified below for each quarter of a year or part thereof from the date of clearance of the goods, namely:-</p> <p>(i) for each quarter in the first year at the rate of 4 per cent.;</p>
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	(ii) for each quarter in the second year at the rate of 3 per cent.; (iii) for each quarter in the third year at the rate of 2.5 per cent.; and (iv) for each quarter in the fourth year and subsequent years at the rate of 2 per cent., subject to the maximum of 70 per cent.
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### List

[See S.No.1 of the Table]

- (1) Land Seismic Survey Equipment and accessories, requisite vehicles including those for carrying the equipment, seismic survey vessels, global positioning system and accessories, and other materials required for seismic work or other types of Geophysical and Geochemical surveys for onshore and offshore activities.
- (2) All types of drilling rigs, jackup rigs, submersible rigs, semi-submersible rigs, drill ships, drilling barges, shot-hole drilling rigs, mobile rigs, workover rigs consisting of various equipment and other drilling equipment required for drilling operations, snubbing units, hydraulic workover units, self-elevating workover platforms, Remote Operated Vessel (ROV).
- (3) Helicopters including assemblies/parts.
- (4) All types of marine vessels to support petroleum operations including work boats, barges, crew boats, tugs, anchor handling vessels, lay barges and supply boats, marine ship equipment including water maker, DP system and Diving system.
- (5) All types of equipment/ units for specialised services like diving, cementing, logging, casing repair, production testing, simulation and mud services, oil field related lab equipment, reservoir engineering, geological equipment, directional drilling, stimulation, Coil Tubing units, Drill Stem Testing (DST), data acquisition and processing, solids control, fishing (as related to downhole retrieval in oil field operations or coal bed methane operations), well control, blowout prevention(BOP), pipe inspection including Non Destructive Testing, coring, gravel pack, well completion and workover for oil/gas/CBM wells including wireline and downhole equipment.
- (6) All types of casing pipes, drill pipes, production tubing, pup joints, connections, coupling, kelly, cross overs and swages, Drive Pipes.
- (7) All types of drilling bits, including nozzles, breakers and related tools.
- (8) All types of oil field chemicals or coal bed methane chemicals including synthetic products used in petroleum or coal bed methane operations, oil well cement and cement additives, required for drilling, production and transportation of oil or gas.
- (9) Process, production and well platforms/ installation for oil, gas or CBM and water injection including items forming part of the platforms/ installation and equipment required like process equipment, turbines, pumps, generators, compressors, prime

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- movers, water makers, filters and filtering equipment, telemetry, telecommunication, tele-control and other material required for platforms/ installations.
- (10) Line pipes for flow lines and trunk pipelines including weight-coating and wrapping.
  - (11) Derrick barges, Mobile and stationary cranes, trenchers, pipelay barges, cargo barges and the like required in the construction/ installation of platforms and laying of pipelines.
  - (12) Single buoy mooring systems, mooring ropes, fittings like chains, shackles, couplings marine hoses and oil tankers to be used for oil storage and connected equipment, Tanks used for storage of oil, condensate, coal bed methane, water, mud, chemicals and related materials.
  - (13) All types of fully equipped vessels and other units /equipment required for pollution control, fire prevention, fire fighting, safety items like Survival Craft, Life Raft, fire and gas detection equipment, including H2S monitoring equipment.
  - (14) Mobile and skid mounted pipe laying, pipe testing and pipe inspection equipment.
  - (15) All types of valves including high pressure valves.
  - (16) Communication equipment required for petroleum or coal bed methane operations including synthesized VHF Aero and VHF multi channel sets/ VHF marine multi channel sets.
  - (17) Non-directional radio beacons, intrinsically safe walkie-talkies, directional finders, EPIRV, electronic individual security devices including electronic access control system.
  - (18) Specialized antenna system, simplex telex over radio terminals, channel micro wave systems, test and measurement equipment.
  - (19) X-band radar transponders, area surveillance system.
  - (20) Common depth point (CDP) cable, logging cable, connectors, geo-phone strings, perforation equipment and explosives
  - (21) Wellhead and Christmas trees, including valves, chokes, heads spools, hangers and actuators, flexible connections like chokes and high pressure hoses, shut down panels.
  - (22) Cathodic Protection Systems including anodes.
  - (23) Technical drawings, maps, literature, data tapes, Operational and Maintenance Manuals required for petroleum or coal bed methane operations.
  - (24) Sub-assemblies, tools, accessories, stores, spares, materials, supplies, consumables for running, repairing or maintenance of the goods specified in this List.

## Notification

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### *Explanation. –*

- (i) In this notification, "tariff item", "sub-heading" "heading" and "Chapter" shall mean respectively a tariff item, heading, sub-heading and Chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).
  - (ii) The rules for the interpretation of the First Schedule to the said Customs Tariff Act, 1975, including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.
2. This notification shall come into force with effect from the 1<sup>st</sup> day of July, 2017.

[F.No.354/117/2017-TRU]

(Mohit Tewari)

Under Secretary to the Government of India

Note: Similar provisions have been incorporated under UTGST Act vide *Notification No. 03/2017-Union Territory Tax (Rate)*, dt. 28-06-2017 & IGST vide *Notification No.3/2017-Integrated Tax (Rate)* dt. 28-06.2017.

## Notification

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[TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (i) OF THE GAZETTE OF INDIA, EXTRAORDINARY]

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(Department of Revenue)**

**Notification No.4/2017-Central Tax (Rate)**

New Delhi, the 28th June, 2017

G.S.R. (E).- In exercise of the powers conferred by sub-section (3) of section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby specifies the supply of goods, the description of which is specified in column (3) of the Table below and falling under the tariff item, sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Table, made by the person as specified in the corresponding entry in column (4), in respect of which the central tax shall be paid on reverse charge basis by the recipient of the intra-state supply of such goods as specified in the corresponding entry in column (5) and all the provisions of the said Act shall apply to such recipient, namely:-

**TABLE**

S. No.	Tariff item, sub-heading, heading or Chapter	Description of supply of Goods	Supplier of goods	Recipient of supply
(1)	(2)	(3)	(4)	(5)
1.	0801	Cashew nuts, not shelled or peeled	Agriculturist	Any registered person
2.	1404 90 10	Bidi wrapper leaves (tendu)	Agriculturist	Any registered person
3.	2401	Tobacco leaves	Agriculturist	Any registered person
4.	5004 to 5006-	Silk yarn	Any person who manufactures silk yarn from raw silk or	Any registered person

## Notification

S. No.	Tariff item, sub-heading, heading or Chapter	Description of supply of Goods	Supplier of goods	Recipient of supply
(1)	(2)	(3)	(4)	(5)
			silk worm cocoons for supply of silk yarn	
4A	5201	Raw Cotton	Agriculturist <sup>2</sup>	Any registered person
5	-	Supply of lottery.	State Government, Union Territory or any local authority	Lottery distributor or selling agent. Explanation.- For the purposes of this entry, lottery distributor or selling agent has the same meaning as assigned to it in clause (c) of Rule 2 of the Lotteries (Regulation) Rules, 2010, made under the provisions of sub section 1 of section 11 of the Lotteries (Regulations) Act, 1998 (17 of 1998).
6	Any Chapter	Used vehicles, seized and confiscated goods, old and used goods, waste and scrap	Central Government, State Government, Union territory or a local authority <sup>1</sup>	Any registered person

*Explanation. –*

(1) In this Table, "tariff item", "sub-heading", "heading" and "Chapter" shall mean respectively a tariff item, sub-heading, heading or chapter, as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

(2) The rules for the interpretation of the First Schedule to the said Customs Tariff Act, 1975, including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.

## Notification

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2. This notification shall come into force with effect from the 1<sup>st</sup> day of July, 2017.

[F.No.354/117/2017-TRU]

(Mohit Tewari)

Under Secretary to the Government of India

Note: Similar provisions have been incorporated under UTGST Act vide Notification No. 04/2017-Union Territory Tax (Rate) ,dt. 28-06-2017 & under IGST vide Notification No.4/2017-Integrated Tax (Rate) dt. 28-06-2017.

1 Inserted vide Notification No. 36/2017- Central Tax- Rate dt 13-10-2017 & Notification No. 37/2017- Integrated Tax- Rate dt 13-10-2017

2 Inserted vide Notification No. 43/2017- Central Tax- Rate dt 14-11-2017 & Notification No. 45/2017- Integrated Tax- Rate dt 14-11-2017

## Notification

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[TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (i) OF THE GAZETTE OF INDIA, EXTRAORDINARY]

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(Department of Revenue)**

**Notification No.5/2017-Central Tax (Rate)**

New Delhi, the 28th June, 2017

G.S.R. (E).- In exercise of the powers conferred by clause (ii) of the proviso to sub-section (3) of section 54 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby notifies the goods, the description of which is specified in column (3) of the Table below and falling under the tariff item, heading, sub-heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Table, in respect of which no refund of unutilised input tax credit shall be allowed, where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on the output supplies of such goods (other than nil rated or fully exempt supplies).

**TABLE**

S. No.	Tariff item, heading, sub-heading or Chapter	Description of Goods
(1)	(2)	(3)
1.	5007	Woven fabrics of silk or of silk waste
2.	5111 to 5113	Woven fabrics of wool or of animal hair
3.	5208 to 5212	Woven fabrics of cotton
4.	5309 to 5311	Woven fabrics of other vegetable textile fibres, paper yarn
5.	5407, 5408	Woven fabrics of manmade textile materials
6.	5512 to 5516	Woven fabrics of manmade staple fibres
6A	5608	Knotted netting of twine, cordage or rope; made up fishing nets and other made up nets, of textile materials <sup>1</sup>
6B	5801	Corduroy fabrics <sup>2</sup>

## Notification

S. No.	Tariff item, heading, sub-heading or Chapter	Description of Goods
(1)	(2)	(3)
6C	5806	Narrow woven fabrics, other than goods of heading 5807; narrow fabrics consisting of warp without weft assembled by means of an adhesive (bolducs) <sup>3</sup>
7.	60	Knitted or crocheted fabrics [All goods]
8.	8601	Rail locomotives powered from an external source of electricity or by electric accumulators
9.	8602	Other rail locomotives; locomotive tenders; such as Diesel-electric locomotives, Steam locomotives and tenders thereof
10.	8603	Self-propelled railway or tramway coaches, vans and trucks, other than those of heading 8604
11.	8604	Railway or tramway maintenance or service vehicles, whether or not self-propelled (for example, workshops, cranes, ballast tampers, trackliners, testing coaches and track inspection vehicles)
12.	8605	Railway or tramway passenger coaches, not self-propelled; luggage vans, post office coaches and other special purpose railway or tramway coaches, not self-propelled (excluding those of heading 8604)
13.	8606	Railway or tramway goods vans and wagons, not self-propelled
14.	8607	Parts of railway or tramway locomotives or rolling-stock; such as Bogies, bissel-bogies, axles and wheels, and parts thereof
15.	8608	Railway or tramway track fixtures and fittings; mechanical (including electro-mechanical) signalling, safety or traffic control equipment for railways, tramways, roads, inland waterways, parking facilities, port installations or airfields; parts of the foregoing

*Explanation. –*

(1) In this Table, “tariff item”, “sub-heading”, “heading” and “Chapter” shall mean respectively a tariff item, sub-heading, heading or chapter, as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

(2) The rules for the interpretation of the First Schedule to the said Customs Tariff Act, 1975, including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.



## Notification

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2. This notification shall come into force with effect from the 1<sup>st</sup> day of July, 2017.

[F.No.354/117/2017-TRU]

(Mohit Tewari)

Under Secretary to the Government of India

Note: Similar provisions have been incorporated under UTGST Act vide *Notification No. 05/2017-Union Territory Tax (Rate)*, dt. 28-06-2017 and under IGST vide *Notification No.5/2017-Integrated Tax (Rate)* dt. 28-06-2017.

<sup>1,2,3</sup> Inserted vide Notification No. 44/2017- Central Tax(Rate) dt 14-11-2017 , Notification No. 46/2017- Integrated Tax(Rate) dt 14-11-2017, Notification No. 44/2017- Union Territory Tax(Rate) dt 14-11-2017

## Notification

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[TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (i) OF THE GAZETTE OF INDIA, EXTRAORDINARY]

GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(Department of Revenue)

### Notification No.6/2017-Central Tax (Rate)

New Delhi, the 28th June, 2017

G.S.R. (E).- In exercise of the powers conferred by section 55 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby specifies the Canteen Stores Department (hereinafter referred to as the CSD), under the Ministry of Defence, as a person who shall be entitled to claim a refund of fifty per cent. of the applicable central tax paid by it on all inward supplies of goods received by it for the purposes of subsequent supply of such goods to the Unit Run Canteens of the CSD or to the authorized customers of the CSD.

2. This notification shall come into force with effect from the 1<sup>st</sup> day of July, 2017.

[F.No.354/117/2007-TRU]

(Mohit Tewari)

Under Secretary to the Government of India

Note: Similar provisions have been incorporated under UTGST Act vide *Notification No. 06/2017-Union Territory Tax (Rate)*, dt. 28-06-2017 and under IGST vide *Notification No.6/2017-Integrated Tax (Rate)* dt. 28-06-2017.

## Notification

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[TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (i) OF THE GAZETTE OF INDIA, EXTRAORDINARY]

GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(Department of Revenue)

### Notification No.7/2017-Central Tax (Rate)

New Delhi, the 28th June, 2017

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts, supplies of goods, the description of which is specified in column (3) of the Table below, falling under the tariff item, sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2), from the whole of the central tax leviable thereon under section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017), namely:-

TABLE

S. No.	Tariff item, sub-heading, heading or Chapter	Description of supply of Goods
(1)	(2)	(3)
1.	Any chapter	The supply of goods by the CSD to the Unit Run Canteens
2.	Any chapter	The supply of goods by the CSD to the authorized customers
3.	Any chapter	The supply of goods by the Unit Run Canteens to the authorized customers

*Explanation. –*

(1) In this notification, "tariff item", "sub-heading", "heading" and "Chapter" shall mean respectively a tariff item, heading, sub-heading and Chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

## Notification

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(2) The rules for the interpretation of the First Schedule to the said Customs Tariff Act, 1975, including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.

2. This notification shall come into force with effect from the 1<sup>st</sup> day of July, 2017.

[F.No.354/117/2017-TRU]

(Mohit Tewari)

Under Secretary to the Government of India

Note: Similar provisions have been incorporated under UTGST Act vide *Notification No. 07/2017-Union Territory Tax (Rate)*, dt. 28-06-2017 and under IGST vide *Notification No. 7/2017-Integrated Tax (Rate)* dt. 28-06-2017.

## Notification

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[TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (i) OF THE GAZETTE OF INDIA, EXTRAORDINARY]

GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(Department of Revenue)

### Notification No.9/2017-Central Tax (Rate)

New Delhi, the 28th June, 2017

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts intra-State supplies of goods or services or both received by a deductor under section 51 of the said Act, from any supplier, who is not registered, from the whole of the central tax leviable thereon under sub-section (4) of section 9 of the said Act, subject to the condition that the deductor is not liable to be registered otherwise than under sub-clause (vi) of section 24 of the said Act.

2. This notification shall come into force with effect from the 1<sup>st</sup> day of July, 2017.

[F.No.354/117/2017-TRU]

(Mohit Tewari)

Under Secretary to the Government of India

Note: Similar provisions have been incorporated under UTGST Act vide *Notification No. 09/2017-Union Territory Tax (Rate)*, dt. 28-06-2017.

## Notification

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[TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (i) OF THE GAZETTE OF INDIA, EXTRAORDINARY]

GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(Department of Revenue)

### Notification No.10/2017-Central Tax (Rate)

New Delhi, the 28th June, 2017

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts intra-State supplies of second hand goods received by a registered person, dealing in buying and selling of second hand goods and who pays the central tax on the value of outward supply of such second hand goods as determined under sub-rule (5) of rule 32 of the Central Goods and Services tax Rules, 2017, from any supplier, who is not registered, from the whole of the central tax leviable thereon under sub-section (4) of section 9 of the Central Good and Services Tax Act, 2017 (12 of 2017).

2. This notification shall come into force with effect from the 1<sup>st</sup> day of July, 2017.

[F.No.354/117/2017-TRU]

(Mohit Tewari)

Under Secretary to the Government of India

Note: Similar provisions have been incorporated under UTGST Act vide *Notification No. 10/2017-Union Territory Tax (Rate)*, dt. 28-06-2017.

## Notification

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[TO BE PUBLISHED IN THE GAZZETE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India  
Ministry of Finance  
(Department of Revenue)

Notification No. 11/2017-Central Tax (Rate)

New Delhi, the 28th June, 2017

G.S.R.....(E).- In exercise of the powers conferred by sub-section (1) of section 9, subsection (1) of section 11, sub-section (5) of section 15 and sub-section (1) of section 16 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, hereby notifies that the central tax, on the intra-State supply of services of description as specified in column (3) of the Table below, falling under Chapter, Section or Heading of scheme of classification of services as specified in column (2), shall be levied at the rate as specified in the corresponding entry in column (4), subject to the conditions as specified in the corresponding entry in column (5) of the said Table: -

SI No	Chapter, Section or Heading	Description of Service	Rate (per cent.) of Central Tax	Rate (per cent.) of Integrated Tax	Condition
(1)	(2)	(3)	(4)		(5)
1	Chapter 99	All Services			
2	Section 5	Construction Services			
3	Heading 9954 (Construction services)	(i) Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after	9%	18%	-

## Notification

		issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. (Provisions of paragraph 2 of this notification shall apply for valuation of this service)			
		(ii) composite supply of works contract as defined in clause 119 of section 2 of Central Goods and Services Tax Act, 2017.	9%	18%	-
		(iii) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, supplied to the Central Government, State Government, Union territory, a local authority, a Governmental Authority or a Government Entity by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of, - (a) some historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958); (b) canal, dam or other irrigation works; (c) pipeline, conduit or plant for (i) water supply	6%	12%	Provided that where the services are supplied to a Government Entity, they should have been procured by the said entity in relation to a work entrusted to it by the Central Government, State Government, Union territory or local authority, as the case may be 2



## Notification

		(ii) water treatment, or (iii) sewerage treatment or disposal.			
		(iv) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, supplied by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of,- (a) a road, bridge, tunnel, or terminal for road transportation for use by general public; (b) a civil structure or any other original works pertaining to a scheme under Jawaharlal Nehru National Urban Renewal Mission or Rajiv Awaas Yojana; (c) a civil structure or any other original works pertaining to the "In-situ redevelopment of existing slums using land as a resource under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana(Urban)" <sup>1</sup> , (d) a civil structure or any other original works pertaining to the "Beneficiary led individual house construction / enhancement" under the Housing for All (Urban) Mission/Pradhan Mantri Awas	6%	12%	-

<sup>1</sup> Substituted vide notification No. 1/2018 – Central Tax (Rate) dt 25.01.2018. Prior to substitution it read "(c) a civil structure or any other original works pertaining to the "In-situ rehabilitation of existing slum dwellers using land as a resource through private participation" under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana, only for existing slum dwellers;"

## Notification

		<p>Yojana;</p> <p>(da) a civil structure or any other original works pertaining to the "Economically Weaker Section (EWS) houses" constructed under the Affordable Housing in partnership by State or Union territory or local authority or urban development authority under the Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana (Urban)*</p> <p>(db) a civil structure or any other original works pertaining to the "houses constructed or acquired under the Credit Linked Subsidy Scheme for Economically Weaker Section (EWS)/ Lower Income Group (LIG)/ Middle Income Group-1 (MIG-1)/ Middle Income Group-2 (MIG-2)" under the Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana (Urban) *</p> <p>(e) a pollution control or effluent treatment plant, except located as a part of a factory; or</p> <p>(f) a structure meant for funeral, burial or cremation of deceased</p> <p>(g) a building owned by an entity registered under section 12AA of the Income Tax Act, 1961 (43 of 1961), which is used for carrying out the activities of providing, centralised cooking or distribution, for mid-day meals under the mid-day meal</p>			
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## Notification

		scheme sponsored by the Central Government, State Government, Union territory or local authorities*			
		<p>(v) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, supplied by way of construction, erection, commissioning, or installation of original works pertaining to,-</p> <p>(a) railways, including* monorail and metro;</p> <p>(b) a single residential unit otherwise than as a part of a residential complex;</p> <p>(c) low-cost houses up to a carpet area of 60 square metres per house in a housing project approved by competent authority empowered under the 'Scheme of Affordable Housing in Partnership' framed by the Ministry of Housing and Urban Poverty Alleviation, Government of India;</p> <p>(d) low cost houses up to a carpet area of 60 square metres per house in a housing project approved by the competent authority under- (1) the "Affordable Housing in Partnership" component of the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana; (2) any housing scheme of a State Government;</p> <p>(da) low-cost houses up to a</p>	6%	12%	-

## Notification

		<p>carpet area of 60 square metres per house in an affordable housing project which has been given infrastructure status vide notification of Government of India, in Ministry of Finance, Department of Economic Affairs vide F. No. 13/6/2009-INF, dated the 30th March, 2017</p> <p>(e) post-harvest storage infrastructure for agricultural produce including a cold storage for such purposes; or</p> <p>(f) mechanised food grain handling system, machinery or equipment for units processing agricultural produce as food stuff excluding alcoholic beverages.</p>			
		<p>(vi) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, provided to the Central Government, State Government, Union Territory, a local authority or a governmental authority or Government Authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of –</p> <p>(a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or</p>	6%	12%	<p>Provided that where the services are supplied to a Government Entity, they should have been procured by the said entity in relation to a work entrusted to it by the Central Government, State Government, Union territory or local authority, as the case may</p>

## Notification

		profession; (b) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment; or (c) a residential complex meant predominantly for self-use or the use of their employees or other persons specified in paragraph 3 of the Schedule III of the Central Goods and Services Tax Act, 2017. <sup>1</sup>			be <sup>3</sup>
		(vii) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, involving predominantly earth work (that is, constituting more than 75 per cent. of the value of the works contract) provided to the Central Government, State Government, Union territory, local authority, a Governmental Authority or a Government Entity. <sup>4</sup>	2.5%	5%	Provided that where the services are supplied to a Government Entity, they should have been procured by the said entity in relation to a work entrusted to it by the Central Government, State Government, Union territory or local authority, as the case may be
		(viii) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act,	6%	12%	

## Notification

		2017 and associated services, in respect of offshore works contract relating to oil and gas exploration and production (E&P) in the offshore area beyond 12 nautical miles from the nearest point of the appropriate base line. <sup>4</sup>			
		(ix) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017 provided by a sub-contractor to the main contractor providing services specified in item (iii) or item (vi) above to the Central Government, State Government, Union territory, a local authority, a Governmental Authority or a Government Entity.	6%	12%	Provided that where the services are supplied to a Government Entity, they should have been procured by the said entity in relation to a work entrusted to it by the Central Government, State Government, Union territory or local authority, as the case may be.
		(x) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017 provided by a sub-contractor to the main contractor providing services specified in item (vii) above to the Central Government, State Government, Union territory, a local authority, a Governmental Authority or a Government Entity.	2.5%	5%	Provided that where the services are supplied to a Government Entity, they should have been procured by the said entity in relation to a work entrusted to it by the Central Government, State

## Notification

					Government, Union territory or local authority, as the case may be.
		(xi) Services by way of housekeeping, such as plumbing, carpentering, etc. where the person supplying such service through electronic commerce operator is not liable for registration under subsection (1) of section 22 of the Central Goods and Services Tax Act, 2017.	2.5%	5%	Provided that credit of input tax charged on goods and services has not been taken [Please refer to Explanation no. (iv).]
		(xii) Construction services other than (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), (x) and (xi) above. <sup>4</sup>	9%	18%	-
<sup>1</sup> Inserted vide Notification No. 24/2017- Central Tax (Rate) <sup>2</sup> Inserted vide Notification No. 31/2017- Central Tax (Rate) <sup>3</sup> Inserted vide Notification No. 31/2017- Central Tax (Rate) <sup>4</sup> Inserted vide Notification No. 1/2018- Central Tax (Rate)					
4	Section 6	Distributive Trade Services; Accommodation, Food and Beverage Service; Transport Services; Gas and Electricity Distribution Services			
5	Heading 9961	Services in wholesale trade. <i>Explanation</i> -This service does not include sale or purchase of goods but includes: – Services of commission agents, commodity brokers, and auctioneers and all other traders who negotiate whole sale commercial transactions between buyers and sellers, for a fee or commission'	9%	18%	-

## Notification

		<ul style="list-style-type: none"> <li>– Services of electronic whole sale agents and brokers,</li> <li>– Services of whole sale auctioning houses.</li> </ul>			
6	Heading 9962	Services in retail trade. <i>Explanation-</i> This service does not include sale or purchase of goods	9%	18%	-
7	Heading 9963 (Accommodation, food and beverage services)	(i) Supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or drink, where such supply or service is for cash, deferred payment or other valuable consideration, provided by a restaurant, eating joint including mess, canteen, whether for consumption on or away from the premises where such food or any other article for human consumption or drink is supplied, other than those located in the premises of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes having declared tariff of any unit of accommodation of seven thousand five hundred rupees	2.5%	5%	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to Explanation no. (iv)]. <sup>2</sup>

<sup>2</sup> Substituted vide notification No. 46/2017 – Central Tax (Rate) dt 14.11.2017. Prior to substitution it read:

“(i) Supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or drink, where such supply or service is for cash, deferred payment or other valuable consideration, provided by a restaurant, eating joint including mess, canteen, neither having the facility of air-conditioning or central air-heating in any part of the establishment, at any time during the year nor having licence or permit or by whatever name called to serve alcoholic liquor for human consumption.	6	-”
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## Notification

		and above per unit per day or equivalent. Explanation.- "declared tariff" includes charges for a amenities provided in the unit of accommodation (given on rent for stay) like furniture, air conditioner, refrigerators or any other amenities, but without excluding any discount offered on the published charges for such unit.			
		(ii) Accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes having declared tariff of a unit of accommodation of one thousand rupees and above but less than two thousand five hundred rupees per unit per day or equivalent. Explanation. - "declared tariff" includes charges for all amenities provided in the unit of accommodation (given on rent for stay) like furniture, air conditioner, refrigerators or any other amenities, but without excluding any discount offered on the published charges for such unit.	6%	12%	-
		(iii) Supply, by way of or as part	9%	18%	- <sup>3</sup>

<sup>3</sup> Substituted vide notification No. 46/2017 – Central Tax (Rate) dt 14.11.2017. Prior to substitution it read:

## Notification

		<p>of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink, where such supply or service is for cash, deferred payment or other valuable consideration, provided by a restaurant, eating joint including mess, canteen, whether for consumption on or away from the premises where such food or any other article for human consumption or drink is supplied, located in the premises of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes having declared tariff of any unit of accommodation of seven thousand five hundred rupees and above per unit per day or equivalent.</p> <p>Explanation. - "declared tariff" includes charges for all amenities provided in the unit of accommodation (given on rent for stay) like furniture, air conditioner, refrigerators or any other amenities, but without excluding any discount offered on the published charges for such unit.</p>			
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"(iii) Supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink, where such supply or service is for cash, deferred payment or other valuable consideration, provided by a restaurant, eating joint including mess, canteen, having licence or permit or by whatever name called to serve alcoholic liquor for human consumption.	9	-
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## Notification

	(v) Supply, by way of or as part of any service or in any other manner whatsoever in outdoor catering wherein goods, being food or any other article for human consumption or any drink (whether or not alcoholic liquor for human consumption), as a part of such outdoor catering and such supply or service is for cash, deferred payment or other valuable consideration.	9%	18%	-
	(vi) Accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes having declared tariff of a unit of accommodation of two thousand five hundred rupees and above but less than seven thousand five hundred rupees per unit per day or equivalent. <i>Explanation.-</i> "declared tariff" includes charges for all amenities provided in the unit of accommodation (given on rent for stay) like furniture, air conditioner, refrigerators or any other amenities, but without excluding any discount offered on the published charges for such unit.	9%	18%	-
	(vii) Supply, by way of or as part of any service or in any other manner whatsoever, of goods, including but not limited to food or any other article for human consumption or any	9%	18%	-

## Notification

		drink (whether or not alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration, in a premises (including hotel, convention center, club, pandal, shamiana or any other place, specially arranged for organising a function) together with renting of such premises.			
		(viii) Accommodation in hotels including five star hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes having declared tariff of a unit of accommodation of seven thousand and five hundred rupees and above per unit per day or equivalent. <i>Explanation.</i> -"declared tariff " includes charges for all amenities provided in the unit of accommodation (given on rent for stay) like furniture, air conditioner, refrigerators or any other amenities, but without excluding any discount offered on the published charges for such unit.	14%	28%	
		(ix) Accommodation, food and beverage services other than (ii), (iii), (v), (vi), (vii) and (viii) above. <i>Explanation.</i> - For the removal of doubt, it is hereby clarified that, supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other	9%	18%	-

## Notification

		article for human consumption or drink, where such supply or service is for cash, deferred payment or other valuable consideration, provided by a restaurant, eating joint including mess, canteen, whether for consumption on or away from the premises where such food or any other article for human consumption or drink is supplied, other than those located in the premises of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes having declared tariff of any unit of accommodation of seven thousand five hundred rupees and above per unit per day or equivalent shall attract central tax @ 2.5% without any input tax credit under item (i) above and shall not be levied at the rate as specified under this entry.			
8	<b>Heading 9964</b> (Passenger transport services)	(i) Transport of passengers, with or without accompanied belongings, by rail in first class or air conditioned coach.	2.5%	5%	Provided that credit of input tax charged in respect of goods used in supplying the service is not utilised for paying central tax or integrated tax on the supply of the service
		(ii) Transport of passengers, with or without accompanied	2.5%	5%	Provided that credit of input

## Notification

		<p>belongings by-</p> <p>(a) air conditioned contract carriage other than motorcab;</p> <p>(b) air conditioned stage carriage;</p> <p>(c) radio taxi.</p> <p><i>Explanation.-</i></p> <p>(a) "contract carriage" has the meaning assigned to it in clause (7) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);</p> <p>(b) "stage carriage" has the meaning assigned to it in clause (40) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988) ;</p> <p>(c) "radio taxi" means a taxi including a radio cab, by whatever name called, which is in two-way radio communication with a central control office and is enabled for tracking using Global Positioning System (GPS) or General Packet Radio Service (GPRS).</p>			<p>tax charged on goods or services used in supplying the service has not been taken</p> <p>[Please refer to <i>Explanation</i> no. (iv)]</p>
		(iii) Transport of passengers, with or without accompanied belongings, by air in economy class.	2.5%	5%	<p>Provided that credit of input tax charged on goods used in supplying the service has not been taken</p> <p>[Please refer to <i>Explanation</i> no. (iv)]</p>
		(iv) Transport of passengers	2.5%	5%	Provided that

## Notification

		with or without accompanied belongings, by air, embarking from or terminating in a Regional Connectivity Scheme Airport, as notified by the Ministry of Civil Aviation.			credit of input tax charged on goods used in supplying the service has not been taken [Please refer to <i>Explanation</i> no. (iv)]
		(v) Transport of passengers by air, with or without accompanied belongings, in other than economy class.	6.0%	12%	-
		(vii) Transport of passengers by any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient. *	2.5%	5%	Provided that credit of input tax charged on goods and services used in supplying the service, other than the input tax credit of input service in the same line of business (i.e. service procured from another service provider of transporting passengers in a motor vehicle or renting of a motor vehicle), has not been taken. [Please refer to <i>Explanation</i> no. (iv)]
			or		

## Notification

			6%	12%	- " ;
		(vi) Passenger transport services other than (i), (ii), (iii), (iv), (v) and (vi) above.	9%	18%	-
9	Heading 9965 (Goods transport services)	(i) Transport of goods by rail (other than services specified at item no. (iv)).	2.5%	5%	Provided that credit of input tax charged in respect of goods in supplying the service is not utilised for paying central tax or integrated tax on the supply of the service
		(ii) Transport of goods in a vessel	2.5%	5%	Provided that credit of input tax charged on goods (other than on ships, vessels including bulk carriers and tankers) used in supplying the service has not been taken [Please refer to Explanation no. (iv)]
		(iii) Services of goods transport agency (GTA) in relation to transportation of goods (including used household goods for personal use). <i>Explanation.-</i> "goods transport agency" means any person who provides service in relation to	2.5%	5%	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken



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		transport of goods by road and issues consignment note, by whatever name called.			[Please refer to <i>Explanation</i> no. (iv)]
			6%	12%	Provided that the goods transport agency opting to pay central tax @ 6% under this entry shall, thenceforth, be liable to pay central tax @ 6% on all the services of GTA supplied by it.
		(iv) Transport of goods in containers by rail by any person other than Indian Railways.	6%	12%	-
		(v) Transportation of natural gas, petroleum crude, motor spirit (commonly known as petrol), high speed diesel or aviation turbine fuel* through pipeline	2.5%	5%	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to <i>Explanation</i> no. (iv)]
			or		
			6%	12%	-
		(vi) Goods transport services other than (i), (ii), (iii), (iv), (v) above	9%	18%	-
10	Heading 9966 (Rental services of	(i) Renting of any motor vehicle designed to carry passengers where the cost of fuel is	2.5%	5%	Provided that credit of input tax charged on

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	transport vehicles)	included in the consideration charged from the service recipient. *			goods and services used in supplying the service, other than the input tax credit of input service in the same line of business (i.e. service procured from another service provider of transporting passengers in a motor vehicle or renting of a motor vehicle) has not been taken.  [Please refer to Explanation no. (iv)]
			or		
			6%	12%	-
		(ii) Time charter of vessels for transport of goods. *	2.5%	5%	Provided that credit of input tax charged on goods (other than on ships, vessels including bulk carriers and tankers) has not been taken [Please refer to Explanation no. (iv)].
		(iii) Rental services of transport vehicles with or without	9%	18%	-

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		operators, other than (i) and (ii) above. *			
11	Heading 9967 (Supporting services in transport)	(i) Services of goods transport agency (GTA) in relation to transportation of goods (including used household goods for personal use). <i>Explanation.</i> - "goods transport agency" means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called.	2.5%	5%	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to <i>Explanation</i> no. (iv)]
			or		
			6%	12%	Provided that the goods transport agency opting to pay central tax @ 6% under this entry shall, thenceforth, be liable to pay central tax @ 6% on all the services of GTA supplied by it.
		(ii) Supporting services in transport other than (i) above.	9%	18%	-
12	Heading 9968	Postal and courier services.	9%	18%	-
13	Heading 9969	Electricity, gas, water and other distribution services.	9%	18%	-
14	Section 7	Financial and related services; real estate services; and rental and leasing services.			
15	Heading 9971	(i) Services provided by a foreman of a chit fund in	6%	12%	Provided that credit of input

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	(Financial and related services)	<p>relation to chit. Explanation.-</p> <p>(a) "chit" means a transaction whether called chit, chit fund, chitty, kuri, or by whatever name by or under which a person enters into an agreement with a specified number of persons that every one of them shall subscribe a certain sum of money (or a certain quantity of grain instead) by way of periodical instalments over a definite period and that each subscriber shall, in his turn, as determined by lot or by auction or by tender or in such other manner as may be specified in the chit agreement, be entitled to a prize amount;</p> <p>(b) "foreman of a chit fund" shall have the same meaning as is assigned to the expression "foreman" in clause (j) of section 2 of the Chit Funds Act, 1982 (40 of 1982).</p>			<p>tax charged on goods used in supplying the service has not been taken [Please refer to Explanation no. (iv)]</p>
		(ii) Transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.	Same rate of central tax as on supply of like goods involving transfer of title in goods	Same rate of integrated tax as on supply of like goods involving transfer of title in goods	-

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		(iii) Any transfer of right in goods or of undivided share in goods without the transfer of title thereof.	Same rate of central tax as on supply of like goods involving transfer of title in goods	Same rate of integrated tax as on supply of like goods involving transfer of title in goods	-
		<p>(iv) Leasing of aircrafts by an operator for operating scheduled air transport service or scheduled air cargo service by way of transaction covered by clause (f) paragraph 5 of Schedule II of the Central Goods and Services Act, 2017.</p> <p><i>Explanation.-</i></p> <p>(a) "operator" means a person, organisation or enterprise engaged in or offering to engage in aircraft operations;</p> <p>(b) "scheduled air transport service" means an air transport service undertaken between the same two or more places operated according to a published time table or with flights so regular or frequent that they constitute a recognisable systematic series, each flight being open to use by members of the public;</p> <p>(c) "scheduled air cargo service" means air</p>	2.5%	5.0%	<p>Provided that credit of input tax charged on goods used in supplying the service has not been taken</p> <p>[Please refer to <i>Explanation</i> no. (iv)]</p>

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		transportation of cargo or mail on a scheduled basis according to a published time table or with flights so regular or frequent that they constitute a recognisably systematic series, not open to use by passengers.			
		(v) Leasing of motor vehicles purchased and leased prior to 1st July 2017	65 per cent. of the rate of central tax as applicable on supply of like goods involving transfer of title in goods. Note: Nothing contained in this entry shall apply on or after 1st July, 2020.	65 per cent. of the rate of integrated tax as applicable on supply of like goods involving transfer of title in goods. Note: Nothing contained in this entry shall apply on or after 1st July, 2020.	-
		(vi) Financial and related	9%	18%	-

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		services other than (i), (ii), (iii), and (iv) above *			
16	<b>Heading 9972</b>	(i) Services by the Central Government, State Government, Union territory or local authority to governmental authority or government entity, by way of lease of land	Nil	Nil	-
		(ii) Supply of land or undivided share of land by way of lease or sub lease where such supply is a part of composite supply of construction of flats, etc. specified in the entry in column (3), against serial number 3, at item (i); sub-item (b), sub-item (c), subitem (d), sub-item (da) and sub-item (db) of item (iv); sub-item (b), sub-item (c), sub-item (d) and sub-item (da) of item (v); and sub-item (c) of item (vi). Provided that nothing contained in this entry shall apply to an amount charged for such lease and sub-lease in excess of one third of the total amount charged for the said composite supply. Total amount shall have the same meaning for the purpose of this proviso as given in paragraph 2 of this notification	Nil	Nil	-
		(iii) Real estate services other than (i) and (ii) above	9%	18%	-
17	<b>Heading 9973</b> (Leasing or rental services, with or without	(i) Temporary or permanent transfer or permitting the use or enjoyment of Intellectual Property (IP) right in respect of goods other than Information Technology software.	6%	12%	-

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	operator)	(ii) Temporary or permanent transfer or permitting the use or enjoyment of Intellectual Property (IP) right in respect of Information Technology software. [Please refer to <i>Explanation</i> no. (v)]	9%	18%	-
		(iii) Transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.	Same rate of central tax as on supply of like goods involving transfer of title in goods	Same rate of integrated tax as on supply of like goods involving transfer of title in goods	-
		(iv) Any transfer of right in goods or of undivided share in goods without the transfer of title thereof.	Same rate of central tax as on supply of like goods involving transfer of title in goods	Same rate of central tax as on supply of like goods involving transfer of title in goods	-
		(v) Leasing of aircrafts by an operator for operating scheduled air transport service or scheduled air cargo service	2.5%	5.0%	Provided that credit of input tax charged on goods used in



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		<p>by way of transaction covered by clause (f) paragraph 5 of Schedule II of the Central Goods and Services Act, 2017.</p> <p><i>Explanation.-</i></p> <p>(a) "operator" means a person, organisation or enterprise engaged in or offering to engage in aircraft operations;</p> <p>(b) "scheduled air transport service" means an air transport service undertaken between the same two or more places operated according to a published time table or with flights so regular or frequent that they constitute a recognisable systematic series, each flight being open to use by members of the public;</p> <p>(c) "scheduled air cargo service" means air transportation of cargo or mail on a scheduled basis according to a published time table or with flights so regular or frequent that they constitute a recognisably systematic series, not open to use by passengers.</p>			<p>supplying the service has not been taken</p> <p>[Please refer to <i>Explanation</i> no. (iv)]</p>
		<p>(vi) Leasing of motor vehicles purchased and leased prior to 1st July 2017*</p>	<p>65 per cent. of the rate of central tax as applicable on supply of like goods</p>		-

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			involving transfer of title in goods. Note:- Nothing contained in this entry shall apply on or after 1st July, 2020.		
		(vii) Time charter of vessels for transport of goods.	2.5%	5%	Provided that credit of input tax charged on goods (other than on ships, vessels including bulk carriers and tankers) has not been taken [Please refer to Explanation no. (iv)].
		(viii) Leasing or rental services, with or without operator, other than (i), (ii), (iii), (iv), (v), (vi) and (vii) above. *	Same rate of central tax as applicable on supply of like goods involving transfer	Same rate of integrated tax as applicable on supply of like goods involvin	-

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			of title in goods	g transfer of title in goods	
18	Section 8	Business and Production Services			
19	Heading 9981	Research and development services.	9%	18%	-
20	Heading 9982	Legal and accounting services.	9%	18%	-
21	Heading 9983 (Other professional, technical and business services)	(i) Selling of space for advertisement in print media.	2.5%	5%	-
		(ii) Other professional, technical and business services other than (i) above.	9%	18%	-
22	Heading 9984	Telecommunications, broadcasting and information supply services.	9%	18%	-
23	Heading 9985 (Support services)	(i) Supply of tour operator's services. <i>Explanation.</i> - "tour operator" means any person engaged in the business of planning, scheduling, organizing, arranging tours (which may include arrangements for accommodation, sightseeing or other similar services) by any mode of transport, and includes any person engaged in the business of operating tours.	2.5%	5%	1. Provided that credit of input tax charged on goods and services used in supplying the service other than the input tax credit of input service in the same line of business (i.e. tour operator service procured from another tour operator)* has not been taken [Please refer to

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					<i>Explanation no. (iv)] 2. The bill issued for supply of this service indicates that it is inclusive of charges of accommodation and transportation required for such a tour and the amount charged in the bill is the gross amount charged for such a tour including the charges of accommodation and transportation required for such a tour.</i>
		(ii) Services by way of house-keeping, such as plumbing, carpentering, etc. where the person supplying such service through electronic commerce operator is not liable for registration under sub-section (1) of section 22 of the Central Goods and Services Tax Act, 2017. \$	2.5%	5%	Provided that credit of input tax charged on goods and services has not been taken [Please refer to Explanation no. (iv)].
		(iii) Support services other than (i) and (ii) above\$	9%	18%	-
24	Heading 9986	(i) Support services to agriculture, forestry, fishing,	Nil	Nil	-

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		<p>animal husbandry.</p> <p><i>Explanation.</i> – “Support services to agriculture, forestry, fishing, animal husbandry” mean –</p> <p>(i) Services relating to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce by way of—</p> <p>(a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing;</p> <p>(b) supply of farm labour;</p> <p>(c) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market;</p> <p>(d) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;</p> <p>(e) loading, unloading, packing, storage or warehousing of agricultural produce;</p>			
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		<p>(f) agricultural extension services;</p> <p>(g) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce.</p> <p>(h) services by way of fumigation in a warehouse of agricultural produce. \$</p> <p>(ii) Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables.</p> <p>(iii) Carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce.</p>			
		(ii) Service of exploration, mining or drilling of petroleum crude or natural gas or both\$	6%	12%	-
		(iii) Support services to mining, electricity, gas and water distribution other than (ii) above. \$	9%	18%	-
25	Heading 9987	(i) Services by way of house-keeping, such as plumbing, carpentering, etc. where the	2.5%	5%	Provided that credit of input tax charged on

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		person supplying such service through electronic commerce operator is not liable for registration under sub-section (1) of section 22 of the Central Goods and Services Tax Act, 2017 \$			goods and services has not been taken [Please refer to Explanation no. (iv)]
		(ii) Maintenance, repair and installation (except construction) services other than (i) above. \$	9%	18%	-
26	Heading 9988 (Manufacturing services on physical inputs (goods) owned by others)	(i) Services by way of job work in relation to- (a) Printing of newspapers; (b) Textiles and textile products falling under Chapter 50 to 63 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975); (c) all products falling under Chapter 71 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975); * (d) Printing of books (including Braille books), journals and periodicals; (da) printing of all goods falling under Chapter 48 or 49, which attract CGST @ 2.5 per cent. or Nil; * (e) Processing of hides, skins and leather falling under Chapter 41 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975). (ea) manufacture of leather goods or foot wear falling under Chapter 42 or 64 in the First Schedule to the Customs Tariff	2.5%	5%	-

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		<p>Act, 1975 (51 of 1975) respectively. \$</p> <p>(f) all food and food products falling under Chapters 1 to 22 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975); *</p> <p>(g) all products falling under Chapter 23 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), except dog and cat food put up for retail sale falling under tariff item 23091000 of the said Chapter; *</p> <p>(h) manufacture of clay bricks falling under tariff item 69010010 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975); *</p> <p>(i) manufacture of handicraft goods.</p> <p>Explanation. - The expression "handicraft goods" shall have the same meaning as assigned to it in the notification No. 32/2017 -Central Tax, dated the 15th September, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 1158 (E), dated the 15th September, 2017 as amended from time to time.</p>			
		<p>(ia) Services by way of job work in relation to-</p> <p>(a) manufacture of umbrella;</p> <p>(b) printing of all goods falling under Chapter 48 or 49, which attract CGST @ 6 per cent. *</p>	6%	12%	-
		(ii) Services by way of any	2.5%	5%	



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		treatment or process on goods belonging to another person, in relation to- (a) printing of newspapers; (b) printing of books (including Braille books), journals and periodicals. (c) printing of all goods falling under Chapter 48 or 49, which attract CGST @ 2.5 per cent. or Nil. "; *			
		(iia) Services by way of any treatment or process on goods belonging to another person, in relation to printing of all goods falling under Chapter 48 or 49, which attract CGST @ 6per cent.	6%	12%	-
		(iii) Tailoring services \$	2.5%	5%	-
		(iii) Manufacturing services on physical inputs (goods) owned by others, other than (i) & (ia), (ii) and (iia) and (iii) above. \$	9%	18%	-
27	Heading 9989	(i) Services by way of printing of all goods falling under Chapter 48 or 49 [including newspapers, books (including Braille books), journals and periodicals], which attract CGST @ 6 per cent. or 2.5per cent. or Nil, where only content is supplied by the publisher and the physical inputs including paper used for printing belong to the printer. *	6%	12%	-
		(ii) Other manufacturing services; publishing, printing and reproduction services; materials recovery services, other than (i) above.	9%	18%	-

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28	Section 9	Community, Social and Personal Services and other miscellaneous services			
29	Heading 9991	Public administration and other services provided to the community as a whole; compulsory social security services.	9%	18%	-
30	Heading 9992	Education services.	9%	18%	-
31	Heading 9993	Human health and social care services.	9%	18%	-
32	Heading 9994	(i) Services by way of treatment of effluents by a Common Effluent Treatment Plant.	6%	12%	-
		(ii) Sewage and waste collection, treatment and disposal and other environmental protection services other than (i) above. \$	9%	18%	-
33	Heading 9995	Services of membership organisations.	9%	18%	-
34	Heading 9996 (Recreational, cultural and sporting services)	(i) Services by way of admission or access to circus, Indian classical dance including folk dance, theatrical performance, drama or planetarium.	9%	18%	-
		(ii) Services by way of admission exhibition of cinematograph films where price of admission ticket is one hundred rupees or less.	9%	18%	-
		(iii) Services by way of admission to amusement parks including theme parks, water parks, joy rides, merry-go rounds, go-carting and ballet. \$	9%	18%	
		(iiia) Services by way of	14%	28%	-

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		admission to entertainment events or access to amusement facilities including exhibition of cinematograph films, casinos, race club, any sporting event such as Indian Premier League and the like. \$			
		(iv) Services provided by a race club by way of totalisator or a license to bookmaker in such club.	14%	28%	-
		(v) Gambling.	14%	28%	-
		(vi) Recreational, cultural and sporting services other than (i), (ii), (iii), (iiia) \$, (iv) and (v) above.	9%	18%	-
35	Heading 9997	Other services (washing, cleaning and dyeing services; beauty and physical well-being services; and other miscellaneous services including services nowhere else classified).	9%	18%	-
36	Heading 9998	Domestic services.	9%	18%	-
37	Heading 9999	Services provided by extraterritorial organisations and bodies.	9%	18%	-

2. In case of supply of service specified in column (3), in item (i); sub-item (b), sub-item (c), sub-item (d), sub-item (da) and sub-item (db) of item (iv); sub-item (b), sub-item (c), sub-item (d) and sub-item (da) of item (v); and sub-item (c) of item (vi), against serial number 3 of the Table above, involving transfer of land or undivided share of land, as the case may be, the value of such supply shall be equivalent to the total amount charged for such supply less the value of transfer of land or undivided share of land, as the case may be, and the value of such transfer of land or undivided share of land, as the case may be, in such supply shall be deemed to be one third of the total amount charged for such supply.

Explanation.– For the purposes of this paragraph, “total amount” means the sum total of,-

- (a) consideration charged for aforesaid service; and
- (b) amount charged for transfer of land or undivided share of land, as the case may be including by way of lease or sublease \$.

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3. Value of supply of lottery shall be 100/112 of the face value or the price notified in the Official Gazette by the organising State, whichever is higher, in case of lottery run by State Government and 100/128 of the face value or the price notified in the Official Gazette by the organising State, whichever is higher, in case of lottery authorised by State Government.
4. Explanation.- For the purposes of this notification,-
- (i) Goods includes capital goods.
  - (ii) Reference to "Chapter", "Section" or "Heading", wherever they occur, unless the context otherwise requires, shall mean respectively as "Chapter, "Section" and "Heading" in the annexed scheme of classification of services (Annexure).
  - (iii) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of heading 9988.
  - (iv) Wherever a rate has been prescribed in this notification subject to the condition that credit of input tax charged on goods or services used in supplying the service has not been taken, it shall mean that,-
    - (a) credit of input tax charged on goods or services used exclusively in supplying such service has not been taken; and
    - (b) credit of input tax charged on goods or services used partly for supplying such service and partly for effecting other supplies eligible for input tax credits, is reversed as if supply of such service is an exempt supply and attracts provisions of sub-section (2) of section 17 of the Central Goods and Services Tax Act, 2017 and the rules made thereunder.
  - (v) "information technology software" means any representation of instructions, data, sound or image, including source code and object code, recorded in a machine readable form, and capable of being manipulated or providing interactivity to a user, by means of a computer or an automatic data processing machine or any other device or equipment.
  - (vi) "agricultural extension" means application of scientific research and knowledge to agricultural practices through farmer education or training.
  - (vii) "agricultural produce" means any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market.
  - (viii) "Agricultural Produce Marketing Committee or Board" means any committee or board constituted under a State law for the time being in force for the purpose of regulating the marketing of agricultural produce.
  - (ix) "Governmental Authority" means an authority or a board or any other body, - \*

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- (i) set up by an Act of Parliament or a State Legislature; or
  - (ii) established by any Government,
- with 90per cent. or more participation by way of equity or control, to carry out any function entrusted to a Municipality under article 243 W of the Constitution or to a Panchayat under article 243 G of the Constitution.
- (x) "Government Entity" means an authority or a board or any other body including a society, trust, corporation,\*
- (i) set up by an Act of Parliament or State Legislature; or
  - (ii) established by any Government,
- with 90 per cent. or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority."
5. This notification shall come into force with effect from 1st day of July, 2017.

[F.No. 334/1/2017-TRU]

(Ruchi Bisht)

Under Secretary to the Government of India

Note: This notification includes amendments made vide Notification No.1/2018- Central Tax (Rate) dt 25.01.2018\$, Notification No.46/2017 dt 14-11-2017, Notification No.31/2017 dt 13-10-2017, Notification No.24/2017 dt 21-09-2017, Notification No.20/2017 dt 22/08/2017.

*Note: Similar provisions have been incorporated under UTGST Act vide Notification No. 11/2017-Union Territory Tax (Rate),dt. 28-06-2017 amended vide Notification No. 1/2018 dt 25-01-2018 , Notification No.46/2017 dt 14-11-2017, Notification No.31/2017 dt 13-10-2017, Notification No.24/2017 dt 21-09-2017, Notification No.20/2017 dt 22/08/2017 and under IGST Act vide Notification No. 08/2017-Integrated Tax (Rate) dt 28-06-2017 amended vide Notification No. 1/2018 dt 25-01-2018 , Notification No.48/2017 dt 14-11-2017, Notification No.39/2017 dt 13-10-2017, Notification No.24/2017 dt 21-09-2017, Notification No.20/2017 dt 22/08/2017.*

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### Annexure: Scheme of Classification of Services

S.No.	Chapter, Section, Heading or Group	Service Code (Tariff)	Service Description
(1)	(2)	(3)	(4)
1	Chapter 99		All Services
2	Section 5		Construction Services
3	Heading 9954		Construction services
4	Group 99541		Construction services of buildings
5		995411	Construction services of single dwelling or multi dwelling or multi-storied residential buildings
6		995412	Construction services of other residential buildings such as old age homes, homeless shelters, hostels and the like
7		995413	Construction services of industrial buildings such as buildings used for production activities (used for assembly line activities), workshops, storage buildings and other similar industrial buildings
8		995414	Construction services of commercial buildings such as office buildings, exhibition and marriage halls, malls, hotels, restaurants, airports, rail or road terminals, parking garages, petrol and service stations, theatres and other similar buildings
9		995415	Construction services of other non-residential buildings such as educational institutions, hospitals, clinics including veterinary clinics, religious establishments, courts, prisons, museums and other similar buildings
10		995416	Construction services of other buildings nowhere else classified
11		995419	Services involving repair, alterations, additions, replacements, renovation, maintenance or remodeling of the buildings covered above
12	Group 99542		<b>General construction services of civil engineering works</b>
13		995421	General construction services of highways, streets, roads, railways and airfield runways, bridges and tunnels
14		995422	General construction services of harbours, waterways, dams, water mains and lines, irrigation and other waterworks
15		995423	General construction services of long-distance underground/overland/ submarine pipelines, communication

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			and electric power lines (cables); pumping stations and related works; transformer stations and related works
16		995424	General construction services of local water and sewage pipelines, electricity and communication cables and related works
17		995425	General construction services of mines and industrial plants
18		995426	General Construction services of Power Plants and its related infrastructure
19		995427	General construction services of outdoor sport and recreation facilities
20		995428	General construction services of other civil engineering works nowhere else classified
21		995429	Services involving repair, alterations, additions, replacements, renovation, maintenance or remodeling of the constructions covered above
22	<b>Group 99543</b>		<b>Site preparation services</b>
23		995431	Demolition services
24		995432	Site formation and clearance services including preparation services to make sites ready for subsequent construction work, test drilling and boring and core extraction, digging of trenches
25		995433	Excavating and earthmoving services
26		995434	Water well drilling services and septic system installation services
27		995435	Other site preparation services nowhere else classified
28		995439	Services involving repair, alterations, additions, replacements, maintenance of the constructions covered above
29	<b>Group 99544</b>		<b>Assembly and erection of prefabricated constructions</b>
30		995441	Installation, assembly and erection services of prefabricated buildings
31		995442	Installation, assembly and erection services of other prefabricated structures and constructions
32		995443	Installation services of all types of street furniture (such as bus shelters, benches, telephone booths, public toilets, and the like)
33		995444	Other assembly and erection services nowhere else classified
34		995449	Services involving repair, alterations, additions, replacements, maintenance of the constructions covered above

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35	<b>Group 99545</b>		<b>Special trade construction services</b>
36		995451	Pile driving and foundation services
37		995452	Building framing and roof framing services
38		995453	Roofing and waterproofing services
39		995454	Concrete services
40		995455	Structural steel erection services
41		995456	Masonry services
42		995457	Scaffolding services
43		995458	Other special trade construction services nowhere else classified
44		995459	Services involving repair, alterations, additions, replacements, maintenance of the constructions covered above
45	<b>Group 99546</b>		<b>Installation services</b>
46		995461	Electrical installation services including Electrical wiring and fitting services, fire alarm installation services, burglar alarm system installation services
47		995462	Water plumbing and drain laying services
48		995463	Heating, ventilation and air conditioning equipment installation services
49		995464	Gas fitting installation services
50		995465	Insulation services
51		995466	Lift and escalator installation services
52		995468	Other installation services nowhere else classified
53		995469	Services involving repair, alterations, additions, replacements, maintenance of the installations covered above
54	<b>Group 99547</b>		<b>Building completion and finishing services</b>
55		995471	Glazing services
56		995472	Plastering services
57		995473	Painting services
58		995474	Floor and wall tiling services
59		995475	Other floor laying, wall covering and wall papering services
60		995476	Joinery and carpentry services
61		995477	Fencing and railing services



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62		995478	Other building completion and finishing services nowhere else classified
63		995479	Services involving repair, alterations, additions, replacements, maintenance of the completion/finishing works covered above
64	<b>Section 6</b>		<b>Distributive Trade Services ; Accommodation, Food and Beverage Service; Transport Services; Gas and Electricity Distribution Services</b>
65	<b>Heading 9961</b>		<b>Services in wholesale trade</b>
66	<b>Group 99611</b>		
67		996111	Services provided for a fee or commission or on contract basis on wholesale trade
68	<b>Heading 9962</b>		<b>Services in retail trade</b>
69	<b>Group 99621</b>		
70		996211	Services provided for a fee or commission or on contract basis on retail trade
71	<b>Heading 9963</b>		<b>Accommodation, food and beverage services</b>
72	<b>Group 99631</b>		<b>Accommodation services</b>
73		996311	Room or unit accommodation services provided by Hotels, Inn, Guest House, Club and the like
74		996312	Camp site services
75		996313	Recreational and vacation camp services
76	<b>Group 99632</b>		<b>Other accommodation services</b>
77		996321	Room or unit accommodation services for students in student residences
78		996322	Room or unit accommodation services provided by Hostels, Camps, Paying Guest and the like
79		996329	Other room or unit accommodation services nowhere else classified
80	<b>Group 99633</b>		<b>Food, edible preparations, alcoholic and non-alcoholic beverages serving services</b>
81		996331	Services provided by restaurants, cafes and similar eating facilities including takeaway services, room services and door delivery of food
82		996332	Services provided by Hotels, Inn, Guest House, Club and the like including room services, takeaway services and door delivery of food

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83		996333	Services provided in canteen and other similar establishments
84		996334	Catering Services in exhibition halls, events, marriage halls and other outdoor/indoor functions
85		996335	Catering services in trains, flights and the like
86		996336	Preparation or supply services of food, edible preparations, alcoholic and non-alcoholic beverages to airlines and other transportation operators
87		996337	Other contract food services
88		996339	Other food, edible preparations, alcoholic and non-alcoholic beverages serving services nowhere else classified
89	<b>Heading 9964</b>		<b>Passenger transport services</b>
90	<b>Group 99641</b>		<b>Local transport and sightseeing transportation services of passengers</b>
91		996411	Local land transport services of passengers by railways, metro, monorail, bus, tramway, autos, three wheelers, scooters and other motor vehicles
92		996412	Taxi services including radio taxi and other similar services
93		996413	Non-scheduled local bus and coach charter services
94		996414	Other land transportation services of passengers
95		996415	Local water transport services of passengers by ferries, cruises and the like
96		996416	Sightseeing transportation services by rail, land, water and air
97		996419	Other local transportation services of passengers nowhere else classified
98	<b>Group 99642</b>		<b>Long-distance transport services of passengers</b>
99		996421	Long-distance transport services of passengers through rail network by railways, metro and the like
100		996422	Long-distance transport services of passengers through road by bus, car, non-scheduled long distance bus and coach services, stage carriage and the like
101		996423	Taxi services including radio taxi and other similar services
102		996424	Coastal and transoceanic (overseas) water transport services of passengers by Ferries, Cruise Ships and the like
103		996425	Domestic/ international scheduled air transport services of passengers
104		996426	Domestic/ international non-scheduled air transport services of passengers
105		996427	Space transport services of passengers

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106		996429	Other long-distance transportation services of passengers nowhere else classified
107	<b>Heading 9965</b>		<b>Goods Transport Services</b>
108	<b>Group 99651</b>		<b>Land transport services of Goods</b>
109		996511	Road transport services of Goods including letters, parcels, live animals, household and office furniture, containers and the like by refrigerator vehicles, trucks, trailers, man or animal drawn vehicles or any other vehicles
110		996512	Railway transport services of Goods including letters, parcels, live animals, household and office furniture, intermodal containers, bulk cargo and the like
111		996513	Transport services of petroleum and natural gas, water, sewerage and other goods via pipeline
112		996519	Other land transport services of goods nowhere else classified
113	<b>Group 99652</b>		<b>Water transport services of goods</b>
114		996521	Coastal and transoceanic (overseas) water transport services of goods by refrigerator vessels, tankers, bulk cargo vessels, container ships and the like
115		996522	Inland water transport services of goods by refrigerator vessels, tankers and other vessels
116	<b>Group 99653</b>		<b>Air and space transport services of goods</b>
117		996531	Air transport services of letters and parcels and other goods
118		996532	Space transport services of freight
119	<b>Heading 9966</b>		<b>Rental services of transport vehicles with or without operators</b>
120	<b>Group 99660</b>		<b>Rental services of transport vehicles with or without operators</b>
121		996601	Rental services of road vehicles including buses, coaches, cars, trucks and other motor vehicles, with or without operator
122		996602	Rental services of water vessels including passenger vessels, freight vessels and the like with or without operator
123		996603	Rental services of aircraft including passenger aircrafts, freight aircrafts and the like with or without operator
124		996609	Rental services of other transport vehicles nowhere else classified with or without operator
125	<b>Heading 9967</b>		<b>Supporting services in transport</b>

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126	<b>Group 99671</b>		<b>Cargo handling services</b>
127		996711	Container handling services
128		996712	Customs house agent services
129		996713	Clearing and forwarding services
130		996719	Other cargo and baggage handling services
131	<b>Group 99672</b>		<b>Storage and warehousing services</b>
132		996721	Refrigerated storage services
133		996722	Bulk liquid or gas storage services
134		996729	Other storage and warehousing services
135	<b>Group 99673</b>		<b>Supporting services for railway transport</b>
136		996731	Railway pushing or towing services
137		996739	Other supporting services for railway transport nowhere else Classified
138	<b>Group 99674</b>		<b>Supporting services for road transport</b>
139		996741	Bus station services
140		996742	Operation services of national highways, state highways, expressways, roads and streets; bridges and tunnel operation services
141		996743	Parking lot services
142		996744	Towing services for commercial and private vehicles
143		996749	Other supporting services for road transport nowhere else classified
144	<b>Group 99675</b>		<b>Supporting services for water transport (coastal, transoceanic and inland waterways)</b>
145		996751	Port and waterway operation services (excluding cargo handling) such as operation services of ports, docks, light houses, light ships and the like
146		996752	Pilotage and berthing services
147		996753	Vessel salvage and refloating services
148		996759	Other supporting services for water transport nowhere else classified
149	<b>Group 99676</b>		<b>Supporting services for air or space transport</b>
150		996761	Airport operation services (excluding cargo handling)

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151		996762	Air traffic control services
152		996763	Other supporting services for air transport
153		996764	Supporting services for space transport
154	<b>Group 99679</b>		<b>Other supporting transport services</b>
155		996791	Goods transport agency services for road transport
156		996792	Goods transport agency services for other modes of transport
157		996793	Other goods transport services
158		996799	Other supporting transport services nowhere else classified
159	<b>Heading 9968</b>		<b>Postal and courier services</b>
160	<b>Group 99681</b>		<b>Postal and courier services</b>
161		996811	Postal services including post office counter services, mail box rental services
162		996812	Courier services
163		996813	Local delivery services
164		996819	Other Delivery Services nowhere else classified
165	<b>Heading 9969</b>		<b>Electricity, gas, water and other distribution services</b>
166	<b>Group 99691</b>		<b>Electricity and gas distribution services</b>
167		996911	Electricity transmission services
168		996912	Electricity distribution services
169		996913	Gas distribution services
170	<b>Group 99692</b>		<b>Water distribution and other services</b>
171		996921	Water distribution services
172		996922	Services involving distribution of steam, hot water and air conditioning supply and the like
173		996929	Other similar services
174	<b>Section 7</b>		<b>Financial and related services; real estate services; and rental and leasing services</b>
175	<b>Heading 9971</b>		<b>Financial and related services</b>
176	<b>Group 99711</b>		<b>Financial services (except investment banking, insurance services and pension services)</b>
177		997111	Central banking services

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178		997112	Deposit services
179		997113	Credit-granting services including stand-by commitment, guarantees and securities
180		997114	Financial leasing services
181		997119	Other financial services (except investment banking, insurance services and pension services)
182	<b>Group 99712</b>		<b>Investment banking services</b>
183		997120	Investment banking services
184	<b>Group 99713</b>		<b>Insurance and pension services (excluding reinsurance services)</b>
185		997131	pension services
186		997132	Life insurance services (excluding reinsurance services)
187		997133	Accident and health insurance services
188		997134	Motor vehicle insurance services
189		997135	Marine, aviation, and other transport insurance services
190		997136	Freight insurance services and travel insurance services
191		997137	Other property insurance services
192		997139	Other non-life insurance services (excluding reinsurance services)
193	<b>Group 99714</b>		<b>Reinsurance services</b>
194		997141	Life reinsurance services
195		997142	Accident and health reinsurance services
196		997143	Motor vehicle reinsurance services
197		997144	Marine, aviation and other transport reinsurance services
198		997145	Freight reinsurance services
199		997146	Other property reinsurance services
200		997149	Other non-life reinsurance services
201	<b>Group 99715</b>		<b>Services auxiliary to financial services (other than to insurance and pensions)</b>
202		997151	Services related to investment banking such as mergers and acquisition services, corporate finance and venture capital services
203		997152	Brokerage and related securities and commodities services including commodity exchange services
204		997153	Portfolio management services except pension funds

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205		997154	Trust and custody services
206		997155	Services related to the administration of financial markets
207		997156	Financial consultancy services
208		997157	Foreign exchange services
209		997158	Financial transactions processing and clearing house services
210		997159	Other services auxiliary to financial services
211	<b>Group 99716</b>		<b>Services auxiliary to insurance and pensions</b>
212		997161	<b>Services auxiliary to insurance and pensions</b>
213		997162	Insurance claims adjustment services
214		997163	Actuarial services
215		997164	Pension fund management services
216		997169	Other services auxiliary to insurance and pensions
217	<b>Group 99717</b>		<b>Services of holding financial assets</b>
218		997171	Services of holding equity of subsidiary companies
219		997172	Services of holding securities and other assets of trusts and funds and similar financial entities
220	<b>Heading 9972</b>		<b>Real estate services</b>
221	<b>Group 99721</b>		<b>Real estate services involving owned or leased property</b>
222		997211	Rental or leasing services involving own or leased residential Property
223		997212	Rental or leasing services involving own or leased non-residential property
224		997213	Trade services of buildings
225		997214	Trade services of time-share properties
226		997215	Trade services of vacant and subdivided land
227	<b>Group 99722</b>		<b>Real estate services on a fee or commission basis or on contract basis</b>
228		997221	Property management services on a fee or commission basis or on contract basis
229		997222	Building sales on a fee or commission basis or on contract basis
230		997223	Land sales on a fee or commission basis or on contract basis

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231		997224	Real estate appraisal services on a fee or commission basis or on contract basis
232	<b>Heading 9973</b>		<b>Leasing or rental services with or without operator</b>
233	<b>Group 99731</b>		<b>Leasing or rental services concerning machinery and equipment with or without operator</b>
234		997311	Leasing or rental services concerning transport equipments including containers, with or without operator
235		997312	Leasing or rental services concerning agricultural machinery and equipment with or without operator
236		997313	Leasing or rental services concerning construction machinery and equipment with or without operator
237		997314	Leasing or rental services concerning office machinery and equipment (except computers) with or without operator
238		997315	Leasing or rental services concerning computers with or without operators
239		997316	Leasing or rental services concerning telecommunications equipment with or without operator
240		997319	Leasing or rental services concerning other machinery and equipments with or without operator
241	<b>Group 99732</b>		<b>Leasing or rental services concerning other goods</b>
242		997321	Leasing or rental services concerning televisions, radios, video cassette recorders, projectors, audio systems and related equipment and accessories (home entertainment equipment )
243		997322	Leasing or rental services concerning video tapes and disks (home entertainment equipment )
244		997323	Leasing or rental services concerning furniture and other household appliances
245		997324	Leasing or rental services concerning pleasure and leisure equipment
246		997325	Leasing or rental services concerning household linen
247		997326	Leasing or rental services concerning textiles, clothing and footwear
248		997327	Leasing or rental services concerning do-it-yourself machinery and Equipment
249		997329	Leasing or rental services concerning other goods



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250	<b>Group 99733</b>		<b>Licensing services for the right to use intellectual property and similar products</b>
251		997331	Licensing services for the right to use computer software and Databases
252		997332	Licensing services for the right to broadcast and show original films, sound recordings, radio and television programme and the like
253		997333	Licensing services for the right to reproduce original art works
254		997334	Licensing services for the right to reprint and copy manuscripts, books, journals and periodicals
255		997335	Licensing services for the right to use research and development products
256		997336	Licensing services for the right to use trademarks and franchises
257		997337	Licensing services for the right to use minerals including its exploration and evaluation
258		997338	Licensing services for right to use other natural resources including telecommunication spectrum
259		997339	Licensing services for the right to use other intellectual property products and other resources nowhere else classified
260	<b>Section 8</b>		<b>Business and Production Services</b>
261	<b>Heading 9981</b>		<b>Research and development services</b>
262	<b>Group 99811</b>		<b>Research and experimental development services in natural sciences and engineering</b>
263		998111	Research and experimental development services in natural sciences
264		998112	Research and experimental development services in engineering and technology
265		998113	Research and experimental development services in medical sciences and pharmacy
266		998114	Research and experimental development services in agricultural sciences
267	<b>Group 99812</b>		<b>Research and experimental development services in social sciences and humanities</b>
268		998121	Research and experimental development services in social sciences
269		998122	Research and experimental development services in humanities

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270	<b>Group 99813</b>		<b>Interdisciplinary research services</b>
271		998130	Interdisciplinary research and experimental development services
272	<b>Group 99814</b>		<b>Research and development originals</b>
273		998141	Research and development originals in pharmaceuticals
274		998142	Research and development originals in agriculture
275		998143	Research and development originals in biotechnology
276		998144	Research and development originals in computer related sciences
277		998145	Research and development originals in other fields nowhere else classified
278	<b>Heading 9982</b>		<b>Legal and accounting services</b>
279	<b>Group 99821</b>		<b>Legal services</b>
280		998211	Legal advisory and representation services concerning criminal law
281		998212	Legal advisory and representation services concerning other fields of law
282		998213	Legal documentation and certification services concerning patents, copyrights and other intellectual property rights
283		998214	Legal documentation and certification services concerning other documents
284		998215	Arbitration and conciliation services
285		998216	Other legal services nowhere else classified
286	<b>Group 99822</b>		<b>Accounting, auditing and bookkeeping services</b>
287		998221	Financial auditing services
288		998222	Accounting and bookkeeping services
289		998223	Payroll services
290		998224	Other similar services nowhere else classified
291	<b>Group 99823</b>		<b>Tax consultancy and preparation services</b>
292		998231	Corporate tax consulting and preparation services
293		998232	Individual tax preparation and planning services
294	<b>Group 99824</b>		<b>Insolvency and receivership services</b>
295		998240	Insolvency and receivership services
296	<b>Heading 9983</b>		<b>Other professional, technical and business services</b>

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297	<b>Group 99831</b>		<b>Management consulting and management services; information technology services</b>
298		998311	Management consulting and management services including financial, strategic, human resources, marketing, operations and supply chain management
299		998312	Business consulting services including public relations services
300		998313	Information technology consulting and support services
301		998314	Information technology design and development services
302		998315	Hosting and information technology infrastructure provisioning services
303		998316	Information technology infrastructure and network management services
304		998319	Other information technology services nowhere else classified
305	<b>Group 99832</b>		<b>Architectural services, urban and land planning and landscape architectural services</b>
306		998321	Architectural advisory services
307		998322	Architectural services for residential building projects
308		998323	Architectural services for non-residential building projects
309		998324	Historical restoration architectural services
310		998325	Urban planning services
311		998326	Rural land planning services
312		998327	Project site master planning services
313		998328	Landscape architectural services and advisory services
314	<b>Group 99833</b>		<b>Engineering services</b>
315		998331	Engineering advisory services
316		998332	Engineering services for building projects
317		998333	Engineering services for industrial and manufacturing projects
318		998334	Engineering services for transportation projects
319		998335	Engineering services for power projects
320		998336	Engineering services for telecommunications and broadcasting projects

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321		998337	Engineering services for waste management projects (hazardous and non-hazardous), for water, sewerage and drainage projects
322		998338	Engineering services for other projects nowhere else classified
323		998339	Project management services for construction projects
324	<b>Group 99834</b>		<b>Scientific and other technical services</b>
325		998341	Geological and geophysical consulting services
326		998342	Subsurface surveying services
327		998343	Mineral exploration and evaluation
328		998344	Surface surveying and map-making services
329		998345	Weather forecasting and meteorological services
330		998346	Technical testing and analysis services
331		998347	Certification of ships, aircraft, dams, and the like
332		998348	Certification and authentication of works of art
333		998349	Other technical and scientific services nowhere else classified
334	<b>Group 99835</b>		<b>Veterinary services</b>
335		998351	Veterinary services for pet animals
336		998352	Veterinary services for livestock
337		998359	Other veterinary services nowhere else classified
338	<b>Group 99836</b>		<b>Advertising services and provision of advertising space or time</b>
339		998361	Advertising Services
340		998362	Purchase or sale of advertising space or time, on commission
341		998363	Sale of advertising space in print media (except on commission)
342		998364	Sale of television and radio advertising time
343		998365	Sale of internet advertising space
344		998366	Sale of other advertising space or time (except on commission)
345	<b>Group 99837</b>		<b>Market research and public opinion polling services</b>
346		998371	Market research services

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347		998372	Public opinion polling services
348	<b>Group 99838</b>		<b>Photography and videography and their processing services</b>
349		998381	Portrait photography services
350		998382	Advertising and related photography services
351		998383	Event photography and event videography services
352		998384	Specialty photography services
353		998385	Restoration and retouching services of photography
354		998386	Photographic and video graphic processing services
355		998387	Other photography and videography and their processing services nowhere else classified
356	<b>Group 99839</b>		<b>Other professional, technical and business services</b>
357		998391	Specialty design services including interior design, fashion design, industrial design and other specialty design services
358		998392	Design originals
359		998393	Scientific and technical consulting services
360		998394	Original compilations of facts or information
361		998395	Translation and interpretation services
362		998396	Trademarks and franchises
363		998397	Sponsorship services and brand promotion services
364		998399	Other professional, technical and business services nowhere else classified
365	<b>Heading 9984</b>		<b>Telecommunications, broadcasting and information supply services</b>
366	<b>Group 99841</b>		<b>Telephony and other telecommunications services</b>
367		998411	Carrier services
368		998412	Fixed telephony services
369		998413	Mobile telecommunications services
370		998414	Private network services
371		998415	Data transmission services
372		998419	Other telecommunications services including fax services, telex services nowhere else classified

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373	<b>Group 99842</b>		<b>Internet telecommunications services</b>
374		998421	Internet backbone services
375		998422	Internet access services in wired and wireless mode
376		998423	Fax, telephony over the internet
377		998424	Audio conferencing and video conferencing over the internet
378		998429	Other internet telecommunications services nowhere else classified
379	<b>Group 99843</b>		<b>On-line content services</b>
380		998431	On-line text based information such as online books, newspapers, periodicals, directories and the like
381		998432	On-line audio content
382		998433	On-line video content
383		998434	Software downloads
384		998439	Other on-line contents nowhere else classified
385	<b>Group 99844</b>		<b>News agency services</b>
386		998441	News agency services to newspapers and periodicals
387		998442	Services of independent journalists and press photographers
388		998443	News agency services to audiovisual media
389	<b>Group 99845</b>		<b>Library and archive services</b>
390		998451	Library services
391		998452	Operation services of public archives including digital archives
392		998453	Operation services of historical archives including digital archives
393	<b>Group 99846</b>		<b>Broadcasting, programming and programme distribution services</b>
394		998461	Radio broadcast originals
395		998462	Television broadcast originals
396		998463	Radio channel programmes
397		998464	Television channel programmes
398		998465	Broadcasting services
399		998466	Home programme distribution services

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400	<b>Heading 9985</b>		<b>Support services</b>
401	<b>Group 99851</b>		<b>Employment services including personnel search, referral service and labour supply service</b>
402		998511	Executive or retained personnel search services
403		998512	Permanent placement services, other than executive search services
404		998513	Contract staffing services
405		998514	Temporary staffing services
406		998515	Long-term staffing (pay rolling) services
407		998516	Temporary staffing-to-permanent placement services
408		998517	Co-employment staffing services
409		998519	Other employment and labour supply services nowhere else classified
410	<b>Group 99852</b>		<b>Investigation and security services</b>
411		998521	Investigation services
412		998522	Security consulting services
413		998523	Security systems services
414		998524	Armoured car services
415		998525	Guard services
416		998526	Training of guard dogs
417		998527	Polygraph services
418		998528	Fingerprinting services
419		998529	Other security services nowhere else classified
420	<b>Group 99853</b>		<b>Cleaning services</b>
421		998531	Disinfecting and exterminating services
422		998532	Window cleaning services
423		998533	General cleaning services
424		998534	Specialised cleaning services for reservoirs and tanks
425		998535	Sterilisation of objects or premises (operating rooms)
426		998536	Furnace and chimney cleaning services
427		998537	Exterior cleaning of buildings of all types
428		998538	Cleaning of transportation equipment

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429		998539	Other cleaning services nowhere else classified
430	<b>Group 99854</b>		<b>Packaging services</b>
431		998540	Packaging services of goods for others
432		998541	Parcel packing and gift wrapping
433		998542	Coin and currency packing services
434		998549	Other packaging services nowhere else classified
435	<b>Group 99855</b>		<b>Travel arrangement, tour operator and related services</b>
436		998551	Reservation services for transportation
437		998552	Reservation services for accommodation, cruises and package tours
438		998553	Reservation services for convention centres, congress centres and exhibition halls
439		998554	Reservation services for event tickets, cinema halls, entertainmen and recreational services and other reservation services
440		998555	Tour operator services
441		998556	Tourist guide services
442		998557	Tourism promotion and visitor information services
443		998559	Other travel arrangement and related services nowhere else classified
444	<b>Group 99859</b>		<b>Other support services</b>
445		998591	Credit reporting and rating services
446		998592	Collection agency services
447		998593	Telephone-based support services
448		998594	Combined office administrative services
449		998595	Specialised office support services such as duplicating services, mailing services, document preparation and the like
450		998596	Events, exhibitions, conventions and trade shows organisation and assistance services
451		998597	Landscape care and maintenance services
452		998598	Other information services nowhere else classified
453		998599	Other support services nowhere else classified
454	<b>Heading 9986</b>		<b>Support services to agriculture, hunting, forestry, fishing, mining and utilities</b>
455	<b>Group 99861</b>		<b>Support services to agriculture, hunting, forestry and fishing</b>



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456		998611	Support services to crop production
457		998612	Animal husbandry services
458		998613	Support services to hunting
459		998614	Support services to forestry and logging
460		998615	Support services to fishing
461		998619	Other support services to agriculture, hunting, forestry and fishing
462	<b>Group 99862</b>		<b>Support services to mining</b>
463		998621	Support services to oil and gas extraction
464		998622	Support services to other mining nowhere else classified
465	<b>Group 99863</b>		<b>Support services to electricity, gas and water distribution</b>
466		998631	Support services to electricity transmission and distribution
467		998632	Support services to gas distribution
468		998633	Support services to water distribution
469		998634	Support services to distribution services of steam, hot water and air-conditioning supply
470	<b>Heading 9987</b>		<b>Maintenance, repair and installation (except construction) services</b>
471	<b>Group 99871</b>		<b>Maintenance and repair services of fabricated metal products, machinery and equipment</b>
472		998711	Maintenance and repair services of fabricated metal products, except machinery and equipment
473		998712	Maintenance and repair services of office and accounting machinery
474		998713	Maintenance and repair services of computers and peripheral equipment
475		998714	Maintenance and repair services of transport machinery and Equipment
476		998715	Maintenance and repair services of electrical household appliances
477		998716	Maintenance and repair services of telecommunication equipments and apparatus
478		998717	Maintenance and repair services of commercial and industrial machinery
479		998718	Maintenance and repair services of elevators and escalators

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480		998719	Maintenance and repair services of other machinery and equipments
481	<b>Group 99872</b>		<b>Repair services of other goods</b>
482		998721	Repair services of footwear and leather goods
483		998722	Repair services of watches, clocks and jewellery
484		998723	Repair services of garments and household textiles
485		998724	Repair services of furniture
486		998725	Repair services of bicycles
487		998726	Maintenance and repair services of musical instruments
488		998727	Repair services for photographic equipment and cameras
489		998729	Maintenance and repair services of other goods nowhere else classified
490	<b>Group 99873</b>		<b>Installation services (other than construction)</b>
491		998731	Installation services of fabricated metal products, except machinery and equipment
492		998732	Installation services of industrial, manufacturing and service industry machinery and equipment
493		998733	Installation services of office and accounting machinery and computers
494		998734	Installation services of radio, television and communications equipment and apparatus
495		998735	Installation services of professional medical machinery and equipment, and precision and optical instruments
496		998736	Installation services of electrical machinery and apparatus nowhere else classified
497		998739	Installation services of other goods nowhere else classified
498	<b>Heading 9988</b>		<b>Manufacturing services on physical inputs (goods) owned by others</b>
499	<b>Group 99881</b>		<b>Food, beverage and tobacco manufacturing services</b>
500		998811	Meat processing services
501		998812	Fish processing services
502		998813	Fruit and vegetables processing services
503		998814	Vegetable and animal oil and fat manufacturing services
504		998815	Dairy product manufacturing services

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505		998816	Other food product manufacturing services
506		998817	Prepared animal feeds manufacturing services
507		998818	Beverage manufacturing services
508		998819	Tobacco manufacturing services nowhere else classified
509	<b>Group 99882</b>		<b>Textile, wearing apparel and leather manufacturing services</b>
510		998821	Textile manufacturing services
511		998822	Wearing apparel manufacturing services
512		998823	Leather and leather product manufacturing services
513	<b>Group 99883</b>		<b>Wood and paper manufacturing services</b>
514		998831	Wood and wood product manufacturing services
515		998832	Paper and paper product manufacturing services
516	<b>Group 99884</b>		<b>Petroleum, chemical and pharmaceutical product manufacturing services</b>
517		998841	Coke and refined petroleum product manufacturing services
518		998842	Chemical product manufacturing services
519		998843	Pharmaceutical product manufacturing services
520	<b>Group 99885</b>		<b>Rubber, plastic and other non-metallic mineral product manufacturing service</b>
521		998851	Rubber and plastic product manufacturing services
522		998852	Plastic product manufacturing services
523		998853	Other non-metallic mineral product manufacturing services
524	<b>Group 99886</b>		<b>Basic metal manufacturing services</b>
525		998860	Basic metal manufacturing services
526	<b>Group 99887</b>		<b>Fabricated metal product, machinery and equipment manufacturing services</b>
527		998871	Structural metal product, tank, reservoir and steam generator manufacturing services
528		998872	Weapon and ammunition manufacturing services
529		998873	Other fabricated metal product manufacturing and metal treatment services
530		998874	Computer, electronic and optical product manufacturing services

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531		998875	Electrical equipment manufacturing services
532		998876	General-purpose machinery manufacturing services nowhere else classified
533		998877	Special-purpose machinery manufacturing services
534	<b>Group 99888</b>		<b>Transport equipment manufacturing services</b>
535		998881	Motor vehicle and trailer manufacturing services
536		998882	Other transport equipment manufacturing services
537	<b>Group 99889</b>		<b>Other manufacturing services</b>
538		998891	Furniture manufacturing services
539		998892	Jewellery manufacturing services
540		998893	Imitation jewellery manufacturing services
541		998894	Musical instrument manufacturing services
542		998895	Sports goods manufacturing services
543		998896	Game and toy manufacturing services
544		998897	Medical and dental instrument and supply manufacturing services
545		998898	Other manufacturing services nowhere else classified
546	<b>Heading 9989</b>		<b>Other manufacturing services; publishing, printing and reproduction services; materials recovery services</b>
547	<b>Group 99891</b>		<b>Publishing, printing and reproduction services</b>
548		998911	Publishing, on a fee or contract basis
549		998912	Printing and reproduction services of recorded media, on a fee or contract basis
550	<b>Group 99892</b>		<b>Moulding, pressing, stamping, extruding and similar plastic manufacturing services</b>
551		998920	Moulding, pressing, stamping, extruding and similar plastic manufacturing services
552	<b>Group 99893</b>		<b>Casting, forging, stamping and similar metal manufacturing services</b>
553		998931	Iron and steel casting services
554		998932	Non-ferrous metal casting services
555		998933	Metal forging, pressing, stamping, roll forming and powder metallurgy services
556	<b>Group 99894</b>		<b>Materials recovery (recycling) services, on a fee or contract basis</b>
557		998941	Metal waste and scrap recovery (recycling) services, on a fee or contract basis

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558		998942	Non-metal waste and scrap recovery (recycling) services, on a fee or contract basis
559	<b>Section 9</b>		<b>Community, social and personal services and other miscellaneous services</b>
560	<b>Heading 9991</b>		<b>Public administration and other services provided to the community as a whole; compulsory social security services</b>
561	<b>Group 99911</b>		<b>Administrative services of the government</b>
562		999111	Overall Government public services
563		999112	Public administrative services related to the provision of educational, health care, cultural and other social services, excluding social security service
564		999113	Public administrative services related to the more efficient operation of business
565		999119	Other administrative services of the government nowhere else classified
566	<b>Group 99912</b>		<b>Public administrative services provided to the community as a whole</b>
567		999121	Public administrative services related to External Affairs, Diplomatic and Consular services abroad
568		999122	Services related to foreign economic aid
569		999123	Services related to foreign military aid
570		999124	Military defence services
571		999125	Civil defence services
572		999126	Police and fire protection services
573		999127	Public administrative services related to law courts
574		999128	Administrative services related to the detention or rehabilitation of criminals
575		999129	Public administrative services related to other public order and safety affairs nowhere else classified
576	<b>Group 99913</b>		<b>Administrative services related to compulsory social security schemes</b>
577		999131	Administrative services related to sickness, maternity or temporary disablement benefit schemes
578		999132	Administrative services related to government employee pension schemes; old-age disability or survivors' benefit schemes, other than for government employees

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579		999133	Administrative services related to unemployment compensation benefit schemes
580		999134	Administrative services related to family and child allowance Programmes
581	<b>Heading 9992</b>		<b>Education services</b>
582	<b>Group 99921</b>		<b>Pre-primary education services</b>
583		999210	Pre-primary education services
584	<b>Group 99922</b>		<b>Primary education services</b>
585		999220	Primary education services
586	<b>Group 99923</b>		<b>Secondary Education Services</b>
587		999231	Secondary education services, general
588		999232	Secondary education services, technical and vocational
589	<b>Group 99924</b>		<b>Higher education services</b>
590		999241	Higher education services, general
591		999242	Higher education services, technical
592		999243	Higher education services, vocational
593		999249	Other higher education services
594	<b>Group 99925</b>		<b>Specialised education services</b>
595		999259	Specialised education services
596	<b>Group 99929</b>		<b>Other education and training services and educational support services</b>
597		999291	Cultural education services
598		999292	Sports and recreation education services
599		999293	Commercial training and coaching services
600		999294	Other education and training services nowhere else classified
601		999295	services involving conduct of examination for admission to educational institutions
602		999299	Other educational support services
603	<b>Heading 9993</b>		<b>Human health and social care services</b>
604	<b>Group 99931</b>		<b>Human health services</b>
605		999311	Inpatient services

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606		999312	Medical and dental services
607		999313	Childbirth and related services
608		999314	Nursing and physiotherapeutic services
609		999315	Ambulance services
610		999316	Medical laboratory and diagnostic-imaging services
611		999317	Blood, sperm and organ bank services
612		999319	Other human health services including homeopathy, unani, ayurveda, naturopathy, acupuncture and the like
613	<b>Group 99932</b>		<b>Residential care services for the elderly and disabled</b>
614		999321	Residential health-care services other than by hospitals
615		999322	Residential care services for the elderly and persons with disabilities
616	<b>Group 99933</b>		<b>Other social services with accommodation</b>
617		999331	Residential care services for children suffering from mental retardation, mental health illnesses or substance abuse
618		999332	Other social services with accommodation for children
619		999333	Residential care services for adults suffering from mental retardation, mental health illnesses or substance abuse
620		999334	Other social services with accommodation for adults
621	<b>Group 99934</b>		<b>Social services without accommodation for the elderly and disabled</b>
622		999341	Vocational rehabilitation services
623		999349	Other social services without accommodation for the elderly and disabled nowhere else classified
624	<b>Group 99935</b>		<b>Other social services without accommodation</b>
625		999351	Child day-care services
626		999352	Guidance and counseling services nowhere else classified related to children
627		999353	Welfare services without accommodation
628		999359	Other social services without accommodation nowhere else classified
629	<b>Heading 9994</b>		<b>Sewage and waste collection, treatment and disposal and other environmental protection services</b>
630	<b>Group 99941</b>		<b>Sewerage, sewage treatment and septic tank cleaning services</b>
631		999411	Sewerage and sewage treatment services

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632		999412	Septic tank emptying and cleaning services
633	<b>Group 99942</b>		<b>Waste collection services</b>
634		999421	Collection services of hazardous waste
635		999422	Collection services of non-hazardous recyclable materials
636		999423	General waste collection services, residential
637		999424	General waste collection services, other nowhere else classified
638	<b>Group 99943</b>		<b>Waste treatment and disposal services</b>
639		999431	Waste preparation, consolidation and storage services
640		999432	Hazardous waste treatment and disposal services
641		999433	Non-hazardous waste treatment and disposal services
642	<b>Group 99944</b>		<b>Remediation services</b>
643		999441	Site remediation and clean-up services
644		999442	Containment, control and monitoring services and other site remediation services
645		999443	Building remediation services
646		999449	Other remediation services nowhere else classified
647	<b>Group 99945</b>		<b>Sanitation and similar services</b>
648		999451	Sweeping and snow removal services
649		999459	Other sanitation services nowhere else classified
650	<b>Group 99949</b>		<b>Others</b>
651		999490	Other environmental protection services nowhere else classified
652	<b>Heading 9995</b>		<b>Services of membership organisations</b>
653	<b>Group 99951</b>		<b>Services furnished by business, employers and professional organisations Services</b>
654		999511	Services furnished by business and employers organisations
655		999512	Services furnished by professional organisations
656	<b>Group 99952</b>		<b>Services furnished by trade unions</b>
657		999520	Services furnished by trade unions
658	<b>Group 99959</b>		<b>Services furnished by other membership organisations</b>
659		999591	Religious services



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660		999592	Services furnished by political organisations
661		999593	Services furnished by human rights organisations
662		999594	Cultural and recreational associations
663		999595	Services furnished by environmental advocacy groups
664		999596	Services provided by youth associations
665		999597	Other civic and social organisations
666		999598	Home owners associations
667		999599	Services provided by other membership organisations nowhere else classified
668	<b>Heading 9996</b>		<b>Recreational, cultural and sporting services</b>
669	<b>Group 99961</b>		<b>Audiovisual and related services</b>
670		999611	Sound recording services
671		999612	Motion picture, videotape, television and radio programme production services
672		999613	Audiovisual post-production services
673		999614	Motion picture, videotape and television programme distribution services
674		999615	Motion picture projection services
675	<b>Group 99962</b>		<b>Performing arts and other live entertainment event presentation and promotion services</b>
676		999621	Performing arts event promotion and organisation services
677		999622	Performing arts event production and presentation services
678		999623	Performing arts facility operation services
679		999629	Other performing arts and live entertainment services nowhere else classified
680	<b>Group 99963</b>		<b>Services of performing and other artists</b>
681		999631	Services of performing artists including actors, readers, musicians, singers, dancers, television personalities, independent models and the like
682		999632	Services of authors, composers, sculptors and other artists, except performing artists
683		999633	Original works of authors, composers and other artists except performing artists, painters and sculptors

## Notification

684	<b>Group 99964</b>		<b>Museum and preservation services</b>
685		999641	Museum and preservation services of historical sites and buildings
686		999642	Botanical, zoological and nature reserve services
687	<b>Group 99965</b>		<b>Sports and recreational sports services</b>
688		999651	Sports and recreational sports event promotion and organization Services
689		999652	Sports and recreational sports facility operation services
690		999659	Other sports and recreational sports services nowhere else classified
691	<b>Group 99966</b>		<b>Services of athletes and related support services</b>
692		999661	Services of athletes
693		999662	Support services related to sports and recreation
694	<b>Group 99969</b>		<b>Other amusement and recreational services</b>
695		999691	Amusement park and similar attraction services
696		999692	Gambling and betting services including similar online services
697		999693	Coin-operated amusement machine services
698		999694	Lottery services
699		999699	Other recreation and amusement services nowhere else classified
700	<b>Heading 9997</b>		<b>Other services</b>
701	<b>Group 99971</b>		<b>Washing, cleaning and dyeing services</b>
702		999711	Coin-operated laundry services
703		999712	Dry-cleaning services (including fur product cleaning services)
704		999713	Other textile cleaning services
705		999714	Pressing services
706		999715	Dyeing and colouring services
707		999719	Other washing, cleaning and dyeing services nowhere else classified
708	<b>Group 99972</b>		<b>Beauty and physical well-being services</b>
709		999721	Hairdressing and barbers services
710		999722	Cosmetic treatment ( including cosmetic or plastic surgery), manicuring and pedicuring services
711		999723	Physical well-being services including health club and fitness centre

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712		999729	Other beauty treatment services nowhere else classified
713	<b>Group 99973</b>		<b>Funeral, cremation and undertaking services</b>
714		999731	Cemeteries and cremation services
715		999732	Undertaking services
716	<b>Group 99979</b>		<b>Other miscellaneous services</b>
717		999791	Services involving commercial use or exploitation of any event
718		999792	Agreeing to do an act
719		999793	Agreeing to refrain from doing an act
720		999794	Agreeing to tolerate an act
721		999795	Conduct of religious ceremonies or rituals by persons
722		999799	Other services nowhere else classified
723	<b>Heading 9998</b>		<b>Domestic services</b>
724	<b>Group 99980</b>		<b>Domestic services</b>
725		999800	Domestic services both part time and full time
726	<b>Heading 9999</b>		<b>Services provided by extraterritorial organisations and bodies</b>
727	<b>Group 99990</b>		<b>Services provided by extraterritorial organisations and bodies</b>
728		999900	Services provided by extraterritorial organisations and bodies

## Notification

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[TO BE PUBLISHED IN THE GAZZETE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India  
Ministry of Finance  
(Department of Revenue)

### Notification No. 12/2017- Central Tax (Rate)

New Delhi, the 28<sup>th</sup> June, 2017

G.S.R.....(E).- In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts the intra-State supply of services of description as specified in column (3) of the Table below from so much of the central tax leviable thereon under sub-section (1) of section 9 of the said Act, as is in excess of the said tax calculated at the rate as specified in the corresponding entry in column (4) of the said Table, unless specified otherwise, subject to the relevant conditions as specified in the corresponding entry in column (5) of the said Table, namely:-

TABLE

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
(1)	(2)	(3)	(4)	(5)	
1	Chapter 99	Services by an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) by way of charitable activities.	Nil	Nil	Same as S.No.6
2	Chapter 99	Services by way of transfer of a going concern, as a whole or an independent part thereof.	Nil	Nil	Same as S.No.37

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
3	Chapter 99	Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or Government entity <sup>15</sup> by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.	Nil	Nil	Same as S.No.25
3A	Chapter 99	Composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent. of the value of the said composite supply provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a Government Entity by way of any activity in relation to any function entrusted to a Panchayat under article	Nil	Nil	

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution <sup>15a</sup>			
4	Chapter 99	Services by Central Government, State Government, Union territory, local authority or governmental authority by way of any activity in relation to any function entrusted to a municipality under article 243 W of the Constitution.	Nil	Nil	Same as S.No.39
5	Chapter 99	Services by Central Government, State Government, Union territory, local authority or Governmental Authority <sup>3</sup> by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution.	Nil	Nil	Same as S.No.60
6	Chapter 99	Services by the Central Government, State Government, Union territory or local authority excluding the following services— (a) services by the Department of Posts by way of speed post, express parcel post, life	Nil	Nil	Mentioned in Negative list

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		insurance, and agency services provided to a person other than the Central Government, State Government, Union territory;			
<p><b>3</b> Substituted vide Notification No. 32/2017-Central Tax (Rate)/ Integrated Tax (rate)/Union Tax (Rate) dt 13-10-2017</p> <p><b>15</b> Inserted vide Notification No. 2/2018- Central Tax (Rate)/ Integrated Tax (Rate)/ Union Tax (Rate) dt 25-01-2018</p> <p><b>15a</b> Inserted vide Notification No. 2/2018- Central Tax (Rate)/ Integrated Tax (Rate)/ Union Tax (Rate) dt 25-01-2018</p>					
		<p>(b) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</p> <p>(c) transport of goods or passengers; or</p> <p>(d) any service, other than services covered under entries (a) to (c) above, provided to business entities.</p>			
7	Chapter 99	Services provided by the Central Government, State Government, Union territory or local authority to a business entity with an aggregate turnover of up to twenty lakh rupees (ten lakh rupees in case of a special category state) in the preceding financial	Nil	Nil	Same as S.No.48

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		<p>year.</p> <p><i>Explanation.</i> - For the purposes of this entry, it is hereby clarified that the provisions of this entry shall not be applicable to-</p> <p>(a) services, -</p> <p>(i) by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory;</p> <p>(ii) in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</p> <p>(iii) of transport of goods or passengers; and</p> <p>(b) services by way of renting of immovable property.</p>			
8	Chapter 99	Services provided by the Central Government, State Government, Union territory or local authority to another Central Government, State Government, Union territory or local authority:	Nil	Nil	Nil



## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		<p>Provided that nothing contained in this entry shall apply to services-</p> <p>(i) by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory;</p> <p>(ii) in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</p> <p>(iii) of transport of goods or passengers.</p>			
9	Chapter 99	<p>Services provided by Central Government, State Government, Union territory or a local authority where the consideration for such services does not exceed five thousand rupees:</p> <p>Provided that nothing contained in this entry shall apply to-</p> <p>(i) services by the Department of Posts by way of speed post, express parcel post,</p>	Nil	Nil	Same as S.No.56

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		<p>life insurance, and agency services provided to a person other than the Central Government, State Government,</p> <p>(ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</p> <p>(iii) transport of goods or passengers:</p> <p>Provided further that in case where continuous supply of service, as defined in sub-section (33) of section 2 of the Central Goods and Services Tax Act, 2017, is provided by the Central Government, State Government, Union territory or a local authority, the exemption shall apply only where the consideration charged for such service does not exceed five thousand rupees in a financial year.</p>			
9A	Chapter 99	Services provided by and to Fédération Internationale de Football Association (FIFA) and its subsidiaries directly or indirectly related to any of	Nil	Provided that Director (Sports), Ministry of Youth Affairs and	Nil

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		the events under FIFA U-17 World Cup 2017 to be hosted in India. <sup>10</sup>		Sports certifies that the services are directly or indirectly related to any of the events under FIFA U-17 World Cup 2017	
9B	Chapter 99	Supply of services associated with transit cargo to Nepal and Bhutan (landlocked countries). <sup>14</sup>	Nil	Nil	Nil
<sup>10</sup> Inserted vide Notification No. 21/2017- Central Tax (Rate)/Integrated Tax (Rate) dt 22-08-2017					
<sup>14</sup> Inserted vide Notification No. 30/2017- Central tax (Rate)/Integrated Tax(Rate) dt 29-09-2017					
9C	Chapter 99	Supply of service by a Government Entity to Central Government, State Government, Union territory, local authority or any person specified by Central Government, State Government, Union territory or local authority against consideration received from Central Government, State Government, Union territory or local authority, in the form of grants. <sup>4</sup>	Nil	Nil	Nil
10	Heading 9954	Services provided by way	Nil	Nil	Same as

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		of pure labour contracts of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a civil structure or any other original works pertaining to the beneficiary-led individual house construction or enhancement under the Housing for All (Urban) Mission or Pradhan Mantri Awas Yojana.			S.No.12
11	Heading 9954	Services by way of pure labour contracts of construction, erection, commissioning, or installation of original works pertaining to a single residential unit otherwise than as a part of a residential complex.	Nil	Nil	Same as S.No.13
11A	Heading 9961 or Heading 9962	Service provided by Fair Price Shops to Central Government by way of sale of wheat, rice and coarse grains under Public Distribution System(PDS) against consideration in the form of commission or margin. <sup>1</sup>	Nil	Nil	Nil
12	Heading 9963 or Heading	Services by way of renting of residential dwelling for	Nil	Nil	Mentioned in Negative List

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
	9972	use as residence.			
<sup>4</sup> Inserted vide Notification No. 32/2017- Central Tax (Rate)/Integrated Tax (Rate) dt 13-10-2017 <sup>1</sup> Substituted vide Notification No. 47/2017- Central tax (Rate)/ Integrated Tax (Rate) dt 14-11-2017 <sup>11</sup> Inserted vide Notification No. 21/2017- Central Tax (Rate)/ Integrated Tax (Rate) dt 22-08-2017					
13	Heading 9963 or Heading 9972 or Heading 9995 or any other Heading of Section 9	Services by a person by way of- (a) conduct of any religious ceremony; (b) renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a charitable or religious trust under section 12AA of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) or a trust or an institution registered under sub clause (v) of clause (23C) of section 10 of the Income-tax Act or a body or an authority covered under clause (23BBA) of section 10 of the said Income-tax Act: Provided that nothing contained in entry(b) of this exemption shall apply to- (i) renting of rooms where	Nil	Nil	Same as S.No. 5 However, monetary limit has been introduced to restrict the exemption to institutions which are charging for their facilities over such limits

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		charges are one thousand rupees or more per day; (ii) renting of premises, community halls, kalyan mandapam or open area, and the like where charges are ten thousand rupees or more per day;			
		(iii) renting of shops or other spaces for business or commerce where charges are ten thousand rupees or more per month.			
14	Heading 9963	Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below one thousand rupees per day or equivalent.	Nil	Nil	Same as S.No.18
15	Heading 9964	Transport of passengers, with or without accompanied belongings, by- (a) air, embarking from or terminating in an airport located in the state of Arunachal Pradesh, Assam, Manipur,	Nil	Nil	Same as S.No. 23

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal; (b) non-air conditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or (c) stage carriage other than air- conditioned stage carriage.			
16	Heading 9964	Services provided to the Central Government, by way of transport of passengers with or without accompanied belongings, by air, embarking from or terminating at a regional connectivity scheme airport, against consideration in the form of viability gap funding: Provided that nothing contained in this entry shall apply on or after the expiry of a period of one year <sup>16</sup> from the date of commencement of operations of the regional connectivity scheme airport as notified by the Ministry of Civil Aviation.	Nil	Nil	Same as S.No. 23A

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
17	Heading 9964	Service of transportation of passengers, with or without accompanied belongings, by— (a) railways in a class other than— (i) first class; or (ii) an air-conditioned coach; (b) metro, monorail or tramway; (c) inland waterways; (d) public transport, other than predominantly for tourism purpose, in a vessel between places located in India; and (e) metered cabs or auto rickshaws (including e-rickshaws).	Nil	Nil	Mentioned in Negative List
<b>16</b> Substituted to three years vide Notification No. 2/2018- Central Tax (Rate) dt 25-01-2018					
18	Heading 9965	Services by way of transportation of goods- (a) by road except the services of— (i) a goods transportation agency; (ii) a courier agency; (b) by inland waterways.	Nil	Nil	Mentioned in Negative List
19	Heading 9965	Services by way of transportation of goods by an aircraft from a place outside India upto the	Nil	Nil	Same as S.No. 53



## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		customs station of clearance in India.			
19A	Heading 9965	Services by way of transportation of goods by an aircraft from customs station of clearance in India to a place outside India. <sup>17</sup>	Nil	Nothing contained in this serial number shall apply after the 30th day of September, 2018.	
19B	Heading 9965	Services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India <sup>17</sup>	Nil	Nothing contained in this serial number shall apply after the 30th day of September, 2018.";	
<sup>17</sup> Inserted vide Notification No. 02/2018- Central Tax (Rate) dt 25-01-2018					
20	Heading 9965	Services by way of transportation by rail or a vessel from one place in India to another of the following goods – (a) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; (b) defence or military equipments; (c) newspaper or magazines registered	Nil	Nil	Same as S. No. 20

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		with the Registrar of Newspapers; (d) railway equipments or materials; (e) agricultural produce; (f) milk, salt and food grain including flours, pulses and rice; and (g) organic manure.			
21	Heading 9965 or Heading 9967	Services provided by a goods transport agency, by way of transport in a goods carriage of - (a) agricultural produce; (b) goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage does not exceed one thousand five hundred rupees; (c) goods, where consideration charged for transportation of all such goods for a single consignee does not exceed rupees seven hundred and fifty; (d) milk, salt and food grain including flour, pulses and rice; (e) organic manure;	Nil	Nil	Same as S.No.21

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		(f) newspaper or magazines registered with the Registrar of Newspapers; (g) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or (h) defence or military equipments.			
21A	Heading 9965 or Heading 9967	Services provided by a goods transport agency to an unregistered person, including an unregistered casual taxable person, other than the following recipients, namely: - (a) any factory registered under or governed by the Factories Act, 1948(63 of 1948); or (b) any Society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or (c) any Co-operative Society established by or under any law for the time being in force; or (d) any body corporate established, by or under any law for the	Nil	Nil	Nil

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		time being in force; or (e) any partnership firm whether registered or not under any law including association of persons; (f) any casual taxable person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act. <sup>5</sup>			
22	Heading 9966 or Heading 9973	Services by way of giving on hire – (a) to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers; or (b) to a goods transport agency, a means of transportation of goods. (c) motor vehicle for transport of students, faculty and staff, to a person providing services of transportation of students, faculty and staff to an educational institution providing	Nil	Nil	Same as S. No.22

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		services by way of pre-school education and education upto higher secondary school or equivalent. <sup>18</sup>			
23	Heading 9967	Service by way of access to a road or a bridge on payment of toll charges.	Nil	Nil	Mentioned in negative List
23A	Heading 9967	Service by way of access to a road or a bridge on payment of annuity. <sup>6</sup>	Nil	Nil	Nil
24	Heading 9967 or Heading 9985	Services by way of loading, unloading, packing, storage or warehousing of rice.	Nil	Nil	Same as S.no. 22
<sup>5</sup> Inserted vide Notification No. 32/2017- Central Tax (Rate)/ Integrated Tax (Rate) dt 13-10-2017 <sup>6</sup> Inserted vide Notification No. 32/2017- Central Tax (Rate) / Integrated Tax (Rate) dt 13-10-2017 <sup>18</sup> Inserted vide Notification No. 02/2018- Central Tax (Rate) / Integrated Tax (Rate) dt 25-01-2018					
25	Heading 9969	Transmission or distribution of electricity by an electricity transmission or distribution utility.	Nil	Nil	Mentioned in negative List
26	Heading 9971	Services by the Reserve Bank of India.	Nil	Nil	Mentioned in negative List
27	Heading 9971	Services by way of— (a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services);	Nil	Nil	Mentioned in negative List

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		(b) <i>inter se</i> sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers.			
28	Heading 9971 or Heading 9991	Services of life insurance business provided by way of annuity under the National Pension System regulated by the Pension Fund Regulatory and Development Authority of India under the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013).	Nil	Nil	Same as S.no. 26C
29	Heading 9971 or Heading 9991	Services of life insurance business provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds to members of the Army, Navy and Air Force, respectively, under the Group Insurance Schemes of the Central Government.	Nil	Nil	Same as S.no. 26D
29A	Heading 9971 or Heading 9991	Services of life insurance provided or agreed to be provided by the Naval Group Insurance Fund to the personnel of Coast Guard under the Group Insurance Schemes of the	Nil	Nil	

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		Central Government. <sup>20</sup>			
30	Heading 9971 or Heading 9991	Services by the Employees' State Insurance Corporation to persons governed under the Employees' State Insurance Act, 1948 (34 of 1948).	Nil	Nil	Same as S.no. 36
31	Heading 9971	Services provided by the Employees Provident Fund Organisation to the persons governed under the Employees Provident Funds and the Miscellaneous Provisions Act, 1952 (19 of 1952).	Nil	Nil	Same as S.No.49
<sup>20</sup> Inserted vide Notification No. 02/2018- Central tax (Rate) dt 25-01-2018					
32	Heading 9971	Services provided by the Insurance Regulatory and Development Authority of India to insurers under the Insurance Regulatory and Development Authority of India Act, 1999 (41 of 1999).	Nil	Nil	Same as S.No.50
33	Heading 9971	Services provided by the Securities and Exchange Board of India set up under the Securities and Exchange Board of India Act, 1992 (15 of 1992) by way of protecting the interests of investors in securities and to promote the development of, and to	Nil	Nil	Same as S.No.51

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		regulate, the securities market.			
34	Heading 9971	Services by an acquiring bank, to any person in relation to settlement of an amount upto two thousand rupees in a single transaction transacted through credit card, debit card, charge card or other payment card service. <i>Explanation.</i> — For the purposes of this entry, “acquiring bank” means any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such card.	Nil	Nil	Same as S.No.64
35	Heading 9971 or Heading 9991	Services of general insurance business provided under following schemes – (a) Hut Insurance Scheme; (b) Cattle Insurance under Swarnajaynti Gram Swarozgar Yojna (earlier known as Integrated Rural Development Programme); (c) Scheme for Insurance of Tribals;	Nil	Nil	Same as S.No.26



Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		<p>(d) Janata Personal Accident Policy and Gramin Accident Policy;</p> <p>(e) Group Personal Accident Policy for Self-Employed Women;</p> <p>(f) Agricultural Pumpset and Failed Well Insurance;</p> <p>(g) premia collected on export credit insurance;</p> <p>(h) Restructured Weather Based Crop Insurance Scheme (RWCIS);<sup>12</sup> or the Modified National Agricultural Insurance Scheme, approved by the Government of India and implemented by the Ministry of Agriculture;</p> <p>(i) Jan Arogya Bima Policy;</p> <p>(j) Pradhan Mantri Fasal Bima Yojana (PMFBY); <sup>12</sup></p> <p>(k) Pilot Scheme on Seed Crop Insurance;</p> <p>(l) Central Sector Scheme on Cattle Insurance;</p> <p>(m) Universal Health Insurance Scheme;</p>			

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		(n) Rashtriya Swasthya Bima Yojana; (o) Coconut Palm Insurance Scheme; (p) Pradhan Mantri Suraksha Bima Yojna; (q) Niramaya Health Insurance Scheme implemented by the Trust constituted under the provisions of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999)			
<sup>12</sup> Substituted vide Notification No. 21/2017- Central Tax (Rate)/ / Integrated Tax (Rate) dt 22-08-2017.					
36	Heading 9971 or Heading 9991	Services of life insurance business provided under following schemes- (a) Janashree Bima Yojana; (b) Aam Aadmi Bima Yojana; (c) Life micro-insurance product as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of two lakhs <sup>21</sup>	Nil	Nil	Same as S.no. 26A

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		rupees; (d) Varishtha Pension Bima Yojana; (e) Pradhan Mantri Jeevan Jyoti Bima Yojana; (f) Pradhan Mantri Jan DhanYogana; (g) Pradhan Mantri Vaya Vandana Yojana.			
36A	Heading 9971 or Heading 9991	Services by way of reinsurance of the insurance schemes specified in serial number 35 or 36. <sup>22</sup>	Nil	Nil	
37	Heading 9971 or Heading 9991	Services by way of collection of contribution under the Atal Pension Yojana.	Nil	Nil	Same as S.no. 26B
38	Heading 9971 or Heading 9991	Services by way of collection of contribution under any pension scheme of the State Governments.	Nil	Nil	Nil
<sup>21</sup> Substituted to "two lakhs" vide Notification No. 02/2018- Central Tax (Rate) dt 25-01-2018. Prior to substitution it read "fifty thousand". <sup>22</sup> Inserted vide Notification No. 02/2018- Central Tax (Rate) dt. 25-01-2018.					
39	Heading 9971 or Heading 9985	Services by the following persons in respective capacities – (a) business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch;	Nil	Nil	Same as S.No.29

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		(b) any person as an intermediary to a business facilitator or a business correspondent with respect to services mentioned in entry (a); or (c) business facilitator or a business correspondent to an insurance company in a rural area.			
39A	Heading 9971	Services by an intermediary of financial services located in a multi services SEZ with International Financial Services Centre (IFSC) status to a customer located outside India for international financial services in currencies other than Indian rupees (INR). Explanation.- For the purposes of this entry, the intermediary of financial services in IFSC is a person,- (i) who is permitted or recognised as such by the Government of India or any Regulator appointed for regulation of IFSC; or (ii) who is treated as a person resident outside India under the Foreign	Nil	Nil	

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		Exchange Management (International Financial Services Centre) Regulations, 2015; or (iii) who is registered under the Insurance Regulatory and Development Authority of India (International Financial Service Centre) Guidelines, 2015 as IFSC Insurance Office; or (iv) who is permitted as such by Securities and Exchange Board of India (SEBI) under the Securities and Exchange Board of India (International Financial Services Centres) Guidelines, 2015. <sup>23</sup>			
<sup>23</sup> Inserted vide Notification No. 02/2018- Central Tax (Rate) dt. 25-01-2018					
40	Heading 9971 or Heading 9991	Services provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union territory.	Nil	Nil	Nil
41	Heading 9972	Upfront amount (called as premium, salami, cost, price, development	Nil	Nil	Same as Notification No. 41/2016-

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		charges or by any other name) payable in respect of service by way of granting of long term lease of thirty years, or more) of industrial plots or plots for development of infrastructure for financial business, provided by the State Government Industrial Development Corporations or Undertakings or by any other entity having 50 per cent. Or more ownership of Central Government, State Government, Union territory to the industrial units or the developers in any industrial or financial business area <sup>7</sup>			ST dated 22.9.2016
42	Heading 9973 or Heading 9991	Services provided by the Central Government, State Government, Union territory or local authority by way of allowing a business entity to operate as a telecom service provider or use radio frequency spectrum during the period prior to the 1st April, 2016, on payment of licence fee or spectrum user charges, as the case may be.	Nil	Nil	Same as S.No. 62

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
43	Heading 9973	Services of leasing of assets (rolling stock assets including wagons, coaches, locos) by the Indian Railways Finance Corporation to Indian Railways.	Nil	Nil	Already exempted
<p><sup>7</sup> Substituted vide Notification No. 32/2017- Central Tax (Rate)/ / Integrated Tax (Rate) dt 13-10-2017. Prior to substitution it read</p> <p>"One time upfront amount (called as premium, salami, cost, price, development charges or by any other name) leviable in respect of the service, by way of granting long term (thirty years, or more) lease of industrial plots, provided by the State Government Industrial Development Corporations or Undertakings to industrial units."</p>					
44	Heading 9981	Services provided by an incubate up to a total turnover of fifty lakh rupees in a financial year subject to the following conditions, namely:- (a) the total turnover had not exceeded fifty lakh rupees during the preceding financial year; and (b) a period of three years has not elapsed from the date of entering into an agreement as an incubatee.	Nil	Nil	Same as S.no. 27
45	Heading 9982 or Heading 9991	Services provided by- (a) an arbitral tribunal to – (i) any person other than a business entity; or (ii) a business entity with	Nil	Nil	Same as S.No. 6

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		<p>an aggregate turnover up to twenty lakh rupees (ten lakh rupees in the case of special category states) in the preceding financial year;</p> <p>(iii) the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity<sup>24</sup></p> <p>(b) a partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of legal services to-</p> <p>(i) an advocate or partnership firm of advocates providing legal services;</p> <p>(ii) any person other than a business entity; or</p> <p>(iii) a business entity with an aggregate turnover up to twenty lakh rupees (ten lakh rupees in the case of special category states) in the preceding financial year</p> <p>(iv) the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity<sup>24</sup></p>			



## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		(c) a senior advocate by way of legal services to- (i) any person other than a business entity; or (ii) a business entity with an aggregate turnover up to twenty lakh rupees (ten lakh rupees in the case of special category states) in the preceding financial year. (iii) the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity <sup>24</sup>			
46	Heading 9983	Services by a veterinary clinic in relation to health care of animals or birds.	Nil	Nil	Same as S.No. 3
<sup>24</sup> Inserted vide Notification No. 02/2018- Central Tax (Rate) dt. 25-01-2018					
47	Heading 9983 or Heading 9991	Services provided by the Central Government, State Government, Union territory or local authority by way of- (a) registration required under any law for the time being in force; (b) testing, calibration, safety check or certification relating to protection or safety of workers, consumers or	Nil	Nil	Same as S.no. 58

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		public at large, including fire license, required under any law for the time being in force.			
48	Heading 9983 or any other Heading of Chapter 99	Taxable services, provided or to be provided, by a Technology Business Incubator or a Science and Technology Entrepreneurship Park recognised by the National Science and Technology Entrepreneurship Development Board of the Department of Science and Technology, Government of India or bio-incubators recognised by the Biotechnology Industry Research Assistance Council, under the Department of Biotechnology, Government of India.	Nil	Nil	Notification No. 32/2012-ST dated 20.06.2012
49	Heading 9984	Services by way of collecting or providing news by an independent journalist, Press Trust of India or United News of India	Nil	Nil	Same as S.No. 17
50	Heading 9984	Services of public libraries by way of lending of books, publications or any other knowledge-enhancing content or material	Nil	Nil	Same as S.No. 35

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
51	Heading 9984	Services provided by the Goods and Services Tax Network to the Central Government or State Governments or Union territories for implementation of Goods and Services Tax.	Nil	Nil	Nil
52	Heading 9985	Services by an organiser to any person in respect of a business exhibition held outside India.	Nil	Nil	Same as S.No. 31
53	Heading 9985	Services by way of sponsorship of sporting events organised - (a) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, State, zone or Country; (b) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat; (c) by the Central Civil Services Cultural and	Nil	Nil	Same as 11

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		Sports Board; (d) as part of national games, by the Indian Olympic Association; or (e) under the Panchayat Yuva Kreedha Aur Khel Abhiyaan Scheme.			
53A	Heading 9985	Services by way of fumigation in a warehouse of agricultural produce. <sup>25</sup>	Nil	Nil	
<sup>25</sup> Inserted vide Notification No. 02/2018- Central Tax (Rate) dt. 25-01-2018					
54	Heading 9986	Services relating to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce by way of — (a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing; (b) supply of farm labour; (c) processes carried out at an agricultural farm including tending, pruning, cutting,	Nil	Nil	Mentioned in Negative List

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		<p>harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market;</p> <p>(d) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;</p> <p>(e) loading, unloading, packing, storage or warehousing of agricultural produce;</p> <p>(f) agricultural extension services;</p> <p>(g) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce.</p> <p>(h) services by way of fumigation in a</p>			

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		warehouse of agricultural produce 26			
55	Heading 9986	Carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce.	Nil	Nil	Same as S.No. 30(a)
56	Heading 9988	Services by way of slaughtering of animals.	Nil	Nil	Same as S.No. 33
57	Heading 9988 or any other Heading of Section 8 and Section 9	Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables.	Nil	Nil	Same as S.No. 44
<b>26</b> Inserted vide Notification No. 02/2018- Central Tax (Rate) dt 25-01-2018					
58	Heading 9988 or Heading 9992	Services provided by the National Centre for Cold Chain Development under the Ministry of Agriculture, Cooperation and Farmer's Welfare by way of cold chain knowledge dissemination.	Nil	Nil	Same as S.No. 52

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
59	Heading 9999	Services by a foreign diplomatic mission located in India.	Nil	Nil	Mentioned in Negative List
60	Heading 9991	Services by a specified organisation in respect of a religious pilgrimage facilitated by *** <sup>4</sup> the Government of India, under bilateral arrangement.	Nil	Nil	Same as S.No. 5A
61	Heading 9991	Services provided by the Central Government, State Government, Union territory or local authority by way of issuance of passport, visa, driving licence, birth certificate or death certificate.	Nil	Nil	Same as S.No. 55
62	Heading 9991 or Heading 9997	Services provided by the Central Government, State Government, Union territory or local authority by way of tolerating non-performance of a contract for which consideration in the form of fines or liquidated damages is payable to the Central Government, State Government, Union territory or local authority under such contract.	Nil	Nil	Same as S.No. 57

<sup>4</sup> Omitted vide notification No. 2/2018 – Central Tax (Rate) dt 25.01.2018. The following was omitted “the Ministry of External Affairs,”

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
63	Heading 9991	Services provided by the Central Government, State Government, Union territory or local authority by way of assignment of right to use natural resources to an individual farmer for cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products.	Nil	Nil	Same as S.No. 59
64	Heading 9991 or Heading 9973	Services provided by the Central Government, State Government, Union territory or local authority by way of assignment of right to use any natural resource where such right to use was assigned by the Central Government, State Government, Union territory or local authority before the 1 <sup>st</sup> April, 2016: Provided that the exemption shall apply only to tax payable on one time charge payable, in full upfront or in installments, for assignment of right to use such natural resource.	Nil	Nil	Same as S.No. 61
65	Heading 9991	Services provided by the Central Government, State Government, Union	Nil	Nil	Same as S.No. 63



## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		territory by way of deputing officers after office hours or on holidays for inspection or container stuffing or such other duties in relation to import export cargo on payment of Merchant Overtime charges.			
65A	Heading 9991	Services by way of providing information under the Right to Information Act, 2005 (22 of 2005) <sup>27</sup>	Nil	Nil	
<sup>27</sup> Inserted vide Notification No. 02/2018- Central Tax (Rate) dt. 25-01-2018					
66	Heading 9992	Services provided - (a) by an educational institution to its students, faculty and staff; (aa) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee <sup>28</sup> (b) to an educational institution, by way of,- (i) transportation of students, faculty and staff;	Nil	Nil	Same as S.No. 9

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		<p>(ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;</p> <p>(iii) security or cleaning or house-keeping services performed in such educational institution;</p> <p>(iv) services relating to admission to, or conduct of examination by, such institution <sup>***5</sup>;</p> <p>(v) supply of online educational journals or periodicals<sup>28</sup></p> <p>Provided that nothing contained in sub-items (i), (ii) and (iii) <sup>28</sup>of entry (b) shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent.</p> <p>Provided further that</p>			

<sup>5</sup> Omitted vide notification No. 2/2018 – Central Tax (Rate) dt 25.01.2018. The following was omitted “upto higher secondary”.

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		nothing contained in sub-item (v) of item (b) shall apply to an institution providing services by way of,- (i) pre-school education and education up to higher secondary school or equivalent; or (ii) education as a part of an approved vocational education course." <sup>28</sup>			
<sup>28</sup> Inserted vide Notification No. 02/2018- Central Tax (Rate) dt. 25-01-2018					
67	Heading 9992	Services provided by the Indian Institutes of Management, as per the guidelines of the Central Government, to their students, by way of the following educational programmes, except Executive Development Programme: - (a) two year full time Post Graduate Programmes in Management for the Post Graduate Diploma in Management, to which admissions are made on the basis of Common Admission Test (CAT) conducted by the Indian	Nil	Nil	Same as S.No. 9B

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		Institute of Management; (b) fellow programme in Management; (c) five year integrated programme in Management.			
68	Heading 9992 or Heading 9996	Services provided to a recognised sports body by- (a) an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body; (b) another recognised sports body.	Nil	Nil	Same as S.No. 10
69	Heading 9992 or Heading 9983 or Heading 9991	Any services provided by, – (a) the National Skill Development Corporation set up by the Government of India; (b) a Sector Skill Council approved by the National Skill Development Corporation; (c) an assessment agency approved by the Sector Skill Council or the			Same as S.No. 9A

Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		<p>National Skill Development Corporation;</p> <p>(d) a training partner approved by the National Skill Development Corporation or the Sector Skill Council, in relation to-</p> <p>(i) the National Skill Development Programme implemented by the National Skill Development Corporation; or</p> <p>(ii) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or</p> <p>(iii) any other Scheme implemented by the National Skill Development Corporation.</p>			
70	Heading 9983 or Heading 9985 or Heading 9992	Services of assessing bodies empanelled centrally by the Directorate General of Training, Ministry of Skill Development and Entrepreneurship by way of assessments under the Skill Development	Nil	Nil	Same as S.No. 9C

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		Initiative Scheme.			
71	Heading 9992	Services provided by training providers (Project implementation agencies) under Deen Dayal Upadhyaya Grameen Kaushalya Yojana implemented by the Ministry of Rural Development, Government of India by way of offering skill or vocational training courses certified by the National Council for Vocational Training.	Nil	Nil	Same as S.No. 9D
72	Heading 9992	Services provided to the Central Government, State Government, Union territory administration under any training programme for which total expenditure is borne by the Central Government, State Government, Union territory administration.	Nil	Nil	Nil
73	Heading 9993	Services provided by the cord blood banks by way of preservation of stem cells or any other service in relation to such preservation.	Nil	Nil	Same as S.No.2A
74	Heading 9993	Services by way of- (a) health care services by a clinical establishment, an authorized medical	Nil	Nil	Same as S.No.2

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		practitioner or para-medics; (b) services provided by way of transportation of a patient in an ambulance, other than those specified in(a) above.			
75	Heading 9994	Services provided by operators of the common bio-medical waste treatment facility to a clinical establishment by way of treatment or disposal of bio-medical waste or the processes incidental thereto.	Nil	Nil	Same as S.No.2B
76	Heading 9994	Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets.	Nil	Nil	Same as S.No.2
77	Heading 9995	Service by an unincorporated body or a non- profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution – (a) as a trade union; (b) for the provision of carrying out any activity which is exempt from the levy of Goods and service Tax; or (c) up to an amount of	Nil	Nil	Same as S.No.28

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		seven thousand five hundred <sup>29</sup> rupees per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex.			
78	Heading 9996	Services by an artist by way of a performance in folk or classical art forms of- (a) music, or (b) dance, or (c) theatre, if the consideration charged for such performance is not more than one lakh and fifty thousand rupees: Provided that the exemption shall not apply to service provided by such artist as a brand ambassador.	Nil	Nil	Same as S.No.16
79	Heading 9996	Services by way of admission to a museum, national park, wildlife sanctuary, tiger reserve or zoo.	Nil	Nil	Same as S.No.45
<sup>29</sup> Substituted vide Notification No. 02/2018- Central Tax (Rate) dt. 25-01-2018. Prior to substitution it read "five thousand"					
79A	Heading 9996	Services by way of admission to a protected monument so declared	Nil	Nil	Nil



## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		under the Ancient Monuments and Archaeological Sites and Remains Act 1958 (24 of 1958) or any of the State Acts, for the time being in force <sup>2</sup>			
80	Heading 9996	Services by way of training or coaching in recreational activities relating to- (a) arts or culture, or (b) sports by charitable entities registered under section 12AA of the Income-tax Act.	Nil	Nil	Same as S.No.8
81	Heading 9996	Services by way of right to admission to- (a) circus, dance, or theatrical performance including drama or ballet; (b) award function, concert, pageant, musical performance or any Sporting event other than a recognised sporting event; (c) recognised sporting event, (d) planetarium, where the consideration for right to admission to the events or places as referred to in items (a),	Nil	Nil	Same as S.No.47

## Notification

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition	Notification No. 25/2012-ST dated 20.06.2012
		(b), (c) or (d) above is not more than Rs 500 per person. <sup>30</sup>			
82	Heading 9996	Services by way of right to admission to the events organised under FIFA U-17 World Cup 2017. <sup>9</sup>	Nil	Nil	Nil
<p><sup>2</sup> Inserted vide Notification No. 47/2017- Central Tax (Rate)/ / Integrated Tax (Rate) dt 14-11-2017</p> <p><sup>30</sup> Substituted vide Notification No. 02/2018- Central Tax (Rate) dt. 25-01-2018. Prior to substitution it read</p> <p>“Services by way of right to admission to-</p> <p>(a) circus, dance, or theatrical performance including drama or ballet;</p> <p>(b) award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event;</p> <p>(c) recognised sporting event,</p> <p>where the consideration for admission is not more than Rs 250 per person as referred to in (a), (b) and (c) above.”.</p> <p><sup>9</sup> Inserted vide Notification No. 25/2017- Central Tax (Rate)/ / Integrated Tax (Rate) dt 21-09-2017</p>					

1 Definitions. - For the purposes of this notification, unless the context otherwise requires, -

(a) “advertisement” means any form of presentation for promotion of, or bringing awareness about, any event, idea, immovable property, person, service, goods or actionable claim through newspaper, television, radio or any other means but does not include any presentation made in person;

(b) “advocate” has the same meaning as assigned to it in clause (a) of sub-section (1) of section 2 of the Advocates Act, 1961 (25 of 1961);

(c) “agricultural extension” means application of scientific research and knowledge to agricultural practices through farmer education or training;

(d) “agricultural produce” means any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or

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such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market;

(e) "Agricultural Produce Marketing Committee or Board" means any committee or board constituted under a State law for the time being in force for the purpose of regulating the marketing of agricultural produce;

(f) "aircraft" has the same meaning as assigned to it in clause (1) of section 2 of the Aircraft Act, 1934 (22 of 1934);

(g) "airport" has the same meaning as assigned to it in clause (b) of section 2 of the Airports Authority of India Act, 1994 (55 of 1994.);

(h) "approved vocational education course" means, -

- (i) a course run by an industrial training institute or an industrial training centre affiliated to the National Council for Vocational Training or State Council for Vocational Training offering courses in designated trades notified under the Apprentices Act, 1961 (52 of 1961); or
- (ii) a Modular Employable Skill Course, approved by the National Council of Vocational Training, run by a person registered with the Directorate General of Training, Ministry of Skill Development and Entrepreneurship;

(i) "arbitral tribunal" has the same meaning as assigned to it in clause (d) of section 2 of the Arbitration and Conciliation Act, 1996 (26 of 1996);

(j) "authorised dealer of foreign exchange" shall have the same meaning assigned to "Authorised person" in clause (c) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999);

(k) "authorised medical practitioner" means a medical practitioner registered with any of the councils of the recognised system of medicines established or recognised by law in India and includes a medical professional having the requisite qualification to practice in any recognised system of medicines in India as per any law for the time being in force;

(l) "banking company" has the same meaning as assigned to it in clause (a) of section 45A of the Reserve Bank of India Act, 1934 (2 of 1934);

(m) "brand ambassador" means a person engaged for promotion or marketing of a brand of goods, service, property or actionable claim, event or endorsement of name, including a trade name, logo or house mark of any person;

(n) "business entity" means any person carrying out business;

(o) "business facilitator or business correspondent" means an intermediary appointed under the business facilitator model or the business correspondent model by a banking

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company or an insurance company under the guidelines issued by the Reserve Bank of India;

(p) "Central Electricity Authority" means the authority constituted under section 3 of the Electricity (Supply) Act, 1948 (54 of 1948);

(q) "Central Transmission Utility" shall have the same meaning as assigned to it in clause (10) of section 2 of the Electricity Act, 2003 (36 of 2003);

(r) "charitable activities" means activities relating to -

(b) public health by way of , -

(A) care or counseling of

I. terminally ill persons or persons with severe physical or mental disability;

II. persons afflicted with HIV or AIDS;

III. persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or

(B) public awareness of preventive health, family planning or prevention of HIV infection;

(c) advancement of religion , spirituality or yoga;

(d) advancement of educational programmes or skill development relating to,-

A. abandoned, orphaned or homeless children;

B. physically or mentally abused and traumatized persons;

C. prisoners; or

D. persons over the age of 65 years residing in a rural area;

(e) preservation of environment including watershed, forests and wildlife;

(s) "clinical establishment" means a hospital, nursing home, clinic, sanatorium or any other institution by, whatever name called, that offers services or facilities requiring diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India, or a place established as an independent entity or a part of an establishment to carry out diagnostic or investigative services of diseases;

(t) "contract carriage" has the same meaning as assigned to it in clause (7) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

(u) "courier agency" means any person engaged in the door-to-door transportation of time-sensitive documents, goods or articles utilising the services of a person, either

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directly or indirectly, to carry or accompany such documents, goods or articles;

(v) "Customs station" shall have the same meaning as assigned to it in clause (13) of section 2 of the Customs Act, 1962 (52 of 1962);

(w) "declared tariff" includes charges for all amenities provided in the unit of accommodation (given on rent for stay) like furniture, air-conditioner, refrigerators or any other amenities, but without excluding any discount offered on the published charges for such unit;

(x) "distributor or selling agent" means an individual or a firm or a body corporate or other legal entity under law so appointed by the Organising State through an agreement to market and sell lotteries on behalf of the Organising State;

(y) "educational institution" means an institution providing services by way of,-

(a) pre-school education and education up to higher secondary school or equivalent;

(b) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;

(c) education as a part of an approved vocational education course;

(z) "electricity transmission or distribution utility" means the Central Electricity Authority; a State Electricity Board; the Central Transmission Utility or a State Transmission Utility notified under the Electricity Act, 2003 (36 of 2003); or a distribution or transmission licensee under the said Act, or any other entity entrusted with such function by the Central Government or, as the case may be, the State Government;

(za) "e-rickshaw" means a special purpose battery powered vehicle of power not exceeding 4000 watts, having three wheels for carrying goods or passengers, as the case may be, for hire or reward, manufactured, constructed or adapted, equipped and maintained in accordance with such specifications, as may be prescribed in this behalf;

(zb) "general insurance business" has the same meaning as assigned to it in clause (g) of section 3 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972);

(zc) "general public" means the body of people at large sufficiently defined by some common quality of public or impersonal nature;

(zd) "goods carriage" has the same meaning as assigned to it in clause (14) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

(ze) "goods transport agency" means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called;

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(zf) "governmental authority" means an authority or a board or any other body, -

(i) set up by an Act of Parliament or State Legislature; or

(ii) established by any Government,

with 90per cent. or more participation by way of equity or control, to carry out any function entrusted to a Municipality under article 243 W of the Constitution or to a Panchayat under article 243 G of the Constitution.&

& Substituted vide notification No. 32/2017 – Central Tax (Rate) dt 13.10.2017. Prior to substitution it read "'governmental authority" has the same meaning as assigned to it in the Explanation to clause (16) of section 2 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017);"

(zfa) "Government Entity" means an authority or a board or any other body including a society, trust, corporation,

(i) set up by an Act of Parliament or State Legislature; or

(ii) established by any Government,<sup>8</sup>

with 90per cent. or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority."

(zg) "health care services" means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India and includes services by way of transportation of the patient to and from a clinical establishment, but does not include hair transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma;

<sup>8</sup> Substituted vide Notification No. 32/2017- Central Tax(Rate)/ Integrated Tax (Rate) dt 13-10-2017

(zh) "incubatee" means an entrepreneur located within the premises of a Technology Business Incubator or Science and Technology Entrepreneurship Park recognised by the National Science and Technology Entrepreneurship Development Board (NSTEDB) of the Department of Science and Technology, Government of India and who has entered into an agreement with the Technology Business Incubator or the Science and Technology Entrepreneurship Park to enable himself to develop and produce hi-tech and innovative products;

(zi) "inland waterway" means national waterways as defined in clause (h) of section 2 of the Inland Waterways Authority of India Act, 1985 (82 of 1985) or other waterway on

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any inland water, as defined in clause (b) of section 2 of the Inland Vessels Act, 1917 (1 of 1917);

(zj) "insurance company" means a company carrying on life insurance business or general insurance business;

(zk) "interest" means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) but does not include any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilised;

(zl) "intermediary" has the same meaning as assigned to it in sub-section (13) of section 2 of the Integrated Goods and Services Tax Act, 2017;

(zm) "legal service" means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority;

(zn) "life insurance business" has the same meaning as assigned to it in clause (11) of section 2 of the Insurance Act, 1938 (4 of 1938);

(zo) "life micro-insurance product" shall have the same meaning as assigned to it in clause (e) of regulation 2 of the Insurance Regulatory and Development Authority (Micro-insurance) Regulations, 2005;

(zp) "metered cab" means any contract carriage on which an automatic device, of the type and make approved under the relevant rules by the State Transport Authority, is fitted which indicates reading of the fare chargeable at any moment and that is charged accordingly under the conditions of its permit issued under the Motor Vehicles Act, 1988 (59 of 1988) and the rules made thereunder (but does not include radio taxi);

(zq) "national park" has the same meaning as assigned to it in clause (21) of the section 2 of the Wild Life (Protection) Act, 1972 (53 of 1972);

(zr) "online information and database access or retrieval services" shall have the same meaning as assigned to it in clause (17) of the section 2 of the Integrated goods and Services Tax Act, 2017 (13 of 2017);

(zs) "original works" means- all new constructions;

- (i) all types of additions and alterations to abandoned or damaged structures on land that are required to make them workable;
- (ii) erection, commissioning or installation of plant, machinery or equipment or structures, whether pre-fabricated or otherwise;

(zt) "print media" means,—

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- (i) 'book' as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867 (25 of 1867), but does not include business directories, yellow pages and trade catalogues which are primarily meant for commercial purposes;
  - (ii) 'newspaper' as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867 (25 of 1867);
- (zu) "port" has the same meaning as assigned to it in clause (q) of section 2 of the Major Port Trusts Act, 1963 (38 of 1963) or in clause (4) of section 3 of the Indian Ports Act, 1908 (15 of 1908);
- (zv) "radio taxi" means a taxi including a radio cab, by whatever name called, which is in two-way radio communication with a central control office and is enabled for tracking using the Global Positioning System or General Packet Radio Service;
- (zw) "recognised sporting event" means any sporting event,-
- (i) organised by a recognised sports body where the participating team or individual represent any district, state, zone or country;
  - (ii) organised -
    - A. by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, state or zone;
    - B. by Association of Indian Universities, Inter-University Sports Board, School
    - C. Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat;
    - D. by Central Civil Services Cultural and Sports Board;
    - E. as part of national games, by Indian Olympic Association; or
    - F. under Panchayat Yuva Kreedha Aur Khel Abhiyaan (PYKKA) Scheme;
- (zx) "recognised sports body" means –
- (i) the Indian Olympic Association;
  - (ii) Sports Authority of India;
  - (iii) a national sports federation recognised by the Ministry of Sports and Youth Affairs of the Central Government, and its affiliate federations;
  - (iv) national sports promotion organisations recognised by the Ministry of Sports and Youth Affairs of the Central Government;



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- (v) the International Olympic Association or a federation recognised by the International Olympic Association; or
- (vi) a federation or a body which regulates a sport at international level and its affiliated federations or bodies regulating a sport in India;

(zy) "religious place" means a place which is primarily meant for conduct of prayers or worship pertaining to a religion, meditation, or spirituality;

(zz) "renting in relation to immovable property" means allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property and includes letting, leasing, licensing or other similar arrangements in respect of immovable property;

(zza) "Reserve Bank of India" means the bank established under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934);

(zzb) "residential complex" means any complex comprising of a building or buildings, having more than one single residential unit;

(zzc) "rural area" means the area comprised in a village as defined in land revenue records, excluding-

the area under any municipal committee, municipal corporation, town area committee, cantonment board or notified area committee; or any area that may be notified as an urban area by the Central Government or a State Government;

(zzd) "senior advocate" has the same meaning as assigned to it in section 16 of the Advocates Act, 1961 (25 of 1961);

(zze) "single residential unit" means a self-contained residential unit which is designed for use, wholly or principally, for residential purposes for one family;

(zzf) "special category States" shall mean the States as specified in sub-clause (g) of clause (4) of article 279A of the Constitution,

(zzg) "specified organisation" shall mean,-

- (i) Kumaon Mandal Vikas Nigam Limited, a Government of Uttarakhand Undertaking; or
- (ii) 'Committee' or 'State Committee' as defined in section 2 of the Haj Committee Act, 2002 (35 of 2002);

(zzh) "stage carriage" shall have the same meaning as assigned to it in clause (40) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

(zzi) "State Electricity Board" means the Board constituted under section 5 of the Electricity (Supply) Act, 1948 (54 of 1948);

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(zzj) "State Transmission Utility" shall have the same meaning as assigned to it in clause (67) of section 2 of the Electricity Act, 2003 (36 of 2003);

(zzk) "state transport undertaking" has the same meaning as assigned to it in clause (42) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

(zzl) "tiger reserve" has the same meaning as assigned to it in clause (e) of section 38K of the Wild Life (Protection) Act, 1972 (53 of 1972);

(zzm) "tour operator" means any person engaged in the business of planning, scheduling, organizing, arranging tours (which may include arrangements for accommodation, sightseeing or other similar services) by any mode of transport, and includes any person engaged in the business of operating tours;

(zzn) "trade union" has the same meaning as assigned to it in clause (h) of section 2 of the Trade Unions Act, 1926 (16 of 1926);

(zzo) "vessel" has the same meaning as assigned to it in clause (z) of section 2 of the Major Port Trusts Act, 1963 (38 of 1963);

(zzp) "wildlife sanctuary" means a sanctuary as defined in the clause (26) of the section 2 of The Wild Life (Protection) Act, 1972 (53 of 1972);

(zzq) "zoo" has the same meaning as assigned to it in the clause (39) of the section 2 of the Wild Life (Protection) Act, 1972 (53 of 1972).

3. *Explanation.*- For the purposes of this notification,-

- (i) Reference to "Chapter", "Section" or "Heading", wherever they occur, unless the context otherwise requires, shall mean respectively as "Chapter", "Section" and "Heading" in the scheme of classification of services.
- (ii) Chapter, Section, Heading, Group, or Service Code mentioned in Column (2) of the Table are only indicative.
- (iii) A "Limited Liability Partnership" formed and registered under the provisions of the Limited Liability Partnership Act, 2008 (6 of 2009) shall also be considered as a partnership firm or a firm." <sup>12</sup>

4. This notification shall come into force on the 1<sup>st</sup> day of July, 2017.

[F. No.334/1/2017 -TRU]

(Ruchi Bisht)  
Under Secretary to the Government of India

## Notification

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Note 1: *Includes changes made vide Notification No. 02/2018- Central Tax (Rate) dt 25-01-2018, Notification No 21/2017-Central Tax (Rate), dt. 22-08-2017, 25/2017-Central Tax (Rate), dt. 21-09-2017, 30/2017-Central Tax (Rate), dt. -29-09-2017, 32/2017-Central Tax (Rate), dt. 13-10-2017*

Note 2: *Similar provisions have been incorporated under UTGST Act vide Notification Nos. 12/2017-Union Territory Tax (Rate),dt. 28-06-2017 amended vide Notification No. 02/2018-Union Territory Tax (Rate) dt 25-01-2018, Notification No. 21/2017-Union Territory Tax (Rate), dt. 22-08-2017, 25/2017-Union Territory Tax (Rate), dt. 21-09-2017, 30/2017-Union Territory Tax (Rate), dt. -29-09-2017, 32/2017-Union Territory Tax (Rate), dt. 13-10-2017.*

*Similar provisions have been incorporated under ITGST Act vide Notification Nos. 09/2017-Integrated Tax (Rate),dt. 28-06-2017 amended vide Notification No. 02/2018-Integrated Tax (Rate) dt. 25-01-2018, Notification No.21/2017-Integrated Tax (Rate) dt. 22-08-2017, 25/2017-Integrated Tax (Rate) dt. 21-09-2017, 30/2017- Integrated Tax (Rate), dt. -29-09-2017 , 33/2017-Integrated Tax (Rate), dt. 13-10-2017 & 49/2017- Integrated Tax (Rate), dt. 14-11-2017.*

## Notification

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Further, Central Government vide *Notification No. 09/2017-Integrated Tax (Rate)*, dt. 28-06-2017 has provided exempt list of services under IGST. The list of services is same as notified under CGST except for the following three services:

S. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition
10	Chapter 99	Services received from a provider of service located in a non-taxable territory by – (a) the Central Government, State Government, Union territory, a local authority, a governmental authority or an individual in relation to any purpose other than commerce, industry or any other business or profession; (b) an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) for the purposes of providing charitable activities; or (c) a person located in a non-taxable territory: Provided that the exemption shall not apply to – (i) online information and database access or retrieval services received by persons specified in entry (a) or entry (b); or (ii) services by way of transportation of goods by a vessel from a place outside India up to the customs station	Nil	Nil

## Notification

		of clearance in India received by persons specified in the entry.		
10D	Chapter 99	Supply of services having place of supply in Nepal or Bhutan, against payment in Indian Rupees <sup>13</sup>	Nil	Nil
42	Heading 9971	Services received by the Reserve Bank of India, from outside India in relation to management of foreign exchange reserves.	Nil	Nil
54	Heading 9985	Services provided by a tour operator to a foreign tourist in relation to a tour conducted wholly outside India.	Nil	Nil
12 Inserted vide Notification No. 21/2017- Central Tax (Rate) dt 22-08-2017				
13 Inserted vide Notification No. 42/2017- Integrated Tax (Rate) dt 14-11-2017				

## Notification

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India  
Ministry of Finance  
(Department of Revenue)

Notification No. 13/2017- Central Tax (Rate)

New Delhi, the 28th June 2017

GSR.....(E).- In exercise of the powers conferred by sub-section (3) of section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government on the recommendations of the Council hereby notifies that on categories of supply of services mentioned in column (2) of the Table below, supplied by a person as specified in column (3) of the said Table, the whole of central tax leviable under section 9 of the said Central Goods and Services Tax Act, shall be paid on reverse charge basis by the recipient of the such services as specified in column (4) of the said Table: -

Table

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service
(1)	(2)	(3)	(4)
1	Supply of Services by a goods transport agency (GTA) who has not paid central tax at the rate of 6% in respect of transportation of goods by road to- (a) any factory registered under or governed by the Factories Act, 1948(63 of 1948); or (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or (c) any co-operative society established by or under any law; or (d) any person registered under	Goods Transport Agency (GTA) who has not paid central tax at the rate of 6%*	(a) Any factory registered under or governed by the Factories Act, 1948(63 of 1948); or (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or (c) any co-operative society established by or under any law; or (d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and

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	the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or (e) anybody corporate established, by or under any law; or (f) any partnership firm whether registered or not under any law including association of persons; or (g) any casual taxable person.		Services Tax Act; or (e) any body corporate established, by or under any law; or (f) any partnership firm whether registered or not under any law including association of persons; or (g) any casual taxable person; located in the taxable territory.
2	Services supplied by an individual advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly. Explanation: "legal service" means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority."	An individual advocate including a senior advocate or firm of advocates.	Any business entity located in the taxable territory.
3	Services supplied by an arbitral tribunal to a business entity.	An arbitral tribunal.	Any business entity located in the taxable territory.
4	Services provided by way of sponsorship to anybody corporate or partnership firm.	Any person	Anybody corporate or partnership firm located in the taxable territory.
5	Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding, - (1) renting of immovable property, and	Central Government, State Government, Union territory or	Any business entity located in the taxable territory.

## Notification

	(2) services specified below- (i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government, State Government or Union territory or local authority; (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) transport of goods or passengers.	local authority	
5A	Services supplied by the Central Government, State Government, Union territory or local authority by way of renting of immovable property to a person registered under the Central Goods and Services Tax Act, 2017 (12 of 2017).	Central Government, State Government, Union territory or local authority	Any person registered under the Central Goods and Services Tax Act, 2017." #
6	Services supplied by a director of a company or a body corporate to the said company or the body corporate.	A director of a company or a body corporate	The company or a body corporate located in the taxable territory.
7	Services supplied by an insurance agent to any person carrying on insurance business.	An insurance agent	Any person carrying on insurance business, located in the taxable territory.
8	Services supplied by a recovery agent to a banking company or a financial institution or a non-banking financial company.	A recovery agent	A banking company or a financial institution or a non-banking financial company, located in the taxable territory.
9	Supply of services by an author, music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of	Author or music composer, photographer, artist, or the	Publisher, music company, producer or the like, located in the taxable territory.



## Notification

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	section 13 of the Copyright Act, 1957 relating to original literary, dramatic, musical or artistic works to a publisher, music company, producer or the like.	like	
10	Supply of services by the members of Overseeing Committee to Reserve Bank of India	Members of Overseeing Committee constituted by the Reserve Bank of India	Reserve Bank of India. \$

Explanation. - For purpose of this notification, -

- (a) The person who pays or is liable to pay freight for the transportation of goods by road in goods carriage, located in the taxable territory shall be treated as the person who receives the service for the purpose of this notification.
- (b) "Body Corporate" has the same meaning as assigned to it in clause (11) of section 2 of the Companies Act, 2013.
- (c) the business entity located in the taxable territory who is litigant, applicant or petitioner, as the case may be, shall be treated as the person who receives the legal services for the purpose of this notification.
- (d) the words and expressions used and not defined in this notification but defined in the Central Goods and Services Tax Act, the Integrated Goods and Services Tax Act, and the Union Territory Goods and Services Tax Act shall have the same meanings as assigned to them in those Acts.
- (e) A "Limited Liability Partnership" formed and registered under the provisions of the Limited Liability Partnership Act, 2008 (6 of 2009) shall also be considered as a partnership firm or a firm. \*
- (f) "insurance agent" shall have the same meaning as assigned to it in clause (10) of section 2 of the Insurance Act, 1938 (4 of 1938). #

2. This notification shall come into force on the 1st day of July, 2017.

[F. No. 334/1/2017- TRU]

(Ruchi Bisht)

Under Secretary to the Government of India

## Notification

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Note 1: Includes changes made vide Notification No. 3/2018- Central Tax (Rate) dt 25-01-2018<sup>#</sup>, Notification No. 33/2017- Central Tax (Rate) dt 13-10-2017<sup>\$</sup>, Notification No. 22/2017- Central Tax (Rate), dt. 22-08-2017<sup>\*</sup>

Note 2: Similar provisions have been incorporated under UTGST Act vide *Notification No. 13/2017-Union Territory Tax (Rate) dt. 28-06-2017 amended vide Notification No. 22/2017-Union Territory Tax (Rate), dt. 22-08-2017*, Notification No. 33/2017- Union Territory Tax (Rate) dt 13-10-2017, Notification No. 3/2018- Union Territory Tax (Rate) dt 25-01-2018

Further, Central Government vide *Notification No. 10/2017-Integrated Tax(Rate), dt. 28-06-2017* has w.e.f 1st July 2017 provided the category of services on which IGST needs to be paid on the reverse charge basis completely (100%) by the recipient of such services. The list of services is same as notified under CGST except for the following two services:

S. No.	Supplier of service	Category of Supply of Services	Recipient of Service
i	Any person located in a non-taxable territory	Any service supplied by any person who is located in a non-taxable territory to any person other than non-taxable online recipient.	Any person located in the taxable territory other than non-taxable online recipient.
ii	A person located in a non-taxable territory	Services supplied by a person located in non- taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India.	Importer, as defined in clause (26) of section 2 of the Customs Act, 1962, located in the taxable territory.

The above Notification is further amended vide Notification No. 03/2018- Integrated tax (Rate) dt 25-01-2018, Notification No. 34/2017- Integrated tax (Rate) dt 13-10-2017 and Notification No. 22/2017- Integrated tax (Rate) dt 22-08-2017

## Notification

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[TO BE PUBLISHED IN THE GAZZETE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India  
Ministry of Finance  
(Department of Revenue)

### Notification No. 14/2017-Central Tax (Rate)

New Delhi, the 28<sup>th</sup> June, 2017

G.S.R.....(E).- In exercise of the powers conferred by sub-section (2) of section 7 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council hereby notifies that the following activities or transactions undertaken by the Central Government or State Government or any local authority in which they are engaged as public authority, shall be treated neither as a supply of goods nor a supply of service, namely:-

“Services by way of any activity in relation to a function entrusted to a Panchayat under article 243G of the Constitution.”

2. This notification shall come into force with effect from the 1<sup>st</sup> day of July, 2017.

[F. No.334/1/2017 -TRU]

(Ruchi Bisht)

Under Secretary to the Government of India

Note: Similar provisions have been incorporated under UTGST Act vide *Notification No. 14/2017-Union Territory Tax (Rate)*, dt. 28-06-2017 and under IGST vide *Notification No. 11/2017-Integrated Tax (Rate)* dt. 28-06-2017.

## Notification

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[TO BE PUBLISHED IN THE GAZZETE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India  
Ministry of Finance  
(Department of Revenue)

### Notification No. 15/2017-Central Tax (Rate)

New Delhi, the 28<sup>th</sup> June, 2017

G.S.R.....(E).- In exercise of the powers conferred by sub-section (3) of section 54 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council hereby notifies that no refund of unutilised input tax credit shall be allowed under sub-section (3) of section 54 of the said Central Goods and Services Tax Act, in case of supply of services specified in sub-item (b) of item 5 of Schedule II of the Central Goods and Services Tax Act.

2. This notification shall come into force with effect from the 1<sup>st</sup> day of July, 2017.

[F. No.334/1/2017 -TRU]

(Ruchi Bisht)

Under Secretary to the Government of India

Note: Similar provisions have been incorporated under UTGST Act vide *Notification No. 15/2017-Union Territory Tax (Rate)*, dt. 28-06-2017 and under IGST Act vide *Notification No. 12/2017-Integrated Tax (Rate)* dt. 28-06-2017.

## Notification

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[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India  
Ministry of Finance  
(Department of Revenue)

### Notification No. 16/2017-Central Tax (Rate)

New Delhi, the 28<sup>th</sup> June, 2017

**G.S.R.....(E).**-In exercise of the powers conferred by section 55 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government hereby specifies, -

- (i) United Nations or a specified international organisation; and
- (ii) Foreign diplomatic mission or consular post in India, or diplomatic agents or career consular officers posted therein,

for the purposes of the said section subject to the following conditions:-

- (a) United Nations or a specified international organisation shall be entitled to claim refund of central tax paid on the supplies of goods or services or both received by them subject to a certificate from United Nations or that specified international organisation that the goods and services have been used or are intended to be used for official use of the United Nations or the specified international organisation.
- (b) Foreign diplomatic mission or consular post in India, or diplomatic agents or career consular officers posted therein shall be entitled to claim refund of central tax paid on the supplies of goods or services or both received by them subject to, -
  - (i) that the foreign diplomatic mission or consular post in India, or diplomatic agents or career consular officers posted therein, are entitled to refund of central tax, as stipulated in the certificate issued by the Protocol Division of the Ministry of External Affairs, based on the principle of reciprocity;
  - (ii) that in case of supply of services, the head of the foreign diplomatic mission or consular post, or any person of such mission or post authorised by him, shall furnish an undertaking in original, signed by him or the authorised person, stating that the supply of services received are for official purpose of the said foreign diplomatic mission or consular post; or for personal use of the said diplomatic agent or career consular officer or members of his/her family;
  - (iii) that in case of supply of goods, concerned diplomatic mission or consulate or an officer duly authorized by him will produce a certificate that,-

## Notification

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- I the goods have been put to use, or are in the use, as the case may be, of the mission or consulate;
  - II the goods will not be supplied further or otherwise disposed of before the expiry of three years from the date of receipt of the goods; and
  - III in the event of non-compliance of clause (I), the diplomatic or consular mission will pay back the refund amount paid to them;
- (iv) in case the Protocol Division of the Ministry of External Affairs, after having issued a certificate to any foreign diplomatic mission or consular post in India, decides to withdraw the same subsequently, it shall communicate the withdrawal of such certificate to the foreign diplomatic mission or consular post;
- (v) the refund of the whole of the central tax granted to the foreign diplomatic mission or consular post in India for official purpose or for the personal use or use of their family members shall not be available from the date of withdrawal of such certificate.

*Explanation.* - For the purposes of this notification, unless the context otherwise requires, "specified international organisation" means an international organisation declared by the Central Government in pursuance of section 3 of the United Nations (Privileges and Immunities Act) 1947 (46 of 1947), to which the provisions of the Schedule to the said Act apply.

2. This notification shall come into force with effect from the 1<sup>st</sup> day of July, 2017

[F. No. 334/1/2017-TRU]

(Ruchi Bisht)

Under Secretary to the Government of India

Note: Similar provisions have been incorporated under UTGST Act vide *Notification No. 16/2017-Union Territory Tax (Rate)*, dt. 28-06-2017 and under IGST Act vide *Notification No. 13/2017-Integrated Tax (Rate)* dt. 28-06-2017.

## Notification

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[TO BE PUBLISHED IN THE GAZZETE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India

Ministry of Finance

(Department of Revenue)

Notification No. 17/2017-Central Tax (Rate)

New Delhi, the 28<sup>th</sup> June, 2017

G.S.R.....(E).- In exercise of the powers conferred by sub-section (5) of section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby notifies that in case of the following categories of services, the tax on intra-State supplies shall be paid by the electronic commerce operator –

- (i) services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle;
- (ii) services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration under sub-section (1) of section 22 of the said Central Goods and Services Tax Act.
- (iii) services by way of house-keeping, such as plumbing, carpentering etc, except where the person supplying such service through electronic commerce operator is liable for registration under sub-section (1) of section 22 of the said Central Goods and Services Tax Act.”.

*Explanation.*- For the purposes of this notification,-

- (a) “radio taxi” means a taxi including a radio cab, by whatever name called, which is in two-way radio communication with a central control office and is enabled for tracking using Global Positioning System (GPS) or General Packet Radio Service (GPRS);
- (b) “maxicab”, “motorcab” and “motor cycle” shall have the same meanings as assigned to them respectively in clauses (22), (25) and (26) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988).

## Notification

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2. This notification shall come into force with effect from the 1<sup>st</sup> day of July, 2017

[F.No. 334/1/2017-TRU]

(Ruchi Bisht)

Under Secretary to the Government of India

Note 1: Includes changes made vide Notification No. 23/2017-Central Tax (Rate) ,dt. 22-08-2017

Note 2: Similar provisions have been incorporated under UTGST Act vide *Notification Nos. 17/2017-Union Territory Tax (Rate),dt. 28-06-2017 & 23/2017-Union Territory Tax (Rate), dt. 22-08-2017 and under IGST Act vide Notification Nos. 14/2017-Integrated Tax (Rate) dt. 28-06-2017 & 23/2017-Integrated Tax (Rate) ,dt. 22-08-2017.*



## Notification

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[TO BE PUBLISHED IN THE GAZZETE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India  
Ministry of Finance  
(Department of Revenue)

### Notification No. 26/2017-Central Tax (Rate)

New Delhi, the 21<sup>st</sup> September, 2017

**G.S.R.....(E).**-In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts intra state supply of heavy water and nuclear fuels falling in Chapter 28 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) by the Department of Atomic Energy to the Nuclear Power Corporation of India Ltd from the whole of the central tax leviable thereon under section 9 of the Central Good and Services Tax Act, 2017 (12 of 2017).

[F. No. 354/173/2017 TRU]

(Ruchi Bisht)

Under Secretary to the Government of India

Note: Similar provisions have been incorporated under UTGST Act vide *Notification No. 26/2017-Union Territory Tax (Rate)*, dt. 21-09-2017 and under IGST Act vide *Notification No. 26/2017-Integrated Tax (Rate)* dt. 21-09-2017.

## Notification

[TO BE PUBLISHED IN THE GAZZETE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

**Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs**

**Notification No. 37/2017-Central Tax (Rate)**

New Delhi, the 13<sup>th</sup> October, 2017

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby notifies the central tax on intra-State supplies of goods, the description of which is specified in column (3) of the Table below, falling under the tariff item, sub-heading, heading or Chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), as the case may be, as specified in the corresponding entry in column (2), of the Table below, at the rate specified in corresponding entry in column (4) and subject to relevant conditions annexed to this notification, if any, specified in the corresponding entry in column (5) of the Table aforesaid:

**TABLE**

Sl. No.	Chapter, Heading, Sub-heading or Tariff item	Description of Goods	Rate	Condition No.
(1)	(2)	(3)	(4)	(5)
1.	87	Motor Vehicles	65% of central tax applicable otherwise on such goods under Notification No. 1/2017-Central Tax (Rate) dated, 28 <sup>th</sup> June, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub Section (i), vide G.S.R. 673 (E) dated the 28 <sup>th</sup> June, 2017.	1

**Notification**

2.	87	Motor Vehicles	65% of central tax applicable otherwise on such goods under Notification No. 1/2017-Central Tax (Rate) dated, 28 <sup>th</sup> June, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub Section (i), vide G.S.R. 673 (E) dated the 28 <sup>th</sup> June, 2017.	2
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2. Provided that nothing contained in this notification shall apply on or after 1<sup>st</sup> July, 2020.

*Explanation* –For the purposes of this notification, -

- (i) “Tariff item”, “sub-heading” “heading” and “Chapter” shall mean respectively a tariff item, heading, sub-heading and Chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).
- (ii) The rules for the interpretation of the First Schedule to the said Customs Tariff Act, 1975, including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.

**ANNEXURE**

Condition No.	Condition
1.	The Motor Vehicles was purchased by the lesser prior to 1 <sup>st</sup> July, 2017 and supplied on lease before 1 <sup>st</sup> July, 2017
2.	<ul style="list-style-type: none"><li>i. The supplier of Motor Vehicle is a registered person.</li><li>ii. Such supplier had purchased the Motor Vehicle prior to 1<sup>st</sup> July, 2017 and has not availed input tax credit of central excise duty, Value Added Tax or any other taxes paid on such vehicles</li></ul>

[F.No.354/117/2017- TRU (Pt. III)]

(Ruchi Bisht)  
Under Secretary to Government of India

## Notification

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[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs

### Notification No. 38/2017 – Central Tax (Rate)

New Delhi, the 13th October, 2017

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby makes the following amendment in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.8/2017- Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 680(E), dated the 28th June, 2017, namely:-

In the said notification, the proviso under Paragraph 1 shall be omitted.

2. The exemption contained in the notification No. 8/2017-Central Tax (Rate) dated the 28th June, 2017 as amended by this notification shall apply to all registered persons till the **31st day of March, 2018\***.

[F. No.349/74/2017-GST (Pt.)]

(Ruchi Bisht)

Under Secretary to the Government of India

Note: The principal notification No.8/2017-Central Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 680 (E), dated the 28th June, 2017.

\* Substituted to **31st day of June, 2018** vide Notification No. 10/2018- Central Tax (Rate) dt 23-03-2018

## Notification

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[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

**Government of India  
Ministry of Finance  
Department of Revenue**

### **Notification No. 40/2017-Central Tax (Rate)**

New Delhi, the 23<sup>rd</sup> October, 2017

G.S.R.....(E).- In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as "the said Act"), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts the intra-State supply of taxable goods (hereafter in this notification referred to as "the said goods") by a registered supplier to a registered recipient for export, from so much of the central tax leviable thereon under section 9 of the said Act, as is in excess of the amount calculated at the rate of 0.05 per cent., subject to fulfilment of the following conditions, namely: -

- (i) the registered supplier shall supply the goods to the registered recipient on a tax invoice;
- (ii) the registered recipient shall export the said goods within a period of ninety days from the date of issue of a tax invoice by the registered supplier;
- (iii) the registered recipient shall indicate the Goods and Services Tax Identification Number of the registered supplier and the tax invoice number issued by the registered supplier in respect of the said goods in the shipping bill or bill of export, as the case may be;
- (iv) the registered recipient shall be registered with an Export Promotion Council or a Commodity Board recognised by the Department of Commerce;
- (v) the registered recipient shall place an order on registered supplier for procuring goods at concessional rate and a copy of the same shall also be provided to the jurisdictional tax officer of the registered supplier;
- (vi) the registered recipient shall move the said goods from place of registered supplier –
  - (a) directly to the Port, Inland Container Depot, Airport or Land Customs Station from where the said goods are to be exported; or
  - (b) directly to a registered warehouse from where the said goods shall be move to the Port, Inland Container Depot, Airport or Land Customs Station from where the said goods are to be exported;

## Notification

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- (vii) if the registered recipient intends to aggregate supplies from multiple registered suppliers and then export, the goods from each registered supplier shall move to a registered warehouse and after aggregation, the registered recipient shall move goods to the Port, Inland Container Depot, Airport or Land Customs Station from where they shall be exported;
- (viii) in case of situation referred to in condition (vii), the registered recipient shall endorse receipt of goods on the tax invoice and also obtain acknowledgement of receipt of goods in the registered warehouse from the warehouse operator and the endorsed tax invoice and the acknowledgment of the warehouse operator shall be provided to the registered supplier as well as to the jurisdictional tax officer of such supplier; and
- (ix) when goods have been exported, the registered recipient shall provide copy of shipping bill or bill of export containing details of Goods and Services Tax Identification Number (GSTIN) and tax invoice of the registered supplier along with proof of export general manifest or export report having been filed to the registered supplier as well as jurisdictional tax officer of such supplier.

1 The registered supplier shall not be eligible for the above mentioned exemption if the registered recipient fails to export the said goods within a period of ninety days from the date of issue of tax invoice.

[F. No. 354/117/2017-TRU (Pt. III)]

(Ruchi Bisht)

Under Secretary to the Government of India

Note: Similar provisions have been incorporated under UTGST Act vide *Notification No. 40/2017-Union Territory Tax (Rate) dt 23-10-2017*

**Notification**

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

**Government of India  
Ministry of Finance  
Department of Revenue  
Notification No. 45/2017-Central Tax (Rate)**

New Delhi, the 14<sup>th</sup> November, 2017

G.S.R....(E).- In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017) ( hereafter in this notification referred to as "the said Act"), the Central Government, on being satisfied that it is necessary in the public interest so to do , on the recommendations of the Council, hereby exempts the goods specified in column (3) of the Table below, from the so much of the central tax leviable thereon under section 9 of the said Act, as in excess of the amount calculated at the rate of 2.5 per cent., when supplied to the institutions specified in the corresponding entry in column (2) of the Table, subject to the conditions specified in the corresponding entry in column (4) of the said Table-

<b>S. No.</b>	<b>Name of the Institutions</b>	<b>Description of the goods</b>	<b>Conditions</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>
1.	Public funded research institution other than a hospital or a University or an Indian Institute of Technology or Indian Institute of Science, Bangalore or a National Institute Technology/ Regional Engineering College <sup>#</sup>	(a) Scientific and technical instruments, apparatus, equipment (including computers); (b) accessories, parts, consumables and live animals (experimental purpose); (c) computer software, Compact Disc-Read Only Memory (CD-ROM), recorded magnetic tapes, microfilms, microfiches; (d) Prototypes, the aggregate value of prototypes received by an institution does not exceed fifty thousand rupees in financial year.	(i) The goods are supplied to or for (a) a public funded research institution under the administrative control of the Department of Space or Department of Atomic Energy or the Defence Research Development Organisation of the Government of India and such institution produces a certificate to that effect from an officer not below the rank of the Deputy Secretary to the Government of India or the Deputy Secretary to the State Government or the Deputy Secretary in the Union Territory in the concerned department to the supplier at

## Notification

			<p>the time of supply of the specified goods; or  (b) an institution registered with the Government of India in the  <b>Department of Scientific and Research*</b> and such institution produces a certificate from an officer not below the rank of the Deputy Secretary to the Government of India or the Deputy Secretary to the State Government or the Deputy Secretary in the Union territory in concerned department to the supplier at the time of supply of the specified goods;  (ii) The institution produces, at the time of supply, a certificate to the supplier from the Head of the Institution, in each case, certifying that the said goods are required for research purposes only;  (iii) In the case of supply of live animals for experimental purposes, the institution produces, at the time of supply, a certificate to the supplier from the Head of the Institution that the live animals are required for research purposes and enclose a no objection certificate issued by the Committee for the Purpose of Control and Supervision</p>
2.	Research institution, other than a hospital	(a) Scientific and technical instruments, apparatus,	(1) The institution is registered with the Government of India in the <b>Department of Scientific</b>



## Notification

		<p>equipment (including computers);</p> <p>(b) accessories, parts, consumables and live animals (experimental purpose);</p> <p>(c) computer software, Compact Disc-Read Only Memory (CD-ROM), recorded magnetic tapes, microfilms, microfiches;</p> <p>(d) Prototypes, the aggregate value of prototypes received by an institution does not exceed fifty thousand rupees in a financial year.</p>	<p><b>and Research*</b>, which-</p> <p>(i) produces, at the time of supply, a certificate to the supplier from the head of the institution, in each case, certifying that the said goods are essential for research purposes and will be used for stated purpose only;</p> <p>(ii) in the case of supply of live animals for experimental purposes, the institution produces, at the time of supply, a certificate to the supplier from the Head of the Institution that the live animals are required for research purposes and enclose a no objection certificate issued by the Committee for the Purpose of Control and Supervision of Experiments on Animals.</p> <p>(2) The goods falling under (1) above shall not be transferred or sold by the institution for a period of five years from the date of installation.</p>
3.	Departments and laboratories of the Central Government and State Governments, other than a hospital	<p>(a) Scientific and technical instruments, apparatus, equipment (including computers);</p> <p>(b) accessories, parts, consumables and live animals (experimental purpose);</p> <p>(c) Computer software, Compact Disc-Read Only Memory(CD-ROM), recorded magnetic tapes, microfilms, microfiches;</p> <p>(d) Prototypes, the aggregate value of</p>	

## Notification

		prototypes received by an institution does not exceed fifty thousand rupees in a financial year.	
4.	Regional Cancer Centre (Cancer Institute)	<p>(a) Scientific and technical instruments, apparatus, equipment (including computers);</p> <p>(b) accessories, parts, consumables and live animals (experimental purpose);</p> <p>(c) Computer software, Compact Disc-Read Only Memory(CD-ROM), recorded magnetic tapes, microfilms, microfiches.</p>	<p>(i) The goods are supplied to the Regional Cancer Centre registered with the Government of India, in the <b>Department of Scientific and Research*</b> and such institution produces a certificate from an officer not below the rank of the Deputy Secretary to the Government of India or the Deputy Secretary to the State Government or the Deputy Secretary in the Union territory in concerned department to the supplier at the time of supply of the specified goods;</p> <p>(ii) the institution produces, at the time of supply, a certificate to the supplier from the Head of the Institution, in each case, certifying that the said goods are required for research purposes only.</p> <p>(iii) in case of supply of live animals for experimental purposes, the institution produces, at the time of supply, a certificate to the supplier from the Head of the Institution that the live animals are required for research purposes and enclose a no objection certificate issued by the Committee for the Purpose of Control and Supervision of Experiments on Animals.</p>

## Notification

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*Explanation 1.* - For the purposes of this notification, the expression, -

- (a) "Public funded research institution" means a research institution in the case of which not less than fifty per-cent. of the recurring expenditure is met by the Central Government or the Government of any State or the administration of any Union territory;
- (b) "University" means a University established or incorporated by or under a Central, State or Provincial Act and includes -
  - (i) an institution declared under section 3 of the University Grants Commission Act, 1956 (3 of 1956) to be a deemed University for the purposes of this Act;
  - (ii) an institution declared by Parliament by law to be an institution of national importance;
  - (iii) a college maintained by, or affiliated to, a University;
- (c) "Head" means -
  - (i) in relation to an institution, the Director thereof (by whatever name called);
  - (ii) in relation to a University, the Registrar thereof (by whatever name called);
  - (iii) in relation to a college, the Principal thereof (by whatever name called);
- (d) "hospital" includes any Institution, Centre, Trust, Society, Association, Laboratory, Clinic or Maternity Home which renders medical, surgical or diagnostic treatment.

***"Explanation 2. - For the the purposes of this notification, exemption would be in line with the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No. 51/96- Customs, dated the 23rd July, 1996, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 303(E), dated the 23<sup>rd</sup> July, 1996 and is applicable with effect from the 15th November, 2017 \$***

2. This notification shall come into force with effect from the 15<sup>th</sup> day of November, 2017.

[F. No. 354/320/2017-TRU]

(Ruchi Bisht)  
Under Secretary to Government of India

## Notification

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#Substituted to **“Public funded research institution or a University or an Indian Institute of Technology or Indian Institute of Science, Bangalore or a Regional Engineering College, other than a hospital”** vide Notification No. 9/2018-Central Tax (Rate) dated 25<sup>th</sup> January, 2018

\*Substituted to **“Department of Scientific and Industrial Research”** vide Notification No. 9/2018- Central Tax (Rate) dated 25<sup>th</sup> January, 2018

\$ Inserted vide Notification No. 9/2018- Central Tax (Rate) dated 25<sup>th</sup> January, 2018.

Note Similar provisions have been incorporated under UTGST Act vide *Notification Nos. 45/2017-Union Territory Tax (Rate), dt. 14-11-2017 amended vide 09/2018-Union Territory Tax (Rate), dt. 25-01-2018 and under IGST Act vide Notification No. 47/2017-Integrated Tax (Rate) dt. 14-11-2017 amended vide Notification No 10/2018-Integrated Tax (Rate) ,dt. 25-01-2018.*

## Notification

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[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE**

**Notification No. 4/2018-Central Tax (Rate)**

**New Delhi, the 25<sup>th</sup> January, 2018**

G.S.R.....(E).- In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby notifies the following classes of registered persons, namely :-

- (a) registered persons who supply development rights to a developer, builder, construction company or any other registered person against consideration, wholly or partly, in the form of construction service of complex, building or civil structure; and
- (b) registered persons who supply construction service of complex, building or civil structure to supplier of development rights against consideration, wholly or partly, in the form of transfer of development rights,

as the registered persons in whose case the liability to pay central tax on supply of the said services, on the consideration received in the form of construction service referred to in clause (a) above and in the form of development rights referred to in clause (b) above, shall arise at the time when the said developer, builder, construction company or any other registered person, as the case may be, transfers possession or the right in the constructed complex, building or civil structure, to the person supplying the development rights by entering into a conveyance deed or similar instrument (for example allotment letter).

[F. No.354/13/2018 -TRU]

(Ruchi Bisht)

Under Secretary to the Government of India

Note: Similar provisions have been incorporated under UTGST Act vide Notification No. 04/2017-Union Territory Tax (Rate), dt. 25-01-2018 and under IGST Act vide Notification No. 04/2018-Integrated Tax (Rate) dt. 25-01-2018

**Notification**

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**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]**

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE**

**Notification No. 5/2018-Central Tax (Rate)**

**New Delhi, the 25<sup>th</sup> January, 2018**

G.S.R.....(E).- In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts the intra-State supply of services by way of grant of license or lease to explore or mine petroleum crude or natural gas or both, from so much of the central tax as is leviable on the consideration paid to the Central Government in the form of Central Government's share of profit petroleum as defined in the contract entered into by the Central Government in this behalf.

[F. No.354/13/2018 -TRU]

(Ruchi Bisht)

Under Secretary to the Government of India

Note: Similar provisions have been incorporated under UTGST Act vide Notification No. 05/2017-Union Territory Tax (Rate),dt. 25-01-2018 and under IGST Act vide Notification No. 05/2018-Integrated Tax (Rate) dt. 25-01-2018

**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]**

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE  
CENTRAL BOARD OF EXCISE AND CUSTOMS**

**Notification No. 1/2017 – Integrated Tax**

**New Delhi, the 19<sup>th</sup> June, 2017**

**29 Jyaistha, 1939 Saka**

**G.S.R. ....(E).—** In exercise of the powers conferred by sub-section (3) of section 1 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government hereby appoints the 22<sup>nd</sup> day of June, 2017, as the date on which the provisions of sections 1, 2, 3, 14, 20 and 22 of the said Act shall come into force.

[F. No. 349/72/2017-GST]

(Dr. Sreeparvathy.S.L.)  
Under Secretary to the Government of India

**Notification**

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**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]**

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE  
CENTRAL BOARD OF EXCISE AND CUSTOMS**

**Notification No. 2/2017 – Integrated Tax**

**New Delhi, the 19<sup>th</sup> June, 2017**

**29 Jyaistha, 1939 Saka**

**G.S.R. (E).** - In exercise of the powers conferred by sub-section (2) of section 14 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) (hereinafter referred to as the said Act), read with sub-rule (2) of rule 14 of the Central Goods and Services Tax Rules, 2017, the Central Government hereby notifies the Principal Commissioner of Central Tax, Bengaluru West and all the officers subordinate to him as the officers empowered to grant registration in case of online information and database access or retrieval services provided or agreed to be provided by a person located in non-taxable territory and received by a non-taxable online recipient.

Explanation.- For the purposes of this notification,-

- (a) “online information and database access or retrieval services” has the same meaning as assigned to it in sub-section (17) of section 2 of the said Act;
- (b) “non-taxable online recipient” has the same meaning as assigned to it in sub-section (16) of section 2 of the said Act.

- 2. This notification shall come into force on the 22<sup>nd</sup> day of June, 2017.

[F. No. 349/72/2017-GST]

(Dr. Sreeparvathy.S.L.)

Under Secretary to the Government of India



**Notification**

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**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]**

**Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs**

**Notification No. 3/2017 – Integrated Tax**

**New Delhi, the 28<sup>th</sup> June, 2017**

**7 Ashadha, 1939 Saka**

G.S.R. ....(E).— In exercise of the powers conferred by sub-section (3) of section 1 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government hereby appoints the 1<sup>st</sup> day of July, 2017, as the date on which the provisions of sections 4 to 13, 16 to 19, 21, 23 to 25 of the said Act, shall come into force.

[F. No. 349/72/2017-GST]

(Dr. Sreeparvathy S.L.)  
Under Secretary to the Government of India

**Notification**

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**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]**

**Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs**

**Notification No. 4/2017 – Integrated Tax**

**New Delhi, the 28<sup>th</sup> June, 2017**

**7 Ashadha, 1939 Saka**

G.S.R. (E).- In exercise of the powers conferred by section 22 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) read with section 20 of the said Act, the Central Government hereby makes the following rules, namely:-

2 Short title and commencement.-(1) These rules may be called the Integrated Goods and Services Tax Rules, 2017.

(2) They shall be deemed to have come into force on the 22<sup>nd</sup> day of June, 2017.

3. Application of Central Goods and Services Tax Rules.-The Central Goods and Services Tax Rules, 2017, for carrying out the provisions specified in section 20 of the Integrated Goods and Services Tax Act, 2017 shall, so far as may be, apply in relation to integrated tax as they apply in relation to central tax.

[F. No. 349/76/2017-GST]

(Dr. Sreeparvathy S.L.)

Under Secretary to the Government of India

## Notification

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[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

**Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs**

**Notification No. 5/2017 – Integrated Tax**

**New Delhi, the 28<sup>th</sup> June, 2017**

**7 Ashadha, 1939 Saka**

G.S.R. ....(E).— In pursuance of the first proviso to rule 46 of the Central Goods and Services Tax Rules, 2017 read with notification No. 4/2017-Integrated Tax, dated the 28<sup>th</sup> June 2017, the Central Board of Excise and Customs, on the recommendations of the Council, hereby notifies that a registered person having annual turnover in the preceding financial year as specified in column (2) of the Table below shall mention the digits of Harmonised System of Nomenclature (HSN) Codes, as specified in the corresponding entry in column (3) of the said Table, in a tax invoice issued by such person under the said rules.

**TABLE**

<b>Serial Number</b>	<b>Annual Turnover in the preceding Financial Year</b>	<b>Number of Digits of HSN Code</b>
(1)	(2)	(3)
1.	Upto rupees one crore fifty lakhs	Nil
2.	more than rupees one crore fifty lakhs and upto rupees five crores	2
3.	more than rupees five crores	4

2. This notification shall come into force with effect from the 1<sup>st</sup> day of July, 2017.

[F. No.349/72/2017-GST]

(Dr. Sreeparvathy S.L.)

Under Secretary to the Government of India

**Notification**

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[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

**Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs**

**Notification No. 6/2017 – Integrated Tax**

**New Delhi, the 28<sup>th</sup> June, 2017**

**7 Ashadha, 1939 Saka**

G.S.R.....(E).- In exercise of the powers conferred by section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), read with sub-sections (1) and (3) of section 50, sub-section (12) of section 54 and section 56 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby fixes the rate of interest per annum, for the purposes of the sections as specified in column (2) of the Table below, as mentioned in the corresponding entry in column (3) of the said Table.

**TABLE**

<b>Serial Number</b>	<b>Section</b>	<b>Rate of interest (in per cent)</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>
1.	Section 20 of the Integrated Goods and Services Tax Act, 2017 read with sub-section (1) of section 50 of the Central Goods and Services Tax Act, 2017	18
2.	Section 20 of the Integrated Goods and Services Tax Act, 2017 read with sub-section (3) of section 50 of the Central Goods and Services Tax Act, 2017	24
3.	Section 20 of the Integrated Goods and Services Tax Act, 2017 read with sub-section (12) of section 54 of the Central Goods and Services Tax Act, 2017	6
4.	Section 20 of the Integrated Goods and Services Tax Act, 2017 read with section 56 of the Central Goods and Services Tax Act, 2017	6

**Notification**

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5.	Section 20 of the Integrated Goods and Services Tax Act, 2017 read with proviso to section 56 of the Central Goods and Services Tax Act, 2017	9
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2. This notification shall come into force from the 1<sup>st</sup> day of July, 2017.

[F. No.349/72/2017-GST]

(Dr. Sreeparvathy S.L.)  
Under Secretary to the Government of India

**Notification**

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**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (I)]**

**Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs**

**Notification No. 7/2017 – Integrated Tax**

**New Delhi, the 14<sup>th</sup> September, 2017**

**G.S.R. ....(E).**—In exercise of the powers conferred by section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) read with sub-section (2) of section 23 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the “said Act”), the Central Government, on the recommendations of the Council, hereby specifies the job workers engaged in making inter-State supply of services to a registered person as the category of persons exempted from obtaining registration under the said Act:

Provided that nothing contained in this notification shall apply to a job-worker –

- (a) who is liable to be registered under sub-section (1) of section 22 or who opts to take registration voluntarily under sub-section (3) of section 25 of the said Act; or
- (b) who is involved in making supply of services in relation to the goods mentioned against serial number 151 in the Annexure to rule 138 of the Central Goods and Services Tax Rules, 2017.

[F. No. 349/58/2017-GST (Pt)]

(Dr.Sreeparvathy.S.L.)  
Under Secretary to the Government of India

## Notification

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[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3,  
SUB-SECTION (I)]

**Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs**

**Notification No. 8/2017 – Integrated Tax**

**New Delhi, the 14<sup>th</sup> September, 2017**

**G.S.R. ....(E).**—In exercise of the powers conferred by section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) read with sub-section (2) of section 23 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the “said Act”), the Central Government, on the recommendations of the Council, hereby specifies the persons making inter-State taxable supplies of handicraft goods as the category of persons exempted from obtaining registration under the aforesaid Act.

Provided that the aggregate value of such supplies, to be computed on all India basis, does not exceed an amount of twenty lakh rupees in a financial year:

Provided further that the aggregate value of such supplies, to be computed on all India basis, does not exceed an amount of ten lakh rupees in case of Special Category States, other than the State of Jammu and Kashmir.

2. The persons making inter-State taxable supplies mentioned in the preceding paragraph shall be required to obtain a Permanent Account Number and generate an e-way bill in accordance with the provisions of rule 138 of the Central Goods and Services Tax Rules, 2017.

*Explanation* - For the purposes of this notification, the expression “handicraft goods” means the products mentioned in column (2) of the Table below and the Harmonized System of Nomenclature (HSN) code mentioned in the corresponding entry in column (3) of the said Table, when made by the craftsmen predominantly by hand even though some machinery may also be used in the process:-

**Table**

<b>Sl. No. (1)</b>	<b>Products (2)</b>	<b>HSN Code (3)</b>
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**Notification**

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1.	Leather articles (including bags, purses, saddlery, harness, garments)	4201, 4202, 4203
2.	Carved wood products (including boxes, inlay work, cases, casks)	4415, 4416
3.	Carved wood products (including table and kitchenware)	4419
4.	Carved wood products	4420
5.	Wood turning and lacquer ware	4421
6.	Bamboo products [decorative and utility items]	46
7.	Grass, leaf and reed and fibre products, mats, pouches, wallets	4601, 4602
8.	Paper mache articles	4823
9.	Textile (handloom products), Handmade shawls, stoles and scarves *	including 50, 58, 61, 62, 63
10.	Textiles hand printing	50, 52, 54
11.	Zari thread	5605
12.	Carpet, rugs and durries	57
13.	Textiles hand embroidery	58
14.	Theatre costumes	61, 62, 63
15.	Coir products (including mats, mattresses)	5705, 9404
16.	Leather footwear	6403, 6405
17.	Carved stone products (including statues, statuettes, figures of animals, writing sets, ashtray, candle stand)	6802
18.	Stones inlay work	68
19.	Pottery and clay products, including terracotta	6901, 6909, 6911, 6912, 6913, 6914
20.	Metal table and kitchen ware (copper, brass ware)	7418
21.	Metal statues, images/statues vases, urns and crosses of the type used for decoration of metals of chapters 73 and 74	8306
22.	Metal bidriware	8306
23.	Musical instruments	92
24.	Horn and bone products	96
25.	Conch shell crafts	96
26.	Bamboo furniture, cane/Rattan furniture	
27.	Dolls and toys	9503
28.	Folk paintings, madhubani, patchitra, Rajasthani miniature	97



**Notification**

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29.	Chain stitch	Any Chapter
30.	Crewel, namda, gabba	Any Chapter
31.	Wicker willow products	Any Chapter
32.	Toran	Any Chapter
33.	Articles made of shola	Any Chapter

[F. No. 349/58/2017-GST(Pt.)]

(Dr.Sreeparvathy.S.L.)

Under Secretary to the Government of India

**Note: The Notification includes changes made vide Notification No. 9/2017- Integrated tax dt. 13-10-2017**

**Notification**

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**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (I)]**

**Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs  
Notification No. 10/2017 – Integrated Tax**

**New Delhi, the 13<sup>th</sup> October, 2017**

G.S.R. ....(E).— In exercise of the powers conferred by section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) read with sub-section (2) of section 23 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Central Government, on the recommendations of the Council, hereby specifies the persons making inter-State supplies of taxable services and having an aggregate turnover, to be computed on all India basis, not exceeding an amount of twenty lakh rupees in a financial year as the category of persons exempted from obtaining registration under the said Act:

Provided that the aggregate value of such supplies, to be computed on all India basis, should not exceed an amount of ten lakh rupees in case of “special category States” as specified in sub-clause (g) of clause (4) of article 279A of the Constitution, other than the State of Jammu and Kashmir.

[F. No.349/74/2017-GST (Pt.)]

(Dr. Sreeparvathy S.L.)  
Under Secretary to the Government of India

**Notification**

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**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (I)]**

**Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs  
Notification No. 11/2017 –Integrated Tax**

**New Delhi, the 13<sup>th</sup> October, 2017**

G.S.R....(E).- In exercise of the powers conferred by section 4 of the Integrated Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the "IGST Act"), on the recommendations of the Council, the Central Government hereby specifies that the officers appointed under the respective State Goods and Services Tax Act, 2017 or the Union Territory Goods and Service Tax Act, 2017 (14 of 2017) (hereafter in this notification referred to as "the said Acts") who are authorized to be the proper officers for the purposes of section 54 or section 55 of the said Acts (hereafter in this notification referred to as "the said officers") by the Commissioner of the said Acts, shall act as proper officers for the purpose of sanction of refund under section 20 of the IGST Act, read with section 54 or section 55 of the Central Goods and Services Tax Act, 2017 and the rules made thereunder, **except sub rules (1) to (8) and sub rule (10) of rule 96** \$ of the Central Goods and Services Tax Rules, 2017, in respect of a registered person located in the territorial jurisdiction of the said officers who applies for the sanction of refund to the said officers.

[F. No.349/74/2017-GST(Pt.)]

(Dr. Sreeparvathy S.L.)

Under Secretary to the Government of India

\$ Substituted vide Notification No. 1/2018- Integrated Tax dt 23-01-2018

**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]**

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)**

**Notification No. 15/2017-Integrated Tax (Rate)**

**New Delhi, the 30th June, 2017**

G.S.R. (E). In exercise of the powers conferred by sub-section (1) of section 6 of the Integrated Goods and Service Tax Act, 2017 (13 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts all goods or services or both imported by a unit or a developer in the Special Economic Zone, from the whole of the integrated tax leviable thereon under sub-section (7) of section 3 of the Customs Tariff Act, 1975 (51 of 1975) for authorised operations.

2. This Notification shall come into force with effect from the 1st July, 2017.

F.No. DGEP/SEZ/09/2017

(Dharmvir Sharma)  
Under Secretary

**Notification**

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**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]**

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)**

**Notification No. 17/2017-Integrated Tax (Rate)**

**New Delhi, the 5th July, 2017**

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 6 of the Integrated Goods and Service Tax Act, 2017 (13 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby rescinds, except as respects things done or omitted to be done before such rescission, the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 15/2017-Integrated Tax (Rate), dated the 30th June, 2017, published in the Gazette of India, Extraordinary, vide number G.S.R. 740 (E), dated the 30th June, 2017.

F.No. DGEP/SEZ/09/2017

(Dharmvir Sharma)

Under Secretary to the Government of India

**Notification**

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**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]**

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)**

**Notification No. 18/2017 -Integrated Tax (Rate)**

**New Delhi, the 5th July, 2017**

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 6 of the Integrated Goods and Service Tax Act, 2017 (13 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do and on the recommendations of the Council, hereby exempts services imported by a unit or a developer in the Special Economic Zone for authorised operations, from the whole of the integrated tax leviable thereon under section 5 of the Integrated Goods and Service Tax Act, 2017 (13 of 2017).

F.No. DGEP/SEZ/09/2017

(Dharmvir Sharma)

Under Secretary to the Government of India

## Notification

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[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)**

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 6 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government, being satisfied that it is necessary in the public interest so to do, on the recommendations of the Goods and Services Tax Council, hereby exempts inter-State supplies of goods, the description of which is specified in column (3) of the Table below, falling under the tariff item, sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2), from the whole of the integrated tax leviable thereon under section 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), subject to the condition specified in column (4) of the Table below, namely:

Table

Sl. No.	Tariff item, sub-heading, heading or Chapter	Description of Goods	Condition
(1)	(2)	(3)	(4)
1.	0402	Skimmed milk powder, or concentrated milk.	When supplied to a distinct person as per sub-section (4) of section 25 of the Central Goods and Services Tax Act, 2017 (12 of 2017), for use in production of milk [ <i>for distribution through dairy Cooperatives or companies registered under the Companies Act, 2013 (18 of 2013*)</i> ]] and not for further supply of skimmed milk powder, or concentrated milk as such.

*Explanation.* –

- 1 In this notification, “tariff item”, “sub-heading” “heading” and “Chapter” shall mean respectively a tariff item, heading, sub-heading and Chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

## **Notification**

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- 2 The rules for the interpretation of the First Schedule to the said Customs Tariff Act, 1975, including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.

[F.No.354/247/2017- TRU]

(Mohit Tewari )

Under Secretary to the Government of India.

\* Amended vide Notification No. 50/2017- Integrated Tax (Rate) dt 14-11-2017



## Notification

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**[TO BE PUBLISHED IN THE GAZZETE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]**

**Government of India  
Ministry of Finance  
(Department of Revenue)**

### **Notification No. 6/2018- Integrated Tax (Rate)**

New Delhi, the 25<sup>th</sup> January, 2018

G.S.R.....(E).- In exercise of the powers conferred by sub-section (1) of section 6 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), hereinafter referred to as the said Act, the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts the integrated tax leviable under section 5 read with section 7 of the said Act on the supply of services, imported into the territory of India, covered by sub-item (c) of item 5 of Schedule II to the Central Goods and Services Tax Act, 2017 (12 of 2017) as made applicable by section 20 of the said Act, to the extent of the aggregate of the duties of Customs leviable under sub-section (7) of section 3 of the Customs Tariff Act, 1975 (51 of 1975), on the consideration declared under sub-section (1) of section 14 of the Customs Act, 1962 (52 of 1962) towards royalties and license fees included in the transaction value as specified under clause (c) of sub-rule(1) of rule 10 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 on which the appropriate duties of Customs have been paid.

[F. No.354/13/2018 -TRU]

(Ruchi Bisht)

Under Secretary to the Government of India

**[TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (i) OF THE GAZETTE OF INDIA, EXTRAORDINARY]**

**MINISTRY OF FINANCE  
(Department of Revenue)**

**NOTIFICATION**

**New Delhi, the 21st June, 2017**

**No. 1/2017–UNION TERRITORY TAX**

**G.S.R. 616(E).**—In exercise of the powers conferred by sub-section (3) of section 1 of the Union Territory Goods and Services Tax Act, 2017 (14 of 2017), the Central Government hereby appoints the 22<sup>nd</sup> day of June, 2017, as the date on which the provisions of sections 1, 2, 3, 4, 5, 17, 21 and section 22 of the said Act shall come into force.

[F. No. S-31011/25/2017-ST- I-DOR]

S. R. MEENA, Under Secy.

## Notification

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[TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (i) OF THE GAZETTE OF INDIA, EXTRAORDINARY]

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(Department of Revenue)**

**Notification No. 2/2017-Union Territory Tax**

New Delhi, the 27th June, 2017

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) and sub-section (2) of section 10 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act) read with section 21 of the Union Territory Goods and Services Tax Act, 2017 (14 of 2017), the Central Government, on the recommendations of the Council, hereby prescribes that an eligible registered person, whose aggregate turnover in the preceding financial year did not exceed **one crore rupees** #, may opt to pay, in lieu of the tax payable by him, an amount calculated at the rate of,—

- 1 one per cent. of the turnover in Union territory in case of a manufacturer,
- 2 two and a half per cent. of the turnover in Union territory in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II of the said Act, and
- 3 half per cent. of the turnover in Union territory in case of other suppliers:

Provided that a registered person shall not be eligible to opt for composition levy under sub-section (1) of section 10 of the said Act read with section 21 of the Union Territory Goods and Services Tax Act, 2017 if such person is a manufacturer of the goods, the description of which is specified in column (3) of the Table below and falling under the tariff item, sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Table:-

**TABLE**

S. No.	Tariff item, sub-heading, heading or Chapter	Description
(1)	(2)	(3)
1.	2105 00 00	Ice cream and other edible ice, whether or not containing cocoa.
2.	2106 90 20	Pan masala
3.	24	All goods, i.e. Tobacco and manufactured tobacco substitutes

## Notification

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*Explanation. –*

(1) In this Table, “tariff item”, “sub-heading”, “heading” and “chapter” shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

(2) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.

[F.No.354/117/2017-TRU]

(Mohit Tewari)

Under Secretary to the Government of India

#Substituted vide Notification No. 16/2017- Union Territory Tax dated 13<sup>th</sup> October, 2017.

**Notification**

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**[TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (I) OF THE OFFICIAL  
GAZETTE OF INDIA, EXTRAORDINARY]**

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(Department of Revenue)**

**Notification No. 3/2017 – Union Territory Tax**

**New Delhi, the 28<sup>th</sup> June, 2017**

**7 Ashadha, Saka 1939**

**G.S.R. ....(E).—** In exercise of the powers conferred by sub-section (3) of section 1 of the Union Territory Goods and Services Tax Act, 2017 (14 of 2017), the Central Government hereby appoints the 1<sup>st</sup> day of July, 2017, as the date on which the provisions of sections 6 to 16, 18 to 20 and 23 to 26 of the said Act shall come into force.

[F. No. S-31011/25/2017-ST-I-DOR]

(S. R. Meena)

Under Secretary to the Government of India

**Notification**

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**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (I)]**

**Government of India  
Ministry of Finance  
(Department of Revenue)  
Notification No. 17/2017 - Union Territory Tax**

New Delhi, the 24th October, 2017  
2 Kartika, Saka 1939

**G.S.R. .... (E).**- In exercise of the powers conferred by sub-section (1) and sub-section (3) of section 22 read with section 21 of the Union Territory Goods and Services Tax Act, 2017 (No. 14 of the 2017) (hereinafter referred to as the said Act), the Central Government, on the recommendations of the Council, hereby notify that subject to provisions of the said Act and the rules made thereunder, the notifications issued under the Central Goods and Services Tax Act, 2017 (No. 12 of 2017) relating to the subjects referred in section 21 of the said Act are automatically extended to the said Act.

2. This notification shall come into force with effect from the 22nd day of June, 2017.

[F. No. 31011/25/2017-ST-I-DoR]

(S. R. Meena)  
Under Secretary to the Govt. of India

**[TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (I) OF THE OFFICIAL  
GAZETTE OF INDIA, EXTRAORDINARY]**

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(Department of Revenue)**

**Notification No. 1/2017 – Goods and Services Tax Compensation**

**New Delhi, the 28<sup>th</sup> June, 2017  
7 Ashadha, Saka 1939**

**G.S.R. ....(E).—** In exercise of the powers conferred by sub-section (3) of section 1 of the Goods and Services Tax (Compensation to States) Act, 2017 (15 of 2017), the Central Government hereby appoints the 1<sup>st</sup> day of July, 2017, as the date on which all the provisions of the said Act shall come into force.

[F. No. S-31011/28/2016-ST-I DOR]

(Mahendra Nath)

Under Secretary to the Government of India

**Notification**

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**[TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (i) OF THE GAZETTE OF INDIA, EXTRAORDINARY]**

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(Department of Revenue)**

**Notification No.1/2017-Compensation Cess (Rate)**

New Delhi, the 28th June, 2017

G.S.R. (E).- In exercise of the powers conferred by sub-section (2) of section 8 of the Goods and Services Tax (Compensation to States) Act, 2017 (15 of 2017), the Central Government, on the recommendations of the Council, hereby notifies the rate of cess as specified in column (4) of the Schedule appended to this notification, that shall be levied on the intra-State supplies or inter-State supplies of such goods, the description of which is specified in the corresponding entry in column (3) and falling under the tariff item, sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Schedule.

**Schedule**

<b>S. No.</b>	<b>Chapter / Heading / Sub-heading/ Tariff item</b>	<b>Description of Goods</b>	<b>Rate of goods and services tax compensation cess</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>
1.	2106 90 20	Pan-masala	60%
2.	2202 10 10	Aerated waters	12%
3.	2202 10 20	Lemonade	12%
4.	2202 10 90	Others	12%
5.	2401	Unmanufactured tobacco (without lime tube) – bearing a brand name	71%
6.	2401	Unmanufactured tobacco (with lime tube) – bearing a brand name	65%
7.	2401 30 00	Tobacco refuse, bearing a brand name	61%
8.	2402 10 10	Cigar and cheroots	21% or ₹ 4170 per thousand,



**Notification**

S. No.	Chapter / Heading / Sub-heading/ Tariff item	Description of Goods	Rate of goods and services tax compensation cess
			whichever is higher
9.	2402 10 20	Cigarillos	21% or ₹ 4170 per thousand, whichever is higher
10.	2402 20 10	Cigarettes containing tobacco other than filter cigarettes, of length not exceeding 65 millimetres	5% + ₹2076 per thousand <sup>4</sup>
11.	2402 20 20	Cigarettes containing tobacco other than filter cigarettes, of length exceeding 65 millimetres but not exceeding 75 millimetres	5% + ₹3668 per thousand <sup>4</sup>
12.	2402 20 30	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) not exceeding 65 millimetres	5% + ₹2076 per thousand <sup>4</sup>
13.	2402 20 40	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 65 millimetres but not exceeding 70 millimetres	5% + ₹2747 per thousand <sup>4</sup>
14.	2402 20 50	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 70 millimetres but not exceeding 75 millimetres	5% + ₹3668 per thousand <sup>4</sup>
15.	2402 20 90	Other cigarettes containing tobacco	36% + ₹4170 per thousand <sup>4</sup>
16.	2402 90 10	Cigarettes of tobacco substitutes	₹4006 per thousand
17.	2402 90 20	Cigarillos of tobacco substitutes	12.5% or ₹ 4,006 per thousand whichever is higher

**Notification**

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<b>S. No.</b>	<b>Chapter / Heading / Sub-heading/ Tariff item</b>	<b>Description of Goods</b>	<b>Rate of goods and services tax compensation cess</b>
18.	2402 90 90	Other	12.5% or ₹ 4,006 per thousand whichever is higher
19.	2403 11 10	'Hookah' or 'gudaku' tobacco bearing a brand name	72%
20.	2403 11 10	Tobacco used for smoking 'hookah' or 'chilam' commonly known as 'hookah' tobacco or 'gudaku' not bearing a brand name	17%
21.	2403 11 90	Other water pipe smoking tobacco not bearing a brand name.	11%
22.	2403 19 10	Smoking mixtures for pipes and cigarettes	290%
23.	2403 19 90	Other smoking tobacco bearing a brand name	49%
24.	2403 19 90	Other smoking tobacco not bearing a brand name	11%
25.	2403 91 00	"Homogenised" or "reconstituted" tobacco, bearing a brand name	72%
26.	2403 99 10	Chewing tobacco (without lime tube)	160%
27.	2403 99 10	Chewing tobacco (with lime tube)	142%
28.	2403 99 10	Filter khaini	160%
29.	2403 99 20	Preparations containing chewing tobacco	72%
30.	2403 99 30	Jarda scented tobacco	160%
31.	2403 99 40	Snuff	72%
32.	2403 99 50	Preparations containing snuff	72%
33.	2403 99 60	Tobacco extracts and essence bearing a brand name	72%
34.	2403 99 60	Tobacco extracts and essence not bearing a brand name	65%
35.	2403 99 70	Cut tobacco	20%
36.	2403 99 90	Pan masala containing tobacco 'Gutkha'	204%

**Notification**

<b>S. No.</b>	<b>Chapter / Heading / Sub-heading/ Tariff item</b>	<b>Description of Goods</b>	<b>Rate of goods and services tax compensation cess</b>
37.	2403 99 90	All goods, other than pan masala containing tobacco 'gutkha', bearing a brand name	96%
38.	2403 99 90	All goods, other than pan masala containing tobacco 'gutkha', not bearing a brand name	89%
39.	2701	Coal; briquettes, ovoids and similar solid fuels manufactured from coal.	₹400 per tonne
40.	2702	Lignite, whether or not agglomerated, excluding jet	₹400 per tonne
41.	2703	Peat (including peat litter), whether or not agglomerated	₹400 per tonne
42.	8702 10	Motor vehicles for the transport of ten or more persons, including the driver	15%
43.	8703	Motor vehicles cleared as ambulances duly fitted with all the fitments, furniture and accessories necessary for an ambulance from the factory manufacturing such motor vehicles	NIL
44.	8703 10 10, 8703 80	Electrically operated vehicles, including three wheeled electric motor vehicles.	NIL
45.	8703	Three wheeled vehicles	NIL
46.	8703	Cars for physically handicapped persons, subject to the following conditions: a) an officer not below the rank of Deputy Secretary to the Government of India in the Department of Heavy Industries certifies that the said goods are capable of being used by the physically handicapped persons; and b) the buyer of the car gives an affidavit that he shall not dispose of the car for a period of five years after its purchase.	NIL
47.	8703 40, 8703 60,	Following Vehicles, with both spark-ignition internal combustion reciprocating piston engine and electric motor as motors for	NIL

Notification

S. No.	Chapter / Heading / Sub-heading/ Tariff item	Description of Goods	Rate of goods and services tax compensation cess
		<p>propulsion;</p> <p>a) Motor vehicles cleared as ambulances duly fitted with all the fitments, furniture and accessories necessary for an ambulance from the factory manufacturing such motor vehicles</p> <p>b) Three wheeled vehicles</p> <p>c) Motor vehicles of engine capacity not exceeding</p> <p>d) 1200cc and of length not exceeding 4000 mm. Motor vehicles other than those mentioned at (a), (b) and (c) above <sup>1</sup></p> <p><b>Explanation.-</b> For the purposes of this entry, the specification of the motor vehicle shall be determined as per the Motor Vehicles Act, 1988 (59 of 1988) and the rules made there under.</p>	15%
48.	8703 50, 8703 70	<p>Following Vehicles, with both compression –ignition internal combustion piston engine [ diesel-or semi diesel) and electric motor as motors for propulsion;</p> <p>a) Motor vehicles cleared as ambulances duly fitted with all the fitments, furniture and accessories necessary for an ambulance from the factory manufacturing such motor vehicles</p> <p>b) Three wheeled vehicles</p> <p>c) Motor vehicles of engine capacity not exceeding 1500 cc and of length not exceeding 4000 mm.</p>	<p>NIL</p> <p>15%</p>

**Notification**

S. No.	Chapter / Heading / Sub-heading/ Tariff item	Description of Goods	Rate of goods and services tax compensation cess
		d) Motor vehicles other than those mentioned at (a), (b) and (c) above <sup>2</sup> <b>Explanation.-</b> For the purposes of this entry, the specification of the motor vehicle shall be determined as per the Motor Vehicles Act, 1988 (59 of 1988) and the rules made there under.	
49.	8703	Hydrogen vehicles based on fuel cell tech and of length not exceeding 4000 mm. <b>Explanation.-</b> For the purposes of this entry, the specification of the motor vehicle shall be determined as per the Motor Vehicles Act, 1988 (59 of 1988) and the rules made there under.	NIL
50.	8703 21 or 8703 22	Petrol, Liquefied petroleum gases (LPG) or compressed natural gas (CNG) driven motor vehicles of engine capacity not exceeding 1200cc and of length not exceeding 4000 mm. <b>Explanation.-</b> For the purposes of this entry, the specification of the motor vehicle shall be determined as per the Motor Vehicles Act, 1988 (59 of 1988) and the rules made there under.	1%
51.	8703 31	Diesel driven motor vehicles of engine capacity not exceeding 1500 cc and of length not exceeding 4000 mm. <b>Explanation.-</b> For the purposes of this entry, the specification of the motor vehicle shall be determined as per the Motor Vehicles Act, 1988 (59 of 1988) and the rules made there under.	3%
52	8703	Motor vehicles of engine capacity not exceeding 1500 cc <sup>3</sup>	17%

**Notification**

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S. No.	Chapter / Heading / Sub-heading/ Tariff item	Description of Goods	Rate of goods and services tax compensation cess
52A	8703	Motor vehicles of engine capacity exceeding 1500 cc other than motor vehicles specified against entry at S. No 52B <sup>3</sup>	20%
52B	8703	Motor vehicles of engine capacity exceeding 1500 cc, popularly known as Sports Utility Vehicles (SUVs) including utility vehicles. Explanation. - For the purposes of this entry, SUV includes a motor vehicle of length exceeding 4000 mm and having ground clearance of 170 mm. and above. <sup>3</sup>	22%
53.	8711	Motorcycles of engine capacity exceeding 350 cc.	3%
54.	8802	Other aircraft (for example, helicopters, aeroplanes), for personal use.	3%
55.	8903	Yacht and other vessels for pleasure or sports	3%
56.	Any chapter	All goods other than those mentioned at S. Nos. 1 to 55 above	Nil

*Explanation.—*

1 In this Schedule, “tariff item”, “heading”, “sub-heading” and “Chapter” shall mean respectively a tariff item, heading, sub-heading and Chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

2 The rules for the interpretation of the First Schedule to the said Customs Tariff Act, 1975, including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.

3 For the purposes of this notification, the phrase “brand name” means brand name or trade name, whether registered or not, that is to say, a name or a mark, such as symbol, monogram, label, signature or invented word or writing which is used in relation to such specified goods for the purpose of indicating, or so as to indicate a

## Notification

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connection in the course of trade between such specified goods and some person using such name or mark with or without any indication of the identity of that person.

2. This notification shall come into force with effect from the 1<sup>st</sup> day of July, 2017.  
[F.No.354/117/2017-TRU]

(Mohit Tewari)  
Under Secretary to the Government of India

<sup>1</sup> Inserted vide Notification No. 5/2017- Compensation Cess (Rate) dated 11<sup>th</sup> September, 17

<sup>2</sup> Inserted vide Notification No. 5/2017- Compensation Cess (Rate) dated 11<sup>th</sup> September, 17

<sup>3</sup> Substituted vide Notification No. 5/2017- Compensation Cess (Rate) dated 11<sup>th</sup> September, 17

<sup>4</sup> Substituted vide Notification No. 3/2017- Compensation Cess (Rate) dated 18<sup>th</sup> July, 17

**Notification**

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**[TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (i) OF THE GAZETTE OF INDIA, EXTRAORDINARY]**

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(Department of Revenue)**

**Corrigendum**

New Delhi, the 30th June, 2017

G.S.R. (E).- In the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.1/2017-Compensation Cess (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 720(E), dated the 28th June, 2017, at page 175,-

- (2) in line 42, *for* "8702 10", *read* "8702 10, 8702 20, 8702 30, 8702 90";
- (3) in line 42, *for* "ten or more", *read* "not more than 13".

[F.No.354/117/2017-TRU]

(Mohit Tewari)  
Under Secretary to the Government of India



**Notification**

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[TO BE PUBLISHED IN THE GAZZETE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)**

**Notification No. 2/2017- Compensation Cess (Rate)**

**New Delhi, the 28<sup>th</sup> June, 2017**

G.S.R.....(E).- In exercise of the powers conferred by sub-section (1) and sub-section (2) of section 8 of the Goods and Services Tax (Compensation to States) Act, 2017 (15 of 2017), the Central Government, on the recommendations of the Council, hereby notifies, that the cess, on the supply of services of description specified in column (2) of the Table below and falling in Chapter, Section, Heading or Group specified in column (3) of the said Table, shall be levied at the rate specified in the corresponding entry in column (4) of the said Table.

**TABLE**

<b>Sl. No.</b>	<b>Description of Services</b>	<b>Chapter, Section, Heading or Group</b>	<b>Rate (in per-cent.)</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>
1	Transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration	Chapter 99	Same rate of cess as applicable on supply of similar goods involving transfer of title in goods
2	Transfer of right in goods or of undivided share in goods without the transfer of title thereof	Chapter 99	Same rate of cess as applicable on supply of similar goods involving transfer of title in goods
2A	Leasing of motor vehicles purchased and leased prior to 1st July 2017	Chapter 99	65percent.of the rate of cess as applicable on supply of similar goods involving transfer of title in goods* Note: Nothing contained in this entry shall apply on or after 1 <sup>st</sup> day of July,

## Notification

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			2020".
3	Any other supply of services	Chapter 99	Nil

2. *Explanation.*- Reference to "Chapter", "Section", "Heading" or "Group", wherever they occur, unless the context otherwise requires, shall mean respectively as "Chapter", "Section" and "Heading" in the scheme of classification of services annexed to notification No. 11/2017-Central Tax (Rate), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), dated 28th June, 2017, vide number G.S.R. 690(E), dated 28th June, 2017.

3. This notification shall come into force with effect from 1st day of July, 2017.

[F.No. 334/1/2017-TRU]

(Ruchi Bisht)

Under Secretary to the Government of India

\* Inserted vide Notification No. 6/2017- Compensation Cess (Rate) dated 13<sup>th</sup> October, 2017

[TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (i) OF THE GAZETTE OF INDIA, EXTRAORDINARY]

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(Department of Revenue)**

**Notification No. 04/2017- Compensation Cess (Rate)**

New Delhi, the 20<sup>th</sup> July, 2017

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 11 of the Goods and Services Tax (Compensation to States) Act, 2017 ( 15 of 2017), read with sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts intra-State supplies of second hand goods received by a registered person, dealing in buying and selling of second hand goods and who pays the goods and services tax compensation cess on the value of outward supply of such second hand goods as determined under sub-rule (5) of rule 32 of the Central Goods and Services Tax Rules, 2017, from any supplier, who is not registered, from the whole of the goods and services tax compensation cess leviable thereon under section 8 of the Goods and Services Tax (Compensation to States) Act, read with sub-section (4) of Section 9 of the Central Goods and Services Tax Act.

[F.No.354/136/2017-TRU]

(Ruchi Bisht)

Under Secretary to the Government of India

## Notification

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[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY PART II, SECTION 3, SUB-SECTION (i)]

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(Department of Revenue)**

**Notification No. 7 /2017-Compensation Cess (Rate)**

**New Delhi, the 13th October, 2017**

**G.S.R. (E).**- In exercise of the powers conferred by sub-section (2) of section 8 of the Goods and Services Tax (Compensation to States) Act, 2017 (15 of 2017), the Central Government, on the recommendations of the Council, hereby notifies the rate of cess as specified in column 4 of the Table below, falling under the tariff item, sub-heading, heading or Chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), as the case may be, as specified in the corresponding entry in column (2), of the Table below, at the rate specified in corresponding entry in column (4) and subject to relevant conditions annexed to this notification, if any, specified in the corresponding entry in column (5) of the Table below:

Sl. No.	Tariff item, sub-heading, heading or Chapter	Description of Goods	Rate	Condition No.
(1)	(2)	(3)	(4)	(5)
1.	8702, 8703	Motor Vehicles	65% of cess applicable otherwise on such goods under Notification No. 1/2017- Compensation Cess (Rate) dated, 28th June, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub Section (i), vide G.S.R. 720 (E) dated the 28th June, 2017.	1
2.	8702, 8703	Motor Vehicles	65% of cess applicable otherwise on such goods	2

			under Notification No. 1/2017- Compensation Cess (Rate) dated, 28th June, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub Section (i), vide G.S.R. 720 (E) dated the 28th June, 2017.	
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*Explanation* –For the purposes of this notification, -

- (i) “Tariff item”, “sub-heading” “heading” and “Chapter” shall mean respectively a tariff item, heading, sub-heading and Chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).
- (ii) The rules for the interpretation of the First Schedule to the said Customs Tariff Act, 1975, including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.

#### ANNEXURE

Condition No.	Condition
1	i. The Motor Vehicles was purchased by the lesser prior to 1st July, 2017 and supplied on lease before 1st July, 2017
2	i. The supplier of Motor Vehicle is a registered person. ii. Such supplier had purchased the Motor Vehicle prior to 1st July, 2017 and has not availed input tax credit of central excise duty, Value Added Tax or any other taxes paid on such vehicles.

[F.No.354/117/2017- TRU (Pt. III)]

(Ruchi Bisht)

Under Secretary to Government of India



Circular No. 2/2/2017-GST

**F. No. 349/82/2017-GST Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs  
GST Policy Wing**

New Delhi, Dated the 4<sup>th</sup> July, 2017

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/  
Commissioners of Central Tax (All)

Madam/Sir,

**Subject: Issues related to furnishing of Bond/ Letter of Undertaking for Exports–Reg.**

1. Various communications have been received from the field formations and exporters on the issue of difficulties being faced while supplying the goods or services for export without payment of integrated tax and filing the FORM GST RFD-11 on the common portal ([www.gst.gov.in](http://www.gst.gov.in)), because of which exports are being held up.

(a) Whereas, as per rule 96A of the Central Goods and Services Tax Rules, 2017, any registered person availing the option to supply goods or services for export without payment of integrated tax shall furnish, prior to export, a bond or a Letter of Undertaking. This bond or Letter of Undertaking is required to be furnished in FORM GST RFD-11 on the common portal. Further, Circular No. 26/2017- Customs dated 1<sup>st</sup> July, 2017 has clarified that the procedure as prescribed under rule 96A of the said rules requires to be followed for the export of goods from 1<sup>st</sup> July, 2017.

(b) Another issue being raised by various stakeholders is that the Bond/Letter of Undertaking is required to be given through the proper officer which is to be furnished to the jurisdictional Commissioner as per sub-rule (1) of rule 96A of the said rules. Taking cognizance of the fact that a large number of such Bonds/Letter of Undertakings would be required to be filed by the registered exporters who would be located at a distance from the office of the jurisdictional Commissioner, it is understood that the furnishing of such bonds/undertakings before the jurisdictional Commissioner may cause hardship to the exporters.

(i) Thus, in exercise of the powers conferred by sub-section (3) of section 5 of the CGST Act, 2017, it is hereby stated that the acceptance of the Bond/Letter of Undertaking required to be furnished by the exporter under rule 96A of the said rules shall be done by the jurisdictional Deputy/Assistant Commissioner.

(ii) Further, in exercise of the powers conferred by section 168 of the said Act, for the purpose of uniformity in the implementation of the said Act, the Bond/Letter of

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Undertaking required to be furnished under rule 96A of the said rules may be furnished manually to the jurisdictional Deputy/Assistant Commissioner in the format specified in FORM RFD-11 till the module for furnishing of FORM RFD-11 is available on the common portal. The exporters may download the FORM GST RFD-11 from the website of the Central Board of Excise and Customs ([www.cbec.gov.in](http://www.cbec.gov.in)) and furnish the duly filled form to the jurisdictional Deputy/Assistant Commissioner.

- (iii) The above specified provisions shall be applicable to all applications which have been filed on or after 1<sup>st</sup> July, 2017. It is requested that suitable trade notices may be issued to publicize the contents of this circular.
- (iv) Difficulty, if any, in the implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

Sd/-  
(Upender Gupta)  
Commissioner (GST)



Circular No. 4/4/2017-GST

**F.No. 349/82/2017-GST  
Government of India Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs  
(GST Policy Wing)**

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New Delhi, the 7<sup>th</sup> July, 2017

To,

**The Principal Chief Commissioners / Chief Commissioners / Principal Commissioners/  
Commissioners of Central Tax (All)**

**Madam/Sir,**

**Subject: Issues related to Bond/Letter of Undertaking for exports without payment of integrated tax – Reg.**

1. Various communications have been received from the field formations and exporters that difficulties are being faced in complying with the procedure prescribed for making exports of goods and services without payment of integrated tax with respect to furnishing of bonds/Letter of Undertaking. Therefore, in exercise of powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017, for the purpose of uniformity in the implementation of the Act, these issues are being clarified hereunder.
2. As per rule 96A of the Central Goods and Services Tax Rules, 2017 ( The CGST Rules), any registered person exporting goods or services without payment of integrated tax is required to furnish a bond or a Letter of Undertaking (LUT) in FORM GST RFD-11.
3. Attention is invited to notification No. 16/2017-Central Tax dated 01-07-2017vide which the category of exporters who are eligible to export under LUT has been specified along with the conditions and safeguards. All exporters, not covered by the said notification, would submit bond. The procedure for submission and acceptance of bond has already been prescribed vide circular No. 2/2/2017-GSTdated 4<sup>th</sup> July, 2017.The bond shall be furnished on non-judicial stamp paper of the value as applicable in the State in which bond is being furnished.
4. A clarification has been sought as to whether bond to be furnished for exports is a running bond (with debit / credit facility) or a one-time bond (separate bond for each consignment / export). It is observed consignment wise bond would be a significant compliance burden on the exporters. It is directed that the exporters shall furnish a running bond, in case he is required to furnish a bond, in FORM GST RFD -11. The bond would cover the amount of tax involved in the export based on estimated tax liability as assessed by the

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exporter himself. The exporter shall ensure that the outstanding tax liability on exports is within the bond amount. In case the bond amount is insufficient to cover the tax liability in yet to be completed exports, the exporter shall furnish a fresh bond to cover such liability.

5. FORM RFD-11 under rule 96A of the CGST Rules requires furnishing a bank guarantee with bond. Field formations have requested for clarity on the amount of bank guarantee as a security for the bond. In this regard it is directed that the jurisdictional Commissioner may decide about the amount of bank guarantee depending upon the track record of the exporter. If Commissioner is satisfied with the track record of an exporter then furnishing of bond without bank guarantee would suffice. In any case the bank guarantee should normally not exceed 15% of the bond amount.

6. As regards LUT, it is clarified that it shall be valid for twelve months. If the exporter fails to comply with the conditions of the LUT he may be asked to furnish a bond. Exports may be allowed under existing LUTs/Bonds till 31<sup>st</sup> July 2017. Exporters shall submit the LUTs/bond in the revised format latest by 31<sup>st</sup> July, 2017.

7. It is further stated that the Bond/LUT shall be accepted by the jurisdictional Deputy/Assistant Commissioner having jurisdiction over the principal place of business of the exporter. The exporter is at liberty to furnish the bond/LUT before Central Tax Authority or State Tax Authority till the administrative mechanism for assigning of taxpayers to respective authority is implemented. However, if in a State, the Commissioner of State Tax so directs, by general instruction, to exporter, the Bond/LUT in all cases be accepted by Central tax officer till such time the said administrative mechanism is implemented. Central Tax officers are directed to take every step to facilitate the exporters.

8. Attention is further invited to circular No. 26/2017 – Customs dated 1<sup>st</sup> July 2017, vide which it has been clarified that the existing practice of sealing the container with a bottle seal under Central Excise supervision or otherwise would continue till 01<sup>st</sup> September, 2017. Such sealing shall be done under the supervision of the officer having physical jurisdiction over the place of business where the sealing is being done. A copy of the sealing report would be forwarded to the Deputy/Assistant Commissioner having jurisdiction over the principal place of business.

9. These instructions shall apply to exports on or after 1<sup>st</sup> July, 2017. It is requested that suitable trade notices may be issued to publicize the contents of this circular. Difficulty, if any, in the implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

-sd-

(Upender Gupta)  
Commissioner (GST)

Circular No. 5/5/2017-GST

**F. No. 349/82/2017-GST  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs  
GST Policy Wing**

New Delhi, Dated the 11<sup>th</sup> August, 2017

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/  
Commissioners of Central Tax (All)

The Principal Director Generals/Director Generals (All)

Madam/Sir,

**Subject: Clarification on issues related to furnishing of Bond/Letter of Undertaking for Exports-Reg.**

Please refer to Notification No. 16/2017 – GST dated 7<sup>th</sup> July, 2017 and Circular No. 2/2/2017 – GST dated 5<sup>th</sup> July, 2017 and Circular No. 4/4/2017 – GST dated 7<sup>th</sup> July, 2017. A large number of communications have been received from the field formations and exporters citing variation in the interpretation of above referred notification and circulars.

2. Therefore, in exercise of powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017, for the purpose of uniformity in the implementation of the Act, following issues are being clarified hereunder:

**(a) Eligibility to export under LUT:** Notification No. 16/2017 – Central Tax dated 7<sup>th</sup> July, 2017 specifies conditions to be fulfilled for export under Letter of Undertaking (LUT) in place of bond. In the extant Central Excise provisions, LUTs were limited to manufacturer exporters only. The intent of the said notification is to liberalize the facility of LUT and extend it to all kind of suppliers. It is hereby clarified that any registered person who has received a minimum foreign inward remittance of 10% of export turnover in the preceding financial year is eligible for availing the facility of LUT provided that the amount received as foreign inward remittance is not less than Rs. one crore. This means that only such exporters are eligible to LUT facilities who have received a remittance of Rs. one crore or 10% of export turnover, whichever is a higher amount, in the previous financial year. A few illustrations are as follows:

- i. An exporter had a turnover of Rs. 15 crore in the previous financial year. He would be eligible for LUT facility if remittance received against this export is Rs. 1.5 crore or more (10% of export turnover is more than Rs. 1 crore)

- ii. An exporter had a turnover of Rs. 5 crore in the previous financial year. He would be eligible for LUT facility if remittance received against this export is Rs. 1.0 crore or more (10% of export turnover is less than Rs. 1 crore)
- iii. An exporter has an export turnover of Rs. 2 crore. He has received Rs. 80 lacs as foreign inward remittances in FY 2016-17 which is 40% of the export turnover. He will not be eligible for LUT facility as remittance received is less than Rs. 1 crore.
- iv. An exporter has export turnover of Rs. 40crore. He has received Rs. 2 Crores as foreign inward remittances in FY 2016-17 which is 5% of the export turnover. He will not be eligible for LUT facility as remittance received is less than 10% of export turnover, even though it is in excess of Rs. 1 crore.
- v. An exporter has received Rs. 1 Crore 10 lacs as foreign inward remittances in FY 2016-17 which is 20% of the export turnover. In this scenario, he will be eligible for LUT facility.

It may however be noted that a status holder as specified in paragraphs 3.20 and 3.21 of the Foreign Trade Policy 2015-2020 is eligible for LUT facility regardless of whether he satisfies the above conditions.

**(b) Form for LUT:** Bonds are furnished on non-judicial stamp paper, while LUTs are generally submitted on the letterhead containing signature and seal of the person or the person authorized in this behalf as provided in said Notification.

**(c) Time for acceptance of LUT/Bond:** As LUT/bond is a *priori* requirement for export, including supplies to a SEZ developer or a SEZ unit, the LUT/bond should be processed on top most priority and should be accepted within a period of three working days from the date of submission of LUT/bond along with complete documents by the exporter.

**(d) Purchases from manufacturer and form CT-1:** It is learnt that there is lack of clarity about treatment of CT-1 form which was earlier used for purchase of goods by a merchant exporter from a manufacturer without payment of central excise duty. The scheme holds no relevance under GST since transaction between a manufacturer and a merchant exporter is in the nature of supply and the same has not been exempted under GST even on submission of LUT/bond. Therefore, such supplies would be subject to GST. The zero rating of exports, including supplies to SEZ, is allowed only with respect to supply by the actual exporter under LUT/bond or payment of IGST.

**(e) Transactions with EOUs:** Zero rating is not applicable to supplies to EOUs and there is no special dispensation for them. Therefore, supplies to EOUs are taxable under GST just like any other taxable supplies. The EOUs, to the extent of exports, are eligible for zero rating like any other exporter.

**(f) Forward inward remittance in Indian Rupee:** Various representations have been received with respect to receipts of proceeds of supplies in Indian Rupee especially with respect to exports to Nepal, Bhutan and SEZ developer/SEZ unit. Attention is invited to Para

A (v) Part-I of RBI Master Circular no. 14/2015-16 dated July 1, 2015 (updated as on November 5, 2015), which states *“there is no restriction on invoicing of export contracts in Indian Rupees in terms of the Rules, Regulations, Notifications and Directions framed under the Foreign Exchange Management Act 1999. Further, in terms of Para 2.52 of the Foreign Trade Policy (2015-2020), all export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realized in freely convertible currency. However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non-resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan”*.

Accordingly, it is clarified that acceptance of LUT instead of a bond for supplies of goods to Nepal or Bhutan or SEZ developer or SEZ unit will be permissible irrespective of whether the payments are made in Indian currency or convertible foreign exchange as long as they are in accordance with applicable RBI guidelines. It may also be noted that supply of services to SEZ developer or SEZ unit will also be permissible on the same lines. The supply of services, however, to Nepal or Bhutan will be deemed to be export of services only if the payment for such services is received by the supplier in convertible foreign exchange.

**(g) Bank guarantee:** Circular No. 4/4/2017 dated 7<sup>th</sup> July, 2017 provides that bank guarantee should normally not exceed 15% of the bond amount. However, the Commissioner may waive off the requirement to furnish bank guarantee taking into account the facts and circumstances of each case. It is expected that this provision would be implemented liberally. Some of the instances of liberal interpretation are as follows:

- i. an exporter registered with recognized Export Promotion Council can be allowed to submit bond without bank guarantee on submission of a self-attested copy of the proof of registration with a recognized Export Promotion Council
- ii. In the GST regime, registration is State-wise which means that the expression ‘registered person’ used in the said notification may mean different registered persons (distinct persons in terms of sub-section (1) of section 25 of the Act) if a person having one Permanent Account Number is registered in more than one State. It may so happen that a registered person may not satisfy the condition regarding foreign inward remittances in respect of one particular registration, because of splitting and accountal of receipts and turnover across different registered person with the same PAN. But the total amount of inward foreign remittances received by all the registered persons, having one Permanent Account Number, maybe Rs. 1 crore or more and it also maybe 10% or more of total export turnover. In such cases, the registered person can be allowed to submit bond without bank guarantee.

**(h) Jurisdictional officer:** It has been clarified in Circular Nos. 2/2/2017 – GST dated 4<sup>th</sup> July, 2017 and 4/4/2017 – GST dated 7<sup>th</sup> July, 2017 that Bond/LUT shall be accepted by the jurisdictional Deputy/Assistant Commissioner having jurisdiction over the principal place of business of the exporter. The exporter is at liberty to furnish the bond/LUT before Central Tax

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Authority or State Tax Authority till the administrative mechanism for assigning of taxpayers to respective authority is implemented. It is reiterated that the Central Tax officers shall facilitate all exporters whether or not the exporter was registered with the Central Government in the earlier regime.

(i) **Documents for LUT:** Documents submitted as proof of fulfilling the conditions of LUT shall be accepted unless there is any evidence to the contrary. Self-declaration shall be accepted unless there is specific information otherwise. For example, a self-declaration by the exporter to the effect that he has not been prosecuted should suffice for the purposes of notification No. 16/2017 - Central tax dated 7th July, 2017. Verification, if any, may be done on post facto basis.

Similarly, Status holder exporters have been given the facility of LUT under the said notification and a self-attested copy of the proof of Status should be sufficient.

(j) **Applicability of circulars on Bond/LUTs:** It is learnt that some field officers have inferred that the instructions given by the said circulars are effective in respect of exports made only from the date of its issue despite the fact that it has been categorically clarified specifically in the said circular (dated 7<sup>th</sup> July, 2017) that the instructions shall be applicable for exports on or after 1<sup>st</sup> July, 2017. It is reiterated that the instructions issued vide said circular and this circular are applicable to any export made on or after the 1<sup>st</sup> July 2017.

3. It is requested that suitable trade notices may be issued to publicize the contents of this circular.

4. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)  
Commissioner (GST)

Circular No.06/06/2017-CGST

To,

**F. No. 354/149/2017-TRU  
Government of India  
Ministry of Finance  
Department of Revenue  
Tax Research Unit**

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New Delhi, the 27<sup>th</sup> August, 2017

The Principal Chief Commissioner/Chief Commissioners/Principal Commissioner/  
Commissioner of Central Tax (All) / Director General of Systems

Madam/Sir,

**Subject: Issue related to classification and GST rate on lottery tickets – regarding**

Supply of lottery has been treated as supply of goods under the Central Goods and Services Tax (CGST) Act, 2017.

2. Accordingly, based on the recommendation of the GST Council, the GST rate for supply of lottery has been notified under relevant GST rate notification relating to CGST/IGST/UTGST/SGST. However, entries in the respective notifications mention classification for lottery as “-”.
3. In this connection, references have been received, *inter-alia*, stating that due to discrepancy in code allotted, i.e., lottery is defined as goods but code allotted for lottery is under services, the assessee are not able to upload return or deposit tax in time.
4. The matter has been examined. It should be noted that the process of filing return is linked with rate of tax specified for supply. Further, there is complete clarity about rate of tax on lotteries. As mentioned above, in GST, lottery is goods and the classification indicated in relevant notification for lottery is “-”, which means any chapter.
5. That being so, it is clarified that the classification for lottery in respective CGST, IGST, UTGST and SGST notifications shall be ‘Any Chapter’ of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and tax on lottery should be paid accordingly at prescribed rates, 12% or 28%, as the case may be.

(Ruchi Bisht)

Under Secretary (TRU)

Circular No. 8/8/2017-GST

**F. No. 349/74/2017-GST (Pt.) Vol.-II  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs  
GST Policy Wing**

New Delhi, Dated the 4<sup>th</sup> October, 2017

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/  
Commissioners of Central Tax (All)

The Principal Director Generals/Director Generals (All) Madam/Sir,

**Subject: Clarification on issues related to furnishing of Bond/Letter of Undertaking for exports**

In view of the difficulties being faced by the exporters in submission of bonds/Letter of Undertaking (LUT for short) for exporting goods or services or both without payment of integrated tax, Notification No. 37/2017 – Central Tax dated 4<sup>th</sup> October, 2017 has been issued which extends the facility of LUT to all exporters under rule 96A of the Central Goods and Services Tax Rules, 2017 (hereafter referred to as “the CGST Rules”) subject to certain conditions and safeguards. This notification has been issued in supersession of Notification No.

16/2017 – Central Tax dated 7<sup>th</sup> July, 2017 except as respects things done or omitted to be done before such supersession.

2. In the light of the new notification, three circulars in this matter, namely Circular No. 2/2/2017 – GST dated 5<sup>th</sup> July, 2017, Circular No. 4/4/2017 – GST dated 7<sup>th</sup> July, 2017 and Circular No. 5/5/2017 – GST dated 11<sup>th</sup> August, 2017, which were issued for providing clarity on the procedure to be followed for export under bond/LUT, now require revision and a consolidated circular on this matter is warranted. Accordingly, to ensure uniformity in the procedure in this regard, the Board, in exercise of its powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017 clarifies the following issues:

- (a) **Eligibility to export under LUT:** The facility of export under LUT has been now extended to all registered persons who intend to supply goods or services for export without payment of integrated tax except those who have been prosecuted for any offence under the CGST Act or the Integrated Goods and Services Tax Act, 2017 or any of the existing laws and the amount of tax evaded in such cases exceeds two hundred and fifty lakh rupees unlike Notification No. 16/2017-Central Tax dated 7<sup>th</sup> July, 2017



which extended the facility of export under LUT to status holder as specified in paragraph 5 of the Foreign Trade Policy 2015-2020 and to persons receiving a minimum foreign inward remittance of 10% of the export turnover in the preceding financial year which was not less than Rs. one crore.

- (b) **Validity of LUT:** The LUT shall be valid for the whole financial year in which it is tendered. However, in case the goods are not exported within the time specified in sub-rule (1) of rule 96A of the CGST Rules and the registered person fails to pay the amount mentioned in the said sub-rule, the facility of export under LUT will be deemed to have been withdrawn. If the amount mentioned in the said sub-rule is paid subsequently, the facility of export under LUT shall be restored. As a result, exports, during the period from when the facility to export under LUT is withdrawn till the time the same is restored, shall be either on payment of the applicable integrated tax or under bond with bank guarantee.
- (c) **Form for bond/LUT:** Till the time **FORM GST RFD-11** is available on the common portal, the registered person (exporters) may download the **FORM GST RFD-11** from the website of the Central Board of Excise and Customs ([www.cbec.gov.in](http://www.cbec.gov.in)) and furnish the duly filled form to the jurisdictional Deputy/Assistant Commissioner having jurisdiction over their principal place of business. The LUT shall be furnished on the letter head of the registered person, in duplicate, and it shall be executed by the working partner, the Managing Director or the Company Secretary or the proprietor or by a person duly authorised by such working partner or Board of Directors of such company or proprietor. The bond, wherever required, shall be furnished on non-judicial stamp paper of the value as applicable in the State in which the bond is being furnished.
- (d) **Documents for LUT:** Self-declaration to the effect that the conditions of LUT have been fulfilled shall be accepted unless there is specific information otherwise. That is, self-declaration by the exporter to the effect that he has not been prosecuted should suffice for the purposes of Notification No. 37/2017- Central Tax dated 4<sup>th</sup> October, 2017. Verification, if any, may be done on post-facto basis.
- (e) **Time for acceptance of LUT/Bond:** As LUT/Bond is *a priori* requirement for export, including exports to a SEZ developer or a SEZ unit, the LUT/bond should be processed on top most priority. It is clarified that LUT/bond should be accepted within a period of three working days of its receipt along with the self-declaration as stated in para 2(d) above by the exporter. If the LUT / bond is not accepted within a period of three working days from the date of submission, it shall deemed to be accepted.
- (f) **Bank guarantee:** Since the facility of export under LUT has been extended to all registered persons, bond will be required to be furnished by those persons who have been prosecuted for cases involving an amount exceeding Rupees two hundred and fifty lakhs. A bond, in all cases, shall be accompanied by a bank guarantee of 15% of the bond amount.
- (g) **Clarification regarding running bond:** The exporters shall furnish a running bond

where the bond amount would cover the amount of self-assessed estimated tax liability on the export. The exporter shall ensure that the outstanding integrated tax liability on exports is within the bond amount. In case the bond amount is insufficient to cover the said liability in yet to be completed exports, the exporter shall furnish a fresh bond to cover such liability. The onus of maintaining the debit / credit entries of integrated tax in the running bond will lie with the exporter. The record of such entries shall be furnished to the Central tax officer as and when required.

- (h) **Sealing by officers:** Till mandatory self-sealing is operationalized, sealing of containers, wherever required to be carried out under the supervision of the officer, shall be done under the supervision of the central excise officer having jurisdiction over the place of business where the sealing is required to be done. A copy of the sealing report would be forwarded to the Deputy/Assistant Commissioner having jurisdiction over the principal place of business.
- (i) **Purchases from manufacturer and Form CT-1:** It is clarified that there is no provision for issuance of CT-1 form which enables merchant exporters to purchase goods from a manufacturer without payment of tax under the GST regime. The transaction between a manufacturer and a merchant exporter is in the nature of supply and the same would be subject to GST.
- (j) **Transactions with EOUs:** Zero rating is not applicable to supplies to EOUs and there is no special dispensation for them under GST regime. Therefore, supplies to EOUs are taxable like any other taxable supplies. EOUs, to the extent of exports, are eligible for zero rating like any other exporter.
- (k) **Realization of export proceeds in Indian Rupee:** Attention is invited to para A (v) Part-I of RBI Master Circular No. 14/2015-16 dated 01<sup>st</sup> July, 2015 (updated as on 05<sup>th</sup> November, 2015), which states that *“there is no restriction on invoicing of export contracts in Indian Rupees in terms of the Rules, Regulations, Notifications and Directions framed under the Foreign Exchange Management Act, 1999. Further, in terms of Para 2.52 of the Foreign Trade Policy (2015-2020), all export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realized in freely convertible currency. However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non-resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan”*.

Accordingly, it is clarified that the acceptance of LUT for supplies of goods to Nepal or Bhutan or SEZ developer or SEZ unit will be permissible irrespective of whether the payments are made in Indian currency or convertible foreign exchange as long as they are in accordance with the applicable RBI guidelines. It may also be noted that the supply of services to SEZ developer or SEZ unit under LUT will also be permissible on the same lines. The supply of services, however, to Nepal or Bhutan will be deemed to

be export of services only if the payment for such services is received by the supplier in convertible foreign exchange.

- (l) **Jurisdictional officer:** In exercise of the powers conferred by sub-section (3) of section 5 of the CGST Act, it is hereby stated that the LUT/Bond shall be accepted by the jurisdictional Deputy/Assistant Commissioner having jurisdiction over the principal place of business of the exporter. The exporter is at liberty to furnish the LUT/bond before either the Central Tax Authority or the State Tax Authority till the administrative mechanism for assigning of taxpayers to the respective authority is implemented.
3. Circular No. 2/2/2017 – GST dated 5<sup>th</sup> July, 2017, Circular No. 4/4/2017 – GST dated 7<sup>th</sup> July, 2017 and Circular No. 5/5/2017 – GST dated 11<sup>th</sup> August, 2017 are hereby rescinded except as respects things already done or omitted to be done.
4. It is requested that suitable trade notices may be issued to publicize the contents of this circular.
5. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)  
Commissioner (GST)

Circular No 9/9/2017- GST

**F. No. 349/75/2017GST  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs  
(GST Policy Wing)**

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New Delhi, Dated the 18th October, 2017

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/  
Commissioners of Central tax (All)/ Commissioners of Central tax (Audit)/ Principal  
Director General of Goods and Services Tax Investigation/ Director General of  
Systems

Madam/Sir,

**Subject: Officer authorized for enrolling or rejecting application for Goods and  
Services Tax Practitioner–Reg.**

In pursuance of clause (91) of section 2 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) and subject to sub-section (2) of section 5 of the Central Goods and Services Tax Act, 2017, the Board, hereby specifies the Assistant Commissioner/Deputy Commissioner, having jurisdiction over the place declared as address in the application for enrolment as Goods and Service Tax Practitioner in FORM GST PCT-1 submitted in terms of sub-section (1) of section 48 of the Central Goods and Services Tax Act, 2017 read with sub-rule (2) of rule 83 of the Central Goods and Service Tax Rules, 2017 as the officer authorized to approve or reject the said application.

2. It is also clarified that the applicant shall be at liberty to choose either the Centre or the State as the enrolling authority. The choice will have to be specified by the applicant in Item 1 of Part B of FORM GST PCT-1.
3. It is requested that suitable trade notices may be issued to publicize the contents of this circular.
4. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)  
Commissioner (GST)

Circular No. 10/10/2017-GST

**CBEC - 20/16/03/2017-GST  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs  
GST Policy Wing**

New Delhi, dated 18<sup>th</sup> October, 2017

To,

The Principal Chief Commissioners/Chief Commissioners/Principal  
Commissioners/ Commissioners of Central Tax (All)

The Principal Director Generals/ Director Generals (All)

Madam/Sir,

**Subject: Clarification on issues wherein the goods are moved within the State or  
from the State of registration to another State for supply on approval basis –  
Reg.**

Various communications have been received particularly from the suppliers of jewellery etc. who are registered in one State but may have to visit other States (other than their State of registration) and need to carry the goods (such as jewellery) along for approval. In such cases if jewellery etc. is approved by the buyer, then the supplier issues a tax invoice only at the time of supply. Since the suppliers are not able to ascertain their actual supplies beforehand and while ascertainment of tax liability in advance is a mandatory requirement for registration as a casual taxable person, the supplier is not able to register as a casual taxable person. It has also been represented that such goods are also carried within the same State for the purposes of supply. Therefore, in exercise of the powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017, for the purpose of uniformity in the implementation of the Act, it has been decided to clarify this matter as follows -

2. It is seen that clause (c) of sub-rule (1) of rule 55 of the Central Goods and Services Tax Rules, 2017 (hereafter referred as "the said Rules") provides that the supplier shall issue a delivery challan for the initial transportation of goods where such transportation is for reasons other than by way of supply. Further, sub-rule (3) of the said rule also provides that the said delivery challan shall be declared as specified in rule 138 of the said Rules. It is also seen that sub-rule (4) of rule 55 of the said Rules provides that "*Where the goods being transported are for the purpose of supply to the recipient but the tax invoice could not be issued at the time of removal of goods for the purpose of supply, the supplier shall issue a tax invoice after delivery of goods*".

## **Circulars**

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3. A combined reading of the above provisions indicates that the goods which are taken for supply on approval basis can be moved from the place of business of the registered supplier to another place within the same State or to a place outside the State on a delivery challan along with the e-way bill wherever applicable and the invoice may be issued at the time of delivery of goods. For this purpose, the person carrying the goods for such supply can carry the invoice book with him so that he can issue the invoice once the supply is fructified.
4. It is further clarified that all such supplies, where the supplier carries goods from one State to another and supplies them in a different State, will be inter-state supplies and attract integrated tax in terms of Section 5 of the Integrated Goods and Services Tax Act, 2017.
5. It is also clarified that this clarification would be applicable to all goods supplied under similar situations.
6. It is requested that suitable trade notices may be issued to publicize the contents of this circular.
7. Difficulty, if any, in the implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)  
Commissioner (GST)

**Circular No. 11/11/2017-GST**

**F. No. 354/263/2017-TRU  
Government of India  
Ministry of Finance  
Department of Revenue  
Tax Research Unit**

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**North Block, New Delhi  
20<sup>th</sup> October 2017**

To

The Principal Chief Commissioners/Chief Commissioners/ Principal Commissioners/  
Commissioner of Central Tax (All) /The Principal Director Generals/ Director Generals  
(All)

Madam/Sir,

Subject: Clarification on taxability of printing contracts

Requests have been received to clarify whether supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc., printed with design, logo, name, address or other contents supplied by the recipient of such supplies, would constitute supply of goods falling under Chapter 48 or 49 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) or supply of services falling under heading 9989 of the scheme of classification of services annexed to notification No. 11/2017-CT(R).

2. In the above context, it is clarified that supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc. printed with logo, design, name, address or other contents supplied by the recipient of such printed goods, are composite supplies and the question, whether such supplies constitute supply of goods or services would be determined on the basis of what constitutes the principal supply.

3. Principal supply has been defined in Section 2(90) of the Central Goods and Services Tax Act as supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.

4. In the case of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore such supplies would constitute supply of service falling under heading 9989 of the scheme of classification of services.

## **Circulars**

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5. In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc. falling under Chapter 48 or 49, printed with design, logo etc. supplied by the recipient of goods but made using physical inputs including paper belonging to the printer, predominant supply is that of goods and the supply of printing of the content [supplied by the recipient of supply] is ancillary to the principal supply of goods and therefore such supplies would constitute supply of goods falling under respective headings of Chapter 48 or 49 of the Customs Tariff.

6. Difficulty if any, in the implementation of the circular should be brought to the notice of the Board. Hindi version would follow.

Yours Faithfully,

Rachna  
Technical Officer (TRU)  
Email: [rachna.irs@gov.in](mailto:rachna.irs@gov.in)



**Circular No. 12/12/2017-GST**

**F.No.354/117/2017-TRU (Pt-III)  
Government of India  
Ministry of Finance  
Department of Revenue  
(Tax Research Unit)**

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**North Block, New Delhi  
Dated 26<sup>th</sup> October, 2017**

To

Principal Chief Commissioners/Principal Directors General, Chief Commissioners/  
Directors General, Principal Commissioners/Commissioners, All under CBEC.

Madam/Sir,

Subject: Clarification regarding applicability of GST on the superior kerosene oil [SKO] retained for the manufacture of Linear Alkyl Benzene [LAB]– Regarding.

Briefly stated, references have been received related to applicability of GST on the superior kerosene oil [SKO] retained for the manufacture of Linear Alkyl Benzene [LAB].

2. In this context, LAB manufacturers have stated that they receive superior Kerosene oil (SKO) from, a refinery, say, Indian Oil Corporation (IOC). They extract n-Paraffin (C9-C13 hydrocarbons) from SKO and return back the remaining of SKO to the refinery. In this context, the issue has arisen as to whether in this transaction GST would be levied on SKO sent by IOC for extracting n-paraffin or only on the n-paraffin quantity extracted by the LAB manufactures. Further, doubt have also been raised as to whether the return of remaining Kerosene by LAB manufactures would separately attract GST in such transaction.

3. The matter was examined. LAB manufacturers generally receive superior kerosene oil [SKO] from a refinery through a dedicated pipeline; on an average about 15 to 17% of the total quantity of SKO received from refinery is retained and balance quantity ranging from 83%-

85% is returned back to refinery. The retained SKO is towards extraction of Normal Paraffin, which is used in the manufacturing of LAB. In this transaction consideration is paid by LAB manufactures only on the quantity of retained SKO (n-paraffin).

4. In this context, the GST Council in its 22<sup>nd</sup> meeting held on 06.10.2017 discussed the issue and recommended for issuance of a clarification that in this transaction GST will be payable by the refinery on the value of net quantity of superior kerosene oil (SKO) retained for the manufacture of Linear Alkyl Benzene (LAB).

5. Accordingly, it is here by clarified that, in aforesaid case, GST will be payable by the refinery only on the net quantity of superior kerosene oil (SKO) retained for the manufacture of

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Linear Alkyl Benzene (LAB). Though, refinery would be liable to pay GST on such returned quantity of SKO, when the same is supplied by it to any other person.

6. This clarification is issued in the context of Goods & Service Tax (GST) law only and past issues, if any, will be dealt in accordance with the law prevailing at the material time.

Yours faithfully,

(Amit Kumar Singh)  
Technical Officer (TRU)  
Email: amitsingh.1289@gov.in

**Circular No. 14/14 /2017 – GST**

**F. No. 349/21/2016 GST (Policy Wing)  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs  
GST Policy Wing**

New Delhi, dated the 6<sup>th</sup> November, 2017

To,

The Principal Chief Commissioners / Chief Commissioners / Principal Commissioners /  
Commissioners of Central Tax (All)

The Principal Director Generals / Director Generals (All)

Madam/Sir,

Sub - Procedure regarding procurement of supplies of goods from DTA by Export Oriented Unit (EOU) / Electronic Hardware Technology Park (EHTP) Unit / Software Technology Park (STP) Unit / Bio-Technology Parks (BTP) Unit under deemed export benefits under section 147 of CGST Act, 2017 – reg.

In accordance with the decisions taken by the GST Council in its 22<sup>nd</sup> meeting held on 06.10.2017 at New Delhi to resolve certain difficulties being faced by exporters post- GST, it has been decided that supplies of goods by a registered person to EOUs etc. would be treated as deemed exports under Section 147 of the CGST Act, 2017 (hereinafter referred to as 'the Act') and refund of tax paid on such supplies can be claimed either by the recipient or supplier of such supplies. Accordingly, Notification No. 48/2017-Central Tax dated 18.10.2017 has been issued to treat such supplies to EOU / EHTP / STP / BTP units as deemed exports. Further, rule 89 of the CGST Rules, 2017 (hereinafter referred to as 'the Rules') has been amended vide Notification No. 47/2017- Central Tax dated 18.10.2017 to allow either the recipient or supplier of such supplies to claim refund of tax paid thereon.

2. For supplies to EOU / EHTP / STP / BTP units in terms of Notification No. 48/2017-Central Tax dated 18.10.2017, the following procedure and safeguards are prescribed -

- (i) The recipient EOU / EHTP / STP / BTP unit shall give prior intimation in a prescribed proforma in "Form-A" (appended herewith) bearing a running serial number containing the goods to be procured, as pre-approved by the Development Commissioner and the details of the supplier before such deemed export supplies are made. The said intimation shall be given to –
  - (a) the registered supplier;

## **Circulars**

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- (b) the jurisdictional GST officer in charge of such registered supplier; and
    - (c) its jurisdictional GST officer.
  - (ii) The registered supplier thereafter will supply goods under tax invoice to the recipient EOU / EHTP / STP / BTP unit.
  - (iii) On receipt of such supplies, the EOU / EHTP / STP / BTP unit shall endorse the tax invoice and send a copy of the endorsed tax invoice to –
    - (a) the registered supplier;
    - (b) the jurisdictional GST officer in charge of such registered supplier; and
    - (c) its jurisdictional GST officer.
  - (iv) The endorsed tax invoice will be considered as proof of deemed export supplies by the registered person to EOU / EHTP / STP / BTP unit.
  - (v) The recipient EOU / EHTP / STP / BTP unit shall maintain records of such deemed export supplies in digital form, based upon data elements contained in "Form-B" (appended herewith). The software for maintenance of digital records shall incorporate the feature of audit trail. While the data elements contained in the Form-B are mandatory, the recipient units will be free to add or continue with any additional data fields, as per their commercial requirements. All recipient units are required to enter data accurately and immediately upon the goods being received in, utilized by or removed from the said unit. The digital records should be kept updated, accurate, complete and available at the said unit at all times for verification by the proper officer, whenever required. A digital copy of Form-B containing transactions for the month, shall be provided to the jurisdictional GST officer, each month (by the 10th of month) in a CD or Pen drive, as convenient to the said unit.
3. The above procedure and safeguards are in addition to the terms and conditions to be adhered to by a EOU / EHTP / STP / BTP unit in terms of the Foreign Trade Policy, 2015-20 and the duty exemption notification being availed by such unit.
4. It is requested that suitable trade notices may be issued to publicize the contents of this circular.
5. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)  
Commissioner (GST)

**Form – A**

(Intimation for procurement of supplies from the registered person by Export Oriented Unit (EOU)/Electronic Hardware Technology Park (EHTP) Unit/ Software Technology Park (STP) unit/ Bio-Technology Parks (BTP) Unit under deemed export benefits under section 147 of CGST Act,2017 read with Notification No . \_\_\_\_\_ 48/2017-Central Tax dated 18.10.2017)

(as per Circular \_\_\_\_\_ dated \_\_\_\_\_)

Running Sr. No. of intimation and Date \_\_\_\_\_

LOP No. \_\_\_\_\_ and valid upto \_\_\_\_\_.

GSTIN \_\_\_\_\_

We the, M/s ..... Name of EOU/EHTP/STP/BTP unit and address) wish to procure the Goods namely(Tariff description, Quantity and value) ....., as allowed under Foreign Trade Policy and Handbook of Procedures 2015-2020, and approved by Development Commissioner from M/s ..... (Name of supplier, address and Goods & Services Tax Identification Number(GSTIN)). Such supplies on receipt would be used in manufacturing of goods or rendering services by us. We would also abide by procedure set out in Circular no. .... dated .....

Signatures of the owner of EOU/EHTP/STP/BTP unit or  
his Authorised officer

To:

1. The GST officer having Jurisdiction over the EOU/EHTP/STP/BTP unit.
2. The GST officer having Jurisdiction over the registered person intending to supply the goods.
3. The registered person intending to supply goods to EOU/EHTP/STP/BTP unit.

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### FORM- B

For the month of.....

Form to be maintained by EOU/EHTP/STP/BTP unit for the receipt, use and removal of goods received under deemed export benefit under section 147 of CGST Act,2017 read with Notification No. 48/2017-Central Tax dated 18.10.2017.

(as per Circular ..... dated.....)

Name of EOU/EHTP/STP/BTP unit and address

GSTIN No.

Address of Jurisdiction GST Officer

Sr. No.	Date of prior intimation given for procuring deemed export supplies	Details of registered person			Jurisdictional GST officer details of registered person		Invoice no. and date of registered person		Details of supplies received			Amount of GST paid by supplier				Date of sending endorsed copy of tax invoice by EOU
		Name	Address	GSTIN	Designation	Jurisdictional Identifier such as Division name/No.	No. of Invoice	Date	Description	Value	Quantity	Central tax	State Tax / Union territory Tax	Integrated tax	Cesses	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17

Removal for processing			Remarks (The goods removed for processing shall be accounted in a manner that enables the verification of input-output norms, extent of waste, scrap generated etc.)	Other removals/Returns				Balance in stock	
Date & time of Removal	Quantity	value		Purpose of removal	Date & time	Quantity	value	Quantity	Value
18	19	20	21	22	23	24	25	26	27

**Circular No.15 /15/2017 - GST**

**F.No. 349/164/2017-GST  
Government of India  
Ministry of Finance Department of Revenue  
Central Board of Excise and Customs  
GST Policy Wing**

To,

New Delhi, Dated the 6<sup>th</sup> November, 2017

The Principal Chief Commissioners / Chief Commissioners / Principal Commissioners /  
Commissioners of Central Tax (All)  
The Principal Director Generals / Director Generals (All)

Madam/Sir,

Sub-Due date for generation of FORM GSTR-2A and FORM GSTR-1A in accordance  
with the extension of due date for filing FORM GSTR-1 and GSTR-2 respectively – reg.

Please refer to Notification No. 30/2017-Central Tax dated 11<sup>th</sup> September 2017, and  
Notification 54/2017-Central Tax, dated 30<sup>th</sup> October, 2017 whereby the dates for filing FORM  
GSTR-1, FORM GSTR-2 and FORM GSTR-3 for the month of July, 2017 were extended.  
Queries have been received regarding the due dates for the generation of FORM GSTR-2A  
and FORM GSTR-1A in light of the said extension of dates. Therefore, in exercise of the  
powers conferred by sub-section (1) of section 168 of the Central Goods and Services Tax  
Act, 2017 (hereinafter referred to as 'the Act'), for the purpose of uniformity in the  
implementation of the Act, the following is clarified:

1. Sub-section (1) of section 37 of the Act read with sub-rule (3) of rule 59 of the CGST  
Rules, 2017 (hereinafter referred to as 'the Rules') provides that the details furnished in FORM  
GSTR-1 by the supplier shall be made available electronically to the registered person  
(hereinafter referred to as 'the recipient') in FORM GSTR-2A after the due date for filing of  
FORM GSTR-1. Sub-section (2) of Section 38 read with sub-rule (1) of rule 60 of the said  
Rules provides for furnishing of details in FORM- GSTR-2 after the 10<sup>th</sup> but before the 15<sup>th</sup> of  
the month succeeding the tax period. Further, sub-section (1) of section 38 read with sub-rule  
(1) of rule 60 provides that on the basis of the details contained in FORM GSTR-2A, the  
recipient shall prepare and furnish the details of inward supply in FORM GSTR-2 after  
verifying, validating, modifying or deleting, the details, if required. Since the due dates for  
furnishing the details in FORM GSTR-1 and FORM GSTR-2 have been extended, it is hereby  
clarified that the due date of FORM GSTR-2A is also extended. The details furnished in FORM  
GSTR-1 are available to the recipient in FORM GSTR-2A from 11<sup>th</sup> of October, 2017. These

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details are also available in FORM GSTR-2 and can be verified, validated, modified or deleted to prepare details in FORM GSTR-2 which is required to be furnished not later than the 30<sup>th</sup> November, 2017. It is further clarified that the details in FORM GSTR-2A are also available in his FORM GSTR-2 and the recipient may take necessary action on the same, prior to furnishing the details in his FORM GSTR-2. FORM GSTR-2A is a read-only document made available to the recipient electronically so that he has a record of all the invoices received from various suppliers during a given tax period.

2. Sub-section (3) of section 38 of the Act read with sub-rule (4) of rule 59 of the Rules provides that the details of inward supplies added, corrected or deleted by the recipient in FORM GSTR-2 shall be made available to the concerned supplier electronically in FORM GSTR-1A. Further, sub-section (2) of section 37 of the Act read with sub-rule (4) of rule 59 of the Rules provides that once these details are made available electronically through the common portal to the supplier in FORM GSTR-1A, the supplier shall either accept or reject the modifications made by the recipient on or before the 17<sup>th</sup> day of the month succeeding the tax period but not before the 15<sup>th</sup> day, and accordingly, FORM GSTR-1 shall stand amended to the extent of modifications accepted by the supplier. In this regard, it is hereby clarified that as the dates for furnishing the details in FORM GSTR-1 and FORM GSTR-2 have been extended, the due date for furnishing of FORM GSTR-1A for July 2017 is also extended. Therefore, the details in FORM GSTR-1A shall be made available to the supplier from the 1<sup>st</sup> of December to the 6<sup>th</sup> of December, 2017 for the month of July 2017.

3. It is requested that suitable trade notices may be issued to publicize the contents of this circular.

4. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)  
Commissioner (GST)



Circular No. 16/16/2017-GST

**F. No. 354/173/2017-TRU**

Government of India  
Ministry of Finance  
Department of Revenue  
Tax research Unit

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North Block, New Delhi

15<sup>th</sup> November 2017

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/  
Commissioner of Central Tax (All) / The Principal Director Generals/ Director Generals  
(All)

Madam/Sir,

**Subject: Clarifications regarding applicability of GST and availability of ITC in  
respect of certain services**

I am directed to issue clarification with regard to certain issues brought to the notice of  
Board as under:

S.No.	Issue	Comment
1.	Is GST applicable on warehousing of agricultural produce such as tea (i.e. black tea, white tea etc.), processed coffee beans or powder, pulses (de-husked or split), jaggery, processed spices, processed dry fruits, processed cashew nuts etc.?	<p>1. As per GST notification No. 11/2017-Central Tax (Rate), S.No. 24 and notification No. 12/2017- Central Tax (Rate), S.No. 54, dated 28<sup>th</sup> June 2017, the GST rate on loading, unloading packing, storage or warehousing of agricultural produce is Nil.</p> <p>2. Agricultural produce in the notification has been defined to mean "any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market"</p> <p>3. Tea used for making the beverage, such as black tea, green tea, white tea is a processed product made in tea factories after carrying out several processes, such as</p>

		<p>drying, rolling, shaping, refining, oxidation, packing etc. on green leaf and is the processed output of the same.</p> <p>4. Thus, green tea leaves and not tea is the “agricultural produce” eligible for exemption available for loading, unloading, packing, storage or warehousing of agricultural produce. Same is the case with coffee obtained after processing of coffee beans.</p> <p>5. Similarly, processing of sugarcane into jaggery changes its essential characteristics. Thus, jaggery is also not an agricultural produce.</p> <p>6. Pulses commonly known as dal are obtained after dehusking or splitting or both. The process of de- husking or splitting is usually not carried out by farmers or at farm level but by the pulse millers. Therefore pulses (dehusked or split) are also not agricultural produce. However whole pulse grains such as whole gram, rajma etc. are covered in the definition of agricultural produce.</p> <p>7. In view of the above, it is hereby clarified that processed products such as tea (i.e. black tea, white tea etc.), processed coffee beans or powder, pulses (de- husked or split), jaggery, processed spices, processed dry fruits, processed cashew nuts etc. fall outside the definition of agricultural produce given in notification No. 11/2017-CT(Rate) and 12/2017-CT(Rate) and corresponding notifications issued under IGST and UGST Acts and therefore the exemption from GST is not available to their loading, packing, warehousing etc. and that any clarification issued in the past to the contrary in the context of Service Tax or VAT/ Sales Tax is no more relevant.</p>
2.	Is GST leviable on inter-state transfer of aircraft engines, parts and accessories for use by their own airlines?	<p>1. Under Schedule I of the CGST Act, supply of goods or services or both between related persons or between distinct persons as specified in Section 25, when made in the course or furtherance of business, even if, without consideration, attracts GST.</p> <p>2. It is hereby clarified that credit of GST paid on aircraft engines, parts &amp; accessories will be available for discharging GST on inter-state supply of such aircraft engines, parts &amp; accessories by way of inter-state stock</p>

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		transfers between distinct persons as specified in section 25 of the CGST Act, notwithstanding that credit of input tax charged on consumption of such goods is not allowed for supply of service of transport of passengers by air in economy class at GST rate of 5%.
3.	Is GST leviable on General Insurance policies provided by a State Government to employees of the State government/ Police personnel, employees of Electricity Department or students of colleges/ private schools etc. (a) where premium is paid by State Government and (b) where premium is paid by employees, students etc.?	It is hereby clarified that services provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union territory are exempt from GST under Sl. No. 40 of notification No. 12/2017-Central Tax (Rate). Further, services provided by State Government by way of general insurance (managed by government) to employees of the State government/ Police personnel, employees of Electricity Department or students are exempt vide entry 6 of notification No. 12/2017- CT(R) which exempts Services by Central Government, State Government, Union territory or local authority to individuals.

2. Difficulty if any, in the implementation of this circular may be brought to the notice of the Board.

Yours Faithfully,

Rachna  
Technical Officer (TRU)  
Email: [rachna.irs@gov.in](mailto:rachna.irs@gov.in)

Circular No. 17/17/2017 - GST

**F. No. 349/169/2017-GST  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs  
GST Policy Wing**

New Delhi, Dated the 15<sup>th</sup> November, 2017

To,

The Principal Chief Commissioners / Chief Commissioners / Principal Commissioners/  
Commissioners of Central Tax (All)

The Principal Director Generals / Director Generals (All)

Madam/Sir,

**Sub – Manual filing and processing of refund claims in respect of zero-rated  
supplies - reg.**

Due to the non-availability of the refund module on the common portal, it has been decided by the competent authority, on the recommendations of the Council, that the applications/documents/forms pertaining to refund claims on account of zero-rated supplies shall be filed and processed manually till further orders. Therefore, in exercise of the powers conferred by sub-section (1) of section 168 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'the CGST Act') and for the purpose of ensuring uniformity, the following conditions and procedure are laid down for the manual filing and processing of the refund claims:

2.1 As per sub-section (3) of section 16 of the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as 'the IGST Act') read with clause (i) of sub-section (3) and sub-section (6) of section 54 of the CGST Act and rules 89 to 96A of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as 'the CGST Rules'), a registered person may make zero-rated supplies of goods or services or both on payment of integrated tax and claim refund of the tax so paid, or make zero-rated supplies of goods or services or both under bond or Letter of Undertaking without payment of integrated tax and claim refund of unutilized input tax credit in relation to such zero rated supplies.

2.2. The refund of integrated tax paid on goods exported out of India is governed by rule 96 of the CGST Rules. The shipping bill filed by an exporter shall be deemed to be an application for refund in such cases. The application shall be deemed to have been filed only when export manifest or export report is filed and the applicant has furnished a valid return in **FORM GSTR-3** or **FORM GSTR-3B**, as the case may be. Upon receipt of the information regarding furnishing of a valid return in **FORM GSTR-3** or **FORM GSTR-3B**, as the case may be, from the common portal, the system designated by the Customs shall process the claim for refund

and an amount equal to the integrated tax paid in respect of such export shall be electronically credited to the bank account of the applicant. Any order regarding withholding of such refund or its further sanction respectively in PART-B of **FORM GST RFD-07** or **FORM GST RFD-06** shall be done manually till the refund module is operational on the common portal.

2.3 The application for refund of integrated tax paid on zero-rated supply of goods to a Special Economic Zone developer or a Special Economic Zone unit or in case of zero-rated supply of services (that is, except the cases covered in paragraph 2.2 above and para 2.4 below) is required to be filed in **FORM GST RFD-01A** (as notified in the CGST Rules vide notification No. 55/2017 – Central Tax dated 15.11.2017) by the supplier on the common portal and a print out of the said form shall be submitted before the jurisdictional proper officer along with all necessary documentary evidences as applicable (as per the details in statement 2 or 4 of Annexure to **FORM GST RFD – 01**), within the time stipulated for filing of such refund under the CGST Act.

2.4 The application for refund of unutilized input tax credit on inputs or input services used in making such zero-rated supplies shall be filed in **FORM GST RFD-01A** on the common portal and the amount claimed as refund shall get debited in accordance with sub-rule (3) of rule 86 of the CGST Rules from the amount in the electronic credit ledger to the extent of the claim. The common portal shall generate a proof of debit (ARN- Acknowledgement Receipt Number) which would be mentioned in the **FORM GST RFD-01A** submitted manually, along with the print out of **FORM GST RFD-01A** to the jurisdictional proper officer, and with all necessary documentary evidences as applicable (as per details in statement 3 or 5 of Annexure to **FORM GST RFD-01**), within the time stipulated for filing of such refund under the CGST Act.

2.5 The registered person needs to file the refund claim with the jurisdictional tax authority to which the taxpayer has been assigned as per the administrative order issued in this regard by the Chief Commissioner of Central Tax and the Commissioner of State Tax. In case such an order has not been issued in the State, the registered person is at liberty to apply for refund before the Central Tax Authority or State Tax Authority till the administrative mechanism for assigning of taxpayers to respective authority is implemented. However, in the latter case, an undertaking is required to be submitted stating that the claim for sanction of refund has been made to only one of the authorities. It is reiterated that the Central Tax officers shall facilitate the processing of the refund claims of all registered persons whether or not such person was registered with the Central Government in the earlier regime.

2.6 Once such a refund application in **FORM GST RFD-01A** is received in the office of the jurisdictional proper officer, an entry shall be made in a refund register to be maintained for this purpose with the following details –

Table 1

Sl. No.	Applicant's name	GSTIN	Date of receipt of application	Period to which the claim pertains	Nature of refund- Refund of integrated tax paid/Refund of unutilized ITC	Amount of refund claimed	Date of issue of acknowledgment in FORM GST RFD-02	Date of receipt of complete application (as mentioned in FORM GST RFD-02)
1	2	3	4	5	6	7	8	9

2.7 Further, all communication in regard to the FORMS mentioned below shall be done manually, within the timelines as specified in the relevant rules, till the module is operational on the common portal, and all such communications shall also be recorded appropriately in the refund register as discussed in the succeeding paragraphs –

Sl. No.	FORM	Details	Relevant provision of the CGST Rules, 2017
1.	<b>FORM GST RFD-02</b>	Acknowledgement	Rules 90(1) and 90(2)
2.	<b>FORM GST RFD-03</b>	Deficiency memo	Rule 90(3)
3.	<b>FORM GST RFD-04</b>	Provisional refund order	Rule 91(2)
4.	<b>FORM GST RFD-05</b>	Payment advice	Rules 91(3), 92(4), 92(5) and 94
5.	<b>FORM GST RFD-06</b>	Refund sanction/Rejection order	Rules 92(1), 92(3), 92(4), 92(5) and 96(7)
6.	<b>FORM GST RFD-07</b>	Order for complete adjustment/withholding of sanctioned refund	Rules 92(1), 92(2) and 96(6)
7.	<b>FORM GST RFD-08</b>	Notice for rejection of application for refund	Rule 92(3)
8.	<b>FORM GST RFD-09</b>	Reply to show cause notice	Rule 92(3)

2.8 The processing of the claim till the provisional sanction of refund shall be recorded in the refund register as in the table indicated below :

Table 2

Date of Issue of Deficiency Memo in FORM GST RFD-03	Date of receipt of reply from the applicant	Date of issue of provisional refund order in FORM GST-RFD-04	Amount of refund claimed	Amount of provisional refund sanctioned				Date of issue of Payment Advice in FORM GST RFD-05
				CT	ST/UTT	IT	Cess	
1	2	3	4	5	6	7	8	9

2.9 After the sanction of provisional refund, the claim shall be processed and the final order issued within sixty days of the date of receipt of the complete application form. The process shall be recorded in the refund register as in the table indicated below -

Table 3

Date of issue of notice, if any for rejection of refund in FORM GST RFD-08	Date of receipt of reply, if any to SCN in FORM GST RFD-09	Date of issue of Refund sanction/rejection order in FORM GST RFD-06	Total amount of refund sanctioned				Date of issue of Payment Advice in FORM GST RFD-05	Amount of refund rejected				Date of issue of order for adjustment of sanctioned refund/ withholding refund in FORM GST RFD-07
			CT	ST/UTT	IT	Cess		CT	ST/UTT	IT	Cess	
1	2	3	4	5	6	7	8	9	10	11	12	13

2.10 After the refund claim is processed in accordance with the provisions of the CGST Act and the rules made thereunder and where any amount claimed as refund is rejected under rule 92 of the CGST Rules, either fully or partly, the amount debited, to the extent of rejection, shall be re-credited to the electronic credit ledger by an order made in **FORM GST PMT-03**. The amount would be credited by the proper officer using **FORM GST RFD-01B** (as notified in the CGST Rules vide notification No. 55/2017 – Central Tax dated 15.11.2017) subject to the provisions of rule 93 of the CGST Rules.

3. For the sake of clarity and uniformity the entire process of filing and processing of refunds manually is tabulated as below:

## 3.1 Filing of Refund Claims:

Sl. No.	Category of Refund	Process of Filing
1.	Refund of IGST paid on export of goods	No separate application is required as shipping bill itself will be treated as application for refund.
2.	Refund of IGST paid on export of services/ zero rated supplies to SEZ units or SEZ developers	Printout of <b>FORM GST RFD-01A</b> needs to be filed manually with the jurisdictional GST officer (only at one place - Centre or State) along with relevant documentary evidences, wherever applicable.
3.	Refund of unutilized input tax credit due to the accumulation of credit of tax paid on inputs or input services used in making zero-rated supplies of goods or services or both	<b>FORM GST RFD-01A</b> needs to be filed on the common portal. The amount of credit claimed as refund would be debited in the electronic credit ledger and proof of debit needs to be generated on the common portal. Printout of the <b>FORM GST RFD- 01A</b> needs to be submitted before the jurisdictional GST officer along with necessary documentary evidences, wherever applicable.

## 3.2 Steps to be followed for processing of Refund Claims:

Three different refund registers are to be maintained for record keeping of the manually sanctioned refunds – for receipts, sanction of provisional refunds and sanction of final refunds. The steps are as follows:

Step No.	Action to be Taken
Step-1	Entry to be made in the Refund register for receipt of refund applications
Step-2	Check for completeness of application as well as availability of the supporting documents in totality. Once completeness in all respects is ascertained, acknowledgement in <b>FORM GST RFD-02</b> shall be issued within 15 days from the date of filing of the application and entry shall be made in the Refund register for receipt of refund applications
Step-3	<ul style="list-style-type: none"> <li>All communications (issuance of deficiency memo, issuance of provisional and final refund orders, payment advice etc.) shall be done in the format prescribed in the Forms appended to the CGST Rules, and shall be done manually (i.e. not on the common portal) within the timelines prescribed in</li> </ul>



	<p>the rules;</p> <ul style="list-style-type: none"> <li>Processing for grant of provisional refund shall be completed within 7 days as per the CGST Rules and details to be maintained in the register for provisional refunds. Bifurcation of the taxes to be refunded under CGST (CT) /SGST (ST) /UTGST (UT) /IGST (IT)/Cess shall be maintained in the register mandatorily;</li> <li>After the sanction of the provisional refund, final order is to be issued within sixty days (after due verification of the documentary evidences) of the date of receipt of the complete application form. The details of the finally sanctioned refund and rejected portion of the refund along with the breakup (CT / ST / UT / IT/ Cess) to be maintained in the final refund register;</li> <li>The amount not sanctioned and eligible for re-credit is to be re- credited to the electronic credit ledger by an order made in <b>FORM GST PMT-03</b>. The actual credit of this amount will be done by the proper officer in <b>FORM GST RFD-01B</b>.</li> </ul>
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### 3.3 Detailed procedure for manual processing of refund claims:

The detailed procedure for disposal of Refund claims filed manually is as under:

MANUAL PROCESSING OF REFUND		
STEPS	REMARKS	LEGAL PROVISIONS
Filing of refund application in <b>FORM GST RFD- 01A</b> online on the common portal (only when refund of unutilized ITC is claimed)	<ul style="list-style-type: none"> <li>The corresponding electronic credit ledger of CT / ST / UT / IT/ Cess would get debited and an ARN number would get generated.</li> </ul>	Rule 89
Filing of printout of <b>FORMGST RFD-01A</b>	<ul style="list-style-type: none"> <li>The printout of the ARN along with application of refund shall be submitted manually in the appropriate jurisdiction.</li> <li>This form needs to be accompanied with the requisite documentary evidences. This Form shall contain the debit entry in the electronic credit ledger of the amount claimed as refund in <b>FORM GST RFD-01A</b>.</li> </ul>	<p>Rule 89(1) – Application</p> <p>Rule 89(2)–Requisite Documents</p> <p>Rule 89(3) – Debiting of electronic credit ledger</p>
Initial scrutiny of the Documents	<ul style="list-style-type: none"> <li>The proper officer shall validate the GSTIN details on</li> </ul>	Rule 90(2) – 15 day

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by the proper officer	<p>the portal to validate whether return in <b>FORM GSTR-3</b> or <b>FORM GSTR- 3B</b>, as the case may be, has been filed. A declaration is required to be submitted by the claimant that no refund has been claimed against the relevant invoices.</p> <ul style="list-style-type: none"> <li>• Deficiencies, if any, in documentary evidences are to be ascertained and communicated in <b>FORM GST RFD-03</b> within 15 days of filing of the refund application.</li> <li>• Deficiency Memo should be complete in all respects and only one Deficiency Memo shall be given.</li> <li>• Submission of application after Deficiency Memo shall be treated as a fresh application.</li> <li>• Resubmission of the application, after rectifying the deficiencies pointed out in the Deficiency memo, shall be made by using the ARN and debit entry number generated originally.</li> <li>• If the application is not filed afresh within thirty days of the communication of the deficiency memo, the proper officer shall pass an order in <b>FORM GST PMT-03</b> and re-credit the amount claimed as refund through <b>FORM GST RFD-01B</b>.</li> </ul>	<p>time for scrutiny</p> <p>Rule 90(3) – Issuance of Deficiency memo</p> <p>Rule 90(3) – Fresh refund application requirement</p> <p>Rule 93(1) – re- credit of refund amount applied for</p>
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<p>Issue acknowledgement manually within 15 days in <b>FORM GST RFD-02</b></p>	<ul style="list-style-type: none"> <li>• The date of submission of application for which acknowledgement has been given will be considered as the date for ensuring whether the refund application has been sanctioned within the stipulated time period.</li> </ul>	<p>Rule 90(2) Acknowledgement</p>
<p>Grant of provisional refund within seven days of issue of acknowledgement</p>	<ul style="list-style-type: none"> <li>• The amount of provisional refund shall be calculated taking into account the total input tax credit, without making any reduction for credit being provisionally accepted.</li> <li>• Provisional refund shall be granted separately for each head CT/ST/UT/ IT/ Cess within 7 days of acknowledgement in <b>FORM GST RFD-04</b>.</li> <li>• Before sanction of the refund a declaration shall be obtained that the applicant has not contravened rule 91(1).</li> <li>• Payment advice to be issued in <b>FORM GST RFD-05</b>.</li> <li>• Refund would be made directly in the bank account mentioned in the registration.</li> </ul>	<p>Rule 91(1) – Requirement of no prosecution for last 5 years</p> <p>Rule 91(2) – Prima facie satisfaction, seven day requirement</p> <p>Rule 91(3) – Payment advice, electronic credit to bank account</p>

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Detailed scrutiny of the refund application along with submitted documents	<ul style="list-style-type: none"> <li>• The officer shall validate refund statement details with details in FORM GSTR 1 (or Table 6A of FORM GSTR-1) available on the common portal.</li> <li>• The Shipping bill details shall be checked by officer through ICEGATE SITE (<a href="http://www.icegate.gov.in">www.icegate.gov.in</a>) wherein the officer would be able to check details of EGM and shipping bill by keying in port name, Shipping bill number and date.</li> <li>• Further, details of IGST paid also needs to be verified from <b>FORM GSTR- 3</b> or <b>FORM GSTR- 3B</b>, as the case may be, filed by the applicant and it needs to be verified that the refund amount claimed shall be less than the tax paid on account of zero rated supplies as per <b>FORM GSTR-3</b> or <b>FORM GSTR- 3B</b>, as the case may be.</li> <li>• Ascertain what amount may be sanctioned finally and see whether any adjustments against any outstanding liability is required (<b>FORM GST RFD-07</b> – Part A).</li> <li>• Ascertain what amount of the input tax credit is sanctionable, and amount of refund, if any, liable to be withheld.</li> <li>• Order needs to be passed in <b>FORM GST RFD-07</b>– Part B.</li> </ul>	<p>Rule 89(4) – Refund Amount Calculation</p> <p>Rule 92(1) – Any adjustments made in the amount against existing demands</p> <p>Rule 92(2) – reasons for withholding of refunds</p>
If the sanction-able amount is	<ul style="list-style-type: none"> <li>• Notice has to be issued to</li> </ul>	Rule 92(3) – Notice

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less than the applied amount	<p>the applicant in <b>FORM GST RFD-08</b>.</p> <ul style="list-style-type: none"> <li>• The applicant has to reply within 15 days of receipt of the notice in <b>FORM GST RFD-09</b>.</li> <li>• Principles of natural justice to be followed before making the final decision.</li> <li>• Final order to be made in <b>FORM GST RFD-06</b>.</li> </ul>	<p>for refund not admissible / payable</p> <p>Rule 92(3) – Requirement of reply to the notice within 15 days</p> <p>Rule 92(3), 92(4), 92(5) – Sanction of Refund order</p>
Pre-Audit	<ul style="list-style-type: none"> <li>• Pre-audit of the manually processed refund applications is not required to be carried out, irrespective of the amount involved, till separate detailed guidelines are issued.</li> <li>• Post-audit of the orders may however continue on the basis of extant guidelines.</li> </ul>	
Final sanction of refund	<p>The proper officer shall issue the refund order manually for each head i.e. CT / ST / UT / IT/ Cess.</p> <ul style="list-style-type: none"> <li>• Amount paid provisionally needs to be adjusted accordingly.</li> <li>• Payment advice is to be made in <b>FORM GST RFD-05</b>.</li> <li>• The amount of credit rejected has to be re-credited to the credit ledger by an order in <b>FORM GST PMT-03</b> and shall be intimated to the common portal in <b>FORM GST RFD-01B</b>.</li> <li>• Refund, if any, will be paid by an order with payment advice in <b>FORM GST RFD-05</b>.</li> <li>• The details of the refund</li> </ul>	<p>Rule 92(3), 92(4), 92(5) - Sanction of Refund order</p> <p>Rule 92(4), 92(5) - Payment advice issue</p>

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	along with taxpayer bank account details shall be manually submitted in PFMS/ [States'] system by the jurisdictional Division's DDO and a signed copy of the sanction order shall be sent to PAO office for release of payment.	
Payment of interest if any	<ul style="list-style-type: none"><li>• Amount, if any, will be paid by an order with payment advice in <b>FORM GST RED-05</b>.</li></ul>	Rule 94

4. The refund application for various taxes i.e. CT / ST / UT / IT/ Cess can be filed with any one of the tax authorities and shall be processed by the said authority, however the payment of the sanctioned refund amount shall be made only by the respective tax authority of the Centre or State government. In other words, the payment of the sanctioned refund amount in relation to CT / IT / Cess shall be made by the Central tax authority while payment of the sanctioned refund amount in relation to ST / UT would be made by the State tax/Union territory tax authority. It therefore becomes necessary that the refund order issued either by the Central tax authority or the State tax/UT tax authority is communicated to the concerned counter-part tax authority within three days for the purpose of payment of the relevant sanctioned refund amount of tax or cess, as the case may be.

5. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

6. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)  
Commissioner (GST)

Circular No. 18/18 /2017-GST

F. No. 354/320/2017-TRU-Pt.I  
Government of India  
Ministry of Finance  
Department of Revenue  
Tax research Unit

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North Block, New Delhi  
16<sup>th</sup> November 2017

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/  
Commissioner of Central Tax (All) / The Principal Director Generals/ Director Generals  
(All)

Madam/Sir,

**Subject: Clarification on refund of unutilized input tax credit of GST paid on inputs  
in respect of exporters of fabrics - regarding.**

Doubts have been raised regarding the restrictions of refund of unutilized input tax credit of GST paid on inputs to manufacturer exporters of fabrics [falling under chapters 50 to 55 and 60 and headings 5608, 5801, 5806] under GST.

2.1 The matter has been examined. In this context, subsection 3 of section 54 of the CGST Act, 2017 provides as under:

"(3) Subject to the provisions of sub-section (10), a registered person may claim refund of any unutilised input tax credit at the end of any tax period:

Provided that no refund of unutilised input tax credit shall be allowed in cases other than—

- (i) zero rated supplies made without payment of tax;
- (ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council.

2.2 Based on the recommendations of the GST Council, Notification No. 5/2017-Central Tax (Rate) dated 28.06.2017 [as amended from time to time] has been issued under clause (ii) of the proviso to sub-section (3) of section 54 of the CGST Act, 2017 restricting refund of unutilised input tax credit of GST paid on inputs in respect of certain specified goods, including input tax credit of GST paid on inputs.

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2.3 However, the aforesaid notification having been issued under clause (ii) of the proviso to sub-section (3) of section 54 of the CGST Act, 2017, restriction on refund of unutilised input tax credit of GST paid on inputs will not be applicable to zero rated supplies, that is (a) exports of goods or services or both; or (b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.

2.4 Accordingly, as regards export of fabrics it is clarified that, subject to the provisions of sub-section (10) of the section 54 of the CGST Act, 2017, a manufacturer of such fabrics will be eligible for refund of unutilized input tax credit of GST paid on inputs [other than the input tax credit of GST paid on capital goods] in respect of fabrics manufactured and exported by him.

3. Difficulty, if any, in the implementation of this circular should be brought to the notice of the Board.

Yours faithfully

Rariil Gupta  
Technical Officer (TRU)



Circular No. 19/19/2017-GST

**F. No. 354/263/2017-TRU  
Government of India  
Ministry of Finance  
Department of Revenue  
Tax research Unit**

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**North Block, New Delhi  
20th November 2017**

To,

The Principal Chief Commissioners/Chief Commissioners/ Principal Commissioners/  
Commissioner of Central Tax (All)/The Principal Director Generals/ Director Generals  
(All)

Madam/Sir,

**Subject: Clarification on taxability of custom milling of paddy - regarding.**

Representations have been received seeking clarification on whether custom milling of paddy by Rice millers for Civil Supplies Corporation is liable to GST or is exempted under S. No 55 of Notification 12/2017 - Central Tax (Rate) dated 28th June 2017.

2. The matter has been examined. S. No 55 of Notification 12/2017- Central Tax (Rate) exempts carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce. Agricultural produce has been defined in the notification to mean, any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market. Job work has been defined under section 2 (68) of the CGST Act to mean any treatment or process undertaken by a person on goods belonging to another registered person. Further, under Schedule II (para 3) of the CGST Act, any treatment or process which is applied to another person's goods is a supply of service.

3. Milling of paddy is not an intermediate production process in relation to cultivation of plants. It is a process carried out after the process of cultivation is over and paddy has been harvested. Further, processing of paddy into rice is not usually carried out by cultivators but by rice millers. Milling of paddy into rice also changes its essential characteristics. Therefore, milling of paddy into rice cannot be considered as an intermediate production process in relation to cultivation of plants for food, fibre or other similar products or agricultural produce.

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4. In view of the above, it is clarified that milling of paddy into rice is not eligible for exemption under S. No 55 of Notification 12/2017 - Central Tax (Rate) dated 28th June 2017 and corresponding notifications issued under IGST and UTGST Acts.
5. GST rate on services by way of job work in relation to all food and food products falling under Chapters 1 to 22 has been reduced from 18% to 5% vide notification No. 31/2017-CT(R) [notification No. 11/2017-CT (Rate) dated 28.6.17, S.No. 26 refers]. Therefore, it is hereby clarified that milling of paddy into rice on job work basis, is liable to GST at the rate of 5%, on the processing charges (and not on the entire value of rice).
6. Difficulty if any, in the implementation of the circular should be brought to the notice of the Board. Hindi version would follow.

Yours Faithfully,

Susanta Mishra  
Technical Officer (TRU)  
Email: susanta.mishra87@gov.in

Circular No. 21/21/2017-GST

**F. No. 354/320/2017-TRU (Pt )**  
**Government of India**  
**Ministry of Finance**  
**Department of Revenue**  
**Tax Research Unit**

**North Block, New Delhi**  
**Dated the 22nd of November, 2017**

To,

The Principal Chief Commissioner/Chief Commissioners/ Principal Commissioner/  
Commissioner of Central Tax (All) / Director General of Systems

**Subject: Clarification on Inter-state movement of rigs, tools and spares, and all goods on wheels [like cranes]- regarding.**

The issue of IGST exemption on inter-state movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the Central Goods and Services Tax Act, 2017, carrying goods or passengers or both; or for repairs and maintenance, [except in cases where such movement is for further supply of the same conveyance] was examined and a circular 1/1/2017-IGST dated 7.7.2017, was issued clarifying that such interstate movement shall be treated "neither as a supply of goods nor supply of service" and therefore would not be leviable to IGST.

2. The issue pertaining to inter-state movement of rigs, tools and spares, and all goods on wheels [like cranes] was discussed in GST Council's meeting held on 10th November, 2017 and the Council recommended that the circular 1/1/2017-IGST shall mutatis mutandis apply to inter-state movement of such goods, and except in cases where movement of such goods is for further supply of the same goods, such inter-state movement shall be treated 'neither as a supply of goods or supply of service,' and consequently no IGST would be applicable on such movements.

3. In this context, it is also reiterated that applicable CGST/SGST/IGST, as the case maybe, is leviable on repairs and maintenance done for such goods.

4. Difficulty if any, in the implementation of the circular should be brought to the notice of the Board. Hindi version would follow.

(Ruchi Bisht)  
Under Secretary (TRU)

Circular No.24/24/2017-GST

**F. No. 349/58/2017-GST  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs  
GST Policy Wing**

New Delhi, dated the 21<sup>st</sup> December, 2017

To,

The Principal Chief Commissioners / Chief Commissioners / Principal Commissioners /  
Commissioners of Central Tax (All)

The Principal Director Generals / Director Generals (All)

Madam/Sir,

**Sub – Manual filing and processing of refund claims on account of inverted duty structure, deemed exports and excess balance in electronic cash ledger- Reg.**

Due to the non-availability of the refund module on the common portal, it has been decided by the competent authority, on the recommendations of the Council, that the applications/documents/forms pertaining to refund claims on account of inverted duty structure (including supplies in terms of notification Nos. 40/2017-Central Tax (Rate) and 41/2017-Integrated Tax (Rate) both dated 23.10.2017), deemed exports and excess balance in electronic cash ledger shall be filed and processed manually till further orders. In this regard, the Board, in exercise of its powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017 hereby clarifies that the provisions of Circular No. 17/17/2017-GST dated 15.11.2017 shall also be applicable to the following types of refund inasmuch as they pertain to the method of filing of the refund claim and its processing which is consistent with the relevant provisions of the CGST Act, 2017 (hereafter referred to as 'the CGST Act') and the CGST Rules, 2017 (hereafter referred to as 'the CGST Rules'):-

- (i) refund of unutilized input tax credit where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies) of goods or services or both except those supplies which are notified by the Government on the recommendations of the Council (section 54(3) of the CGST Act refers);
- (ii) refund of tax on the supply of goods regarded as deemed exports; and
- (iii) refund of balance in the electronic cash ledger.

2.0 It is clarified that refund claims in respect of zero-rated supplies and on account of inverted duty structure, deemed exports and excess balance in electronic cash ledger shall be filed for a tax period on a monthly basis in **FORM GST RFD-01A**. However, in case

registered persons having aggregate turnover of up to Rs1.5 crore in the preceding financial year or the current financial year are opting to file **FORM GSTR-1** quarterly (notification No. 57/2017-Central Tax dated 15.11.2017 refers), such persons shall apply for refund on a quarterly basis. Further, it is stated that the refund claim for a tax period may be filed only after filing the details in **FORM GSTR-1** for the said tax period. It is also to be ensured that a valid return in **FORM GSTR-3B** has been filed for the last tax period before the one in which the refund application is being filed. Since the date of furnishing of **FORM GSTR 1** from July, 2017 onwards has been extended while the dates of furnishing of **FORM GSTR 2** and **FORM GSTR 3** for such period are yet to be notified, it has been decided by the competent authority to sanction refund of provisionally accepted input tax credit at this juncture. However, the registered persons applying for refund must give an undertaking to the effect that the amount of refund sanctioned would be paid back to the Government with interest in case it is found subsequently that the requirements of clause (c) of sub-section (2) of section 16 read with sub-section (2) of sections 42 of the CGST Act have not been complied with in respect of the amount refunded. This undertaking should be submitted manually along with the refund claim till the same is available in FORM RFD-01A on the common portal.

3.0 In case of refund claim arising due to inverted duty structure, the following statements- Statement 1 and Statement 1A of **FORM GST RFD-01A** have to be filled:-

**Statement-1 [rule 89(5)]**

Refund Type: ITC accumulated due to inverted tax structure [clause (ii) of first proviso to section 54(3)]

(Amount in Rs.)

Turnover of inverted rated supply of goods	Tax payable on such inverted rated supply of goods	Adjusted total turnover	Net input tax credit	Maximum refund amount to be claimed [(1×4÷3)-2]
1	2	3	4	5

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### Statement 1A [rule 89(2)(h)]

Refund type: ITC accumulated due to inverted tax structure [clause (ii) of first proviso to section 54(3)]

Sl. No.	Details of invoices of inward supplies received			Tax paid on inward supplies			Details of invoices of outward supplies issued			Tax paid on outward supplies		
	No.	Date	Taxable Value	Integrated Tax	Central Tax	State / Union territory Tax	No.	Date	Taxable Value	Integrated Tax	Central Tax	State / Union territory Tax
1	2	3	4	5	6	7	8	9	10	11	12	13

4.0 Whereas, the Government has issued notification No. 48/2017-Central Tax dated 18.10.2017 under section 147 of the CGST Act wherein certain supplies of goods have been notified as deemed export. Further, the third proviso to rule 89(1) of the CGST Rules allows the recipient or the supplier to apply for refund of tax paid on such deemed export supplies. In case such refund is sought by the supplier of deemed export supplies, the documentary evidences as specified in notification No. 49/2017-Central Tax dated 18.10.2017 are also required to be furnished which includes an undertaking by the recipient of deemed export supplies that he shall not claim the refund in respect of such supplies and that no input tax credit on such supplies has been availed of by him. The undertaking should be submitted manually along with the refund claim. Similarly, in case the refund is filed by the recipient of deemed export supplies, an undertaking by the supplier of deemed export supplies that he shall not claim the refund in respect of such supplies is also required to be furnished manually. The procedure regarding procurement of supplies of goods from DTA by Export Oriented Unit (EOU) / Electronic Hardware Technology Park (EHTP) Unit / Software Technology Park (STP) Unit / Bio-Technology Parks (BTP) Unit under deemed export as laid down in Circular No. 14/14/2017-GST dated 06.11.2017 needs to be complied with.

4.1 Further, as per the provisions of rule 89(2)(g) of the CGST Rules, the following statement 5B of **FORM GST RFD-01A** is required to be furnished for claiming refund on supplies declared as deemed exports:-

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### Statement 5B [rule 89(2)(g)]

Refund type: On account of deemed exports

(Amount in Rs)

Sl. No.	Details of invoices of outward supplies in case refund is claimed by supplier/ Details of invoices of inward supplies in case refund is claimed by recipient			Tax paid			
	No.	Date	Taxable Value	Integrated Tax	Central Tax	State/Union Territory Tax	Cess
1	2	3	4	5	6	7	8

5.0 It is reiterated that para 2.5 of Circular No. 17/17/2017-GST dated 15.11.2017 may be referred to in order to ascertain the jurisdictional proper officer to whom the manual application for refund is to be submitted. Where any amount claimed as refund is rejected under rule 92 of the CGST Rules, either fully or partly, the amount debited, to the extent of rejection, shall be re-credited to the electronic credit ledger by an order made in FORM GST RFD-1B until the FORM GST PMT-03 is available on the common portal. Further, the payment of the sanctioned refund amount shall be made only by the respective tax authority of the Central or State Government. Thus, the refund order issued either by the Central tax authority or the State tax/UT tax authority shall be communicated to the concerned counterpart tax authority within seven working days for the purpose of payment of the relevant sanctioned refund amount of tax or cess, as the case may be. This time limit of seven working days is also applicable to refund claims in respect of zero-rated supplies being processed as per Circular No. 17/17/2017-GST dated 15.11.2017 as against the time limit of three days prescribed in para 4 of the said Circular. It must be ensured that the timelines specified under section 54(7) and rule 91(2) of the CGST Rules for the sanction of refund are adhered to.

6.0 In order to facilitate sanction of refund amount of central tax and State tax by the respective tax authorities, it has been decided that both the Central and State Tax authority shall nominate nodal officer(s) for the purpose of liaisoning through a dedicated e-mail id. Where the amount of central tax and State tax refund is ordered to be sanctioned provisionally by the Central tax authority and a sanction order is passed in accordance with the provisions of rule 91(2) of the CGST Rules, the Central tax authority shall communicate the same, through the nodal officer, to the State tax authority for making payment of the sanctioned refund amount in relation to State tax and vice versa. The aforesaid communication shall primarily be made through e-mail attaching the scanned copies of the

## Circulars

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sanction order [FORM GST RFD-04 and FORM GST RFD-06], the application for refund in FORM GST RFD-01A and the Acknowledgement Receipt Number (ARN). Accordingly, the jurisdictional proper officer of Central or State Tax, as the case may be, shall issue FORM GST RFD-05 and send it to the DDO for onward transmission for release of payment. After release of payment by the respective PAO to the applicant's bank account, the nodal officer of Central tax and State tax authority shall inform each other. The manner of communication as referred earlier shall be followed at the time of final sanctioning of the refund also.

7.0 In case of refund claim for the balance amount in the electronic cash ledger, upon filing of **FORM GST RFD-01A** as per the procedure laid down in para 2.4 of Circular No. 17/17/2017-GST dated 15.11.2017, the amount of refund claimed shall get debited in the electronic cash ledger.

8.0 It is also clarified that the drawback of all taxes under GST (Central Tax, Integrated Tax, State/Union Territory Tax) should not have been availed while claiming refund of accumulated ITC under section 54(3)(ii) of the CGST Act. A declaration to this effect forms part of FORM GST RFD-01A as well.

9.0 It is requested that suitable trade notices may be issued to publicize the contents of this circular.

10.0 Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board.

11.0 Hindi version would follow.

(Upender Gupta)  
Commissioner (GST)



Circular No. 25/25/2017-GST

**F. No. 275/22/2017-CX.8A  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs  
GST Policy Wing**

New Delhi, dated 21<sup>st</sup> December, 2017

To,

Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/  
Commissioner of Central Tax (All) Principal Director Generals/  
Director Generals (All)

**Sub: Manual filing of applications for Advance Ruling and appeals before Appellate Authority for Advance Ruling - reg**

As per rules 104 and 106 of the CGST Rules, 2017 (hereinafter referred to as "the CGST Rules") the application for obtaining an advance ruling and filing an appeal against an advance ruling shall be made by the applicant on the common portal. However, due to the unavailability of the requisite forms on the common portal, a new rule 107A has been inserted vide notification No. 55/2017-Central Tax, dated 15.11.2017, which states that in respect of any process or procedure prescribed in Chapter XII, any reference to electronic filing of an application, intimation, reply, declaration, statement or electronic issuance of a notice, order or certificate on the common portal shall, in respect of that process or procedure, include the manual filing of the said application, intimation, reply, declaration, statement or issuance of the said notice, order or certificate in such Forms as appended to the CGST Rules.

2. Therefore, in exercise of the powers conferred by sub-section (1) of section 168 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'the CGST Act') on the recommendations of the Council and for the purpose of ensuring uniformity in the processing of such manual applications till the advance ruling module is made available on the common portal, the following conditions and procedure are prescribed for the manual filing and processing of the applications.

**Form and Manner of Application to the Authority for Advance Ruling**

3. An application for obtaining an advance ruling under sub-section (1) of section 97 of the CGST Act and the rules made thereunder, shall be made in quadruplicate, in FORM GST ARA-01. The application shall clearly state the question on which the advance ruling is sought. The application shall be accompanied by a fee of five thousand rupees which is to be deposited online by the applicant, in the manner specified under section 49 of the CGST Act. It is reiterated that though the application shall be filed manually till the advance ruling module is made available on the common portal, the fee is required to be deposited online in terms of

section 49 of the CGST Act.

4. In order to make the payment of fee for filing an application for Advance Ruling on the common portal, the applicant has to fill his details using “Generate User ID for Advance Ruling” under “User Services”. After entering the email id and mobile number, a One Time Password (OTP) shall be sent to the email id. Upon submission of OTP, Systems shall generate a temporary ID and send it to the declared email and mobile number of the applicant. On the basis of this ID, the applicant can make the payment of the fee of Rs. 5,000/- each under the CGST and the respective SGST Act. The applicant is then required to download and take a print of the challan and file the application with the Authority for Advance Ruling.

5. The application, the verification contained therein and all the relevant documents accompanying such application shall be signed-

- (a) in the case of an individual, by the individual himself or where he is absent from India, by some other person duly authorised by him in this behalf, and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;
- (b) in the case of a Hindu Undivided Family, by a Karta and where the Karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family or by the authorised signatory of such Karta;
- (c) in the case of a company, by the Chief Executive Officer or the authorised signatory thereof;
- (d) in the case of a Government or any Governmental agency or local authority, by an officer authorised in this behalf;
- (e) in the case of a firm, by any partner thereof, not being a minor or the authorised signatory thereof;
- (f) in the case of any other association, by any member of the association or persons or the authorised signatory thereof;
- (g) in the case of a trust, by the trustee or any trustee or the authorised signatory thereof; or
- (h) in the case of any other person, by some person competent to act on his behalf, or by a person authorised in accordance with the provisions of section 48 of the CGST Act.

### **Form and Manner of Appeal to the Appellate Authority for Advance Ruling**

6. An appeal against the advance ruling issued under sub-section (6) of section 98 of the CGST Act and the rules made thereunder shall be made by an applicant in quadruplicate, in FORM GST ARA-02 and shall be accompanied by a fee of ten thousand rupees to be deposited online, in the manner specified in section 49 of the CGST Act. It is reiterated that though the application shall be filed manually till the advance ruling module is made available on the common portal, the fee is required to be deposited online in terms of section 49 of the

## **Circulars**

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CGST Act. The payment of fee shall be made as detailed in para 4 above.

7. An appeal made by the concerned officer or the jurisdictional officer referred to in section 100 of the CGST Act and the rules made thereunder shall be filed in quadruplicate, in FORM GST ARA-03 and no fee shall be payable by the said officer for filing the appeal. As per section 100 (2) of the CGST Act, the appeal shall be filed within a period of thirty days from the date on which the ruling sought to be appealed against is communicated to the applicant or the concerned officer or the jurisdictional officer, as the case maybe.

8. The appeal, the verification contained therein and all the relevant documents accompanying such appeal shall be signed-

- (a) in the case of the concerned officer or jurisdictional officer, by an officer authorised in writing by such officer; and
- (b) in the case of an applicant, in the manner specified in Para 5 above.

9. The application for advance ruling or the appeal before the Appellate Authority shall be filed in the jurisdictional office of the respective State Authority for Advance Ruling or the State Appellate Authority for Advance Ruling respectively.

10. If the space provided for answering any item in the Forms is found to be insufficient, separate sheets may be used. Further, the application, the verification appended thereto, the Annexures to the application and the statements and documents accompanying the Annexures must be self-attested.

11. It is requested that suitable trade notices may be issued to publicize the contents of this circular.

12. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board.

13. Hindi version would follow.

(Upender Gupta)  
Commissioner (GST)

Circular No. 27/01/2018-GST

**F. No. 354/107/2017-TRU**

Government of India  
Ministry of Finance  
Department of Revenue  
Tax research Unit

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**North Block, New Delhi**

**04<sup>th</sup> January 2018**

To,

The Principal Chief Commissioners/Chief Commissioners/ Principal Commissioners/  
Commissioner of Central Tax (All) / The Principal Director Generals/  
Director Generals (All)

Madam/Sir,

Subject: Clarifications regarding levy of GST on accommodation services, betting and gambling in casinos, horse racing, admission to cinema, homestays, printing, legal services etc. – Reg.

Representations were received from trade and industry for clarification on certain issues regarding levy of GST on supply of services.

2. In this context, it is stated that the following clarifications, *inter-alia*, were published as FAQ at <http://www.cbec.gov.in/resources/htdocs-cbec/gst/om-clarification.pdf>.

S.No.	Questions/ Clarifications sought	Clarifications
1	<ol style="list-style-type: none"><li>1. Will GST be charged on actual tariff or declared tariff for accommodation services?</li><li>2. What will be GST rate if cost goes up (more than declared tariff) owing to additional bed.</li><li>3. Where will the declared tariff be published?</li><li>4. Same room may have different tariff at different times depending on season or flow of tourists as per dynamic pricing. Which rate to be used then?</li></ol>	<ol style="list-style-type: none"><li>1. Declared or published tariff is relevant only for determination of the tax rate slab. GST will be payable on the actual amount charged (transaction value).</li><li>2. GST rate would be determined according to declared tariff for the room, and GST at the rate so determined would be levied on the entire amount charged from the customer. For example, if the declared tariff is Rs. 7000 per unit per day but the amount charged from the customer on account of extra bed is Rs. 8000,</li></ol>

	<p>5. If tariff changes between booking and actual usage, which rate will be used?</p> <p>6. GST at what rate would be levied if an upgrade is provided to the customer at a lower rate?</p>	<p>GST shall be charged at 18% on Rs. 8000.</p> <p>3. Tariff declared anywhere, say on the websites through which business is being procured or printed on tariff card or displayed at the reception will be the declared tariff. In case different tariff is declared at different places, highest of such declared tariffs shall be the declared tariff for the purpose of levy of GST.</p> <p>4. In case different tariff is declared for different seasons or periods of the year, the tariff declared for the season in which the service of accommodation is provided shall apply.</p> <p>5. Declared tariff at the time of supply would apply.</p> <p>6. If declared tariff of the accommodation provided by way of upgrade is Rs 10000, but amount charged is Rs 7000, then GST would be levied @ 28% on Rs 7000/-.</p>
2	<p>Vide notification No. 11/2017-Central Tax (Rate) dated the 28th June 2017 entry 34, GST on the service of admission into casino under Heading 9996 (Recreational, cultural and sporting services) has been levied @ 28%. Since the Value of supply rule has not specified the method of determining taxable amount in casino, Casino Operators have been informed to collect 28% GST on gross amount collected as admission charge or entry fee. The method of levy adopted needs to be clarified.</p>	<p>Relevant part of entry 34 of the said CGST notification reads as under:</p> <p><i>"Heading 9996 (Recreational, cultural and sporting services) - ...</i></p> <p><i>(iii) Services by way of admission to entertainment events or access to amusement facilities including exhibition of cinematograph films, theme parks, water parks, joy rides, merry-go rounds, go- carting, <b>casinos</b>, race-course, ballet, any sporting event such as Indian Premier League and the like. - 14%</i></p> <p><i>(iv)...</i></p> <p><i>(v) Gambling. - 14 %"</i></p> <p>As is evident from the notification, "entry to casinos" and "gambling" are two</p>

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		different services, and GST is leviable at 28% on both these services (14% CGST and 14% SGST) on the value determined as per section 15 of the CGST Act. Thus, GST @ 28% would apply on entry to casinos as well as on betting/ gambling services being provided by casinos on the transaction value of betting, i.e. the total bet value, in addition to GST levy on any other services being provided by the casinos (such as services by way of supply of food/ drinks etc. at the casinos). Betting, in pre-GST regime, was subjected to betting tax on full bet value.
3	The provision in rate schedule notification No. 11/2017-Central Tax (Rate) dated the 28th June 2017 does not clearly state the tax base to levy GST on horse racing. This may be clarified.	GST would be leviable on the entire bet value i.e. total of face value of any or all bets paid into the totalisator or placed with licensed book makers, as the case may be. Illustration: If entire bet value is Rs. 100, GST leviable will be Rs. 28/-.
4	<ol style="list-style-type: none"> <li>Whether for the purpose of entries at Sl. Nos. 34(ii) [admission to cinema] and 7(ii)(vi)(viii) [Accommodation in hotels, inns, etc.], of notification 11/2017-CT (Rate) dated 28th June 2017, price/ declared tariff includes the tax component or not?</li> <li>Whether rent on rooms provided to in-patients is exempted? If liable to tax, please mention the entry of CGST Notification 11/2017-CT(Rate)</li> <li>What will be the rate of tax for bakery items supplied where eating place is attached - manufacturer for the purpose of composition levy?</li> </ol>	<ol style="list-style-type: none"> <li>Price/ declared tariff does not include taxes.</li> <li>Room rent in hospitals is exempt.</li> <li>Any service by way of serving of food or drinks including by a bakery qualifies under section 10 (1) (b) of CGST Act and hence GST rate of composition levy for the same would be 5%.</li> </ol>
5	Whether homestays providing accommodation through an Electronic Commerce Operator, below threshold	Notification No. 17/2017-Central Tax (Rate), has been issued making ECOs liable for payment of GST in case of

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	limit are exempt from taking registration?	accommodation services provided in hotels, inns guest houses or other commercial places meant for residential or lodging purposes provided by a person having turnover below Rs. 20 lakhs (Rs. 10 lakhs in special category states) per annum and thus not required to take registration under section 22(1) of CGST Act. Such persons, even though they provide services through ECO, are not required to take registration in view of section 24(ix) of CGST Act, 2017.
6	<p>To clarify whether supply in the situations listed below shall be treated as a supply of goods or supply of service:</p> <ol style="list-style-type: none"> <li>1. The books are printed/ published/ sold on procuring copyright from the author or his legal heir. [e.g. White Tiger Procures copyright from Ruskin Bond]</li> <li>2. The books are printed/ published/ sold against a specific brand name. [e.g. Manorama Year Book]</li> <li>3. The books are printed/ published/ sold on paying copyright fees to a foreign publisher for publishing Indian edition (same language) of foreign books. [e.g. Penguin (India) Ltd. pays fees to Routledge (London)] The books are printed/ published/ sold on paying copyright fees to a foreign publisher for publishing Indian language edition (translated). [e.g. Ananda Publishers Ltd. pays fees to Penguin (NY)]</li> </ol>	The supply of books shall be treated as supply of goods as long as the supplier owns the books and has the legal rights to sell those books on his own account.
7	Whether legal services other than representational services provided by an individual advocate or a senior	Yes. In case of legal services including representational services provided by an advocate including a senior advocate to a

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	advocate to a business entity are liable for GST under reverse charge mechanism?	business entity, GST is required to be paid by the recipient of the service under reverse charge mechanism, i.e. the business entity.
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3. The above clarifications are reiterated for the purpose of levy of GST on supply of services.
4. Difficulty if any, in the implementation of the circular should be brought to the notice of the Board. Hindi version would follow.

Yours Faithfully,

Rachna  
Technical Officer (TRU)



Circular No. 28/02/2018-GST

**F. No. 354/03/2018**  
Government of India  
Ministry of Finance  
Department of Revenue  
Tax research Unit

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**Room No. 156, North Block,  
New Delhi, 08<sup>th</sup> January 2018**

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/  
Commissioner of Central Tax (All) / The Principal Director Generals/ Director Generals  
(All)

Madam/Sir,

**Subject: Clarifications regarding GST on College Hostel Mess Fees – reg.**

Queries have been received seeking clarification regarding the taxability and rate of GST on services by a college hostel mess. The clarification is as given below:

2. The educational institutions have mess facility for providing food to their students and staff. Such facility is either run by the institution/ students themselves or is outsourced to a third person. Supply of food or drink provided by a mess or canteen is taxable at 5% without Input Tax Credit [Serial No. 7(i) of notification No. 11/2017-CT (Rate) as amended vide notification No. 46/2017-CT (Rate) dated 14.11.2017 refers]. It is immaterial whether the service is provided by the educational institution itself or the institution outsources the activity to an outside contractor.
3. Difficulty if any, in the implementation of this Circular may be brought to the notice of the Board.

Yours Faithfully,

Rachna Technical Officer (TRU)  
Email: [rachna.irs@gov.in](mailto:rachna.irs@gov.in)

Circular No. 30/4/2018-GST

**F.No.354/1/2018-TRU  
Government of India  
Ministry of Finance  
Department of Revenue  
(Tax Research Unit)**

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**North Block, New Delhi**

**Dated, 25 January, 2018**

To

Principal Chief Commissioners/Principal Directors General,  
Chief Commissioners/Directors General,  
Principal Commissioners/Commissioners,  
All under CBEC.

Madam/Sir,

Subject: Clarification on supplies made to the Indian Railways classifiable under any chapter, other than Chapter 86 – regarding.

Representations have been received that certain suppliers are making supplies to the railways of items classifiable under any chapter other than chapter 86, charging the GST rate of 5%.

2. The matter has been examined. Vide notification No. 1/2017 –Central Tax (Rate) dated 28<sup>th</sup> June, 2017, read with notification No. 5/2017-Central Tax (Rate) dated 28<sup>th</sup> June, 2017, goods classifiable under Chapter 86 are subjected to 5% GST rate with no refund of unutilised input tax credit (ITC). Goods classifiable in any other chapter attract the applicable GST, as specified under notification No. 1/2017 –Central Tax (Rate) dated 28<sup>th</sup> June, 2017 or notification No.2/2017-Central Tax (Rate) dated 28<sup>th</sup> June, 2017.

3. The GST Council during its 25<sup>th</sup> meeting held on 18<sup>th</sup> January, 2018, discussed this issue and recorded that a clarification regarding applicable GST rates on various supplies made to the Indian

Railways may be issued.

4. Accordingly, it is hereby clarified that

- only the goods classified under Chapter 86, supplied to the railways attract 5% GST rate with no refund of unutilised input tax credit and
- other goods [falling in any other chapter], would attract the general applicable

**Circulars**

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GST rates to such goods, under the aforesaid notifications, even if supplied to the railways.

Yours faithfully,

(Mahipal Singh)

Technical Officer (TRU)

Email: mahipal.singh1980@gov.in

## Circulars

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**Circular No. 31/05/2018 - GST**  
**F. No. 349/75/2017-GST**  
**Government of India**  
**Ministry of Finance Department of Revenue**  
**Central Board of Excise and Customs**  
**GST Policy Wing**

New Delhi, 9<sup>th</sup> February 2018

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/  
Commissioners of Central Tax / Commissioners of Central Tax (Audit)/ Principal Director General  
of Goods and Services Tax Investigation/ Director General of Systems

Madam/Sir,

**Subject: Proper officer under sections 73 and 74 of the Central Goods and Services Tax Act, 2017 and under the Integrated Goods and Services Tax Act, 2017-reg.**

The Board, vide Circular No. 1/1/2017-GST dated 26<sup>th</sup> June, 2017, assigned proper officers for provisions relating to registration and composition levy under the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act") and the rules made thereunder. Further, vide Circular No. 3/3/2017 - GST dated 5<sup>th</sup> July, 2017, the proper officers for provisions other than registration and composition under the CGST Act were assigned. In the latter Circular, the Deputy or Assistant Commissioner of Central Tax was assigned as the proper officer under sub-sections (1), (2), (3), (5), (6), (7), (9) and (10) of section 74 while the Superintendent of Central Tax was assigned as the proper officer under sub-sections (1), (2), (3), (5), (6), (7), (9) and (10) of section 73 of the CGST Act.

2. It has now been decided by the Board that Superintendents of Central Tax shall also be empowered to issue show cause notices and orders under section 74 of the CGST Act. Accordingly, the following entry is hereby being added to the item at Sl. No.4 of the Table on page number 3 of Circular No. 3/3/2017-GST dated 5<sup>th</sup> July, 2017, namely:-

Sl. No.	Designation of the officer	Functions under Section of the Central Goods and Services Tax Act, 2017 or the rules made thereunder
(1)	(2)	(3)
4.	Superintendent of Central Tax	viii(a). Sub-sections (1), (2), (3), (5), (6), (7), (9) and (10) of Section 74

3. Further, in light of sub-section (2) of section 5 of the CGST Act, whereby an officer of central tax may exercise the powers and discharge the duties conferred or imposed under the CGST Act

## Circulars

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on any other officer of central tax who is subordinate to him, the following entry is hereby removed from the Table on page number 2 of Circular No. 3/3/2017-GST dated 5<sup>th</sup> July, 2017:-

Sl. No.	Designation of the officer	Functions under Section of the Central Goods and Services Tax Act, 2017 or the rules made thereunder
(1)	(2)	(3)
3.	Deputy or Assistant Commissioner of Central Tax	vi. Sub-sections (1), (2), (3), (5), (6), (7), (9) and (10) of Section 74

4. In other words, all officers up to the rank of Additional/Joint Commissioner of Central Tax are assigned as the proper officer for issuance of show cause notices and orders under sub sections (1), (2), (3), (5), (6), (7), (9) and (10) of sections 73 and 74 of the CGST Act. Further, they are so assigned under the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as the "IGST Act") as well, as per section 3 read with section 20 of the said Act.

5. Whereas, for optimal distribution of work relating to the issuance of show cause notices and orders under sections 73 and 74 of the CGST Act and also under the IGST Act, monetary limits for different levels of officers of central tax need to be prescribed. Therefore, in pursuance of clause (91) of section 2 of the CGST Act read with section 20 of the IGST Act, the Board hereby assigns the officers mentioned in Column (2) of the Table below, the functions as the proper officers in relation to issue of show cause notices and orders under sections 73 and 74 of the CGST Act and section 20 of the IGST Act (read with sections 73 and 74 of the CGST Act), up to the monetary limits as mentioned in columns (3), (4) and (5) respectively of the Table below:-

Table

Sl. No.	Officer of Central Tax	Monetary limit of the amount of central tax (including cess) not paid or short paid or erroneously refunded or input tax credit of central tax wrongly availed or utilized for issuance of show cause notices and passing of orders under sections 73 and 74 of CGST Act	Monetary limit of the amount of integrated tax (including cess) not paid or short paid or erroneously refunded or input tax credit of integrated tax wrongly availed or utilized for issuance of show cause notices and passing of orders under sections 73 and 74 of CGST Act made applicable to matters in relation to integrated tax vide section 20 of the IGST Act	Monetary limit of the amount of central tax and integrated tax (including cess) not paid or short paid or erroneously refunded or input tax credit of central tax and integrated tax wrongly availed or utilized for issuance of show cause notices and passing of orders under sections 73 and 74 of CGST Act made applicable to integrated tax vide section 20 of the IGST Act
(1)	(2)	(3)	(4)	(5)
1.	Superintendent of Central Tax	Not exceeding Rupees 10 lakhs	Not exceeding Rupees 20 lakhs	Not exceeding Rupees 20 lakhs
2.	Deputy or Assistant Commissioner of Central Tax	Above Rupees 10 lakhs and not exceeding Rupees 1 crore	Above Rupees 20 lakhs and not exceeding Rupees 2 crores	Above Rupees 20 lakhs and not exceeding Rupees 2 crores
3.	Additional or Joint Commissioner of Central Tax	Above Rupees 1 crore without any limit	Above Rupees 2 crores without any limit	Above Rupees 2 crores without any limit

6. The central tax officers of Audit Commissionerates and Directorate General of Goods and Services Tax Intelligence (hereinafter referred to as "DGGSTI") shall exercise the powers only to issue show cause notices. A show cause notice issued by them shall be adjudicated by the competent central tax officer of the Executive Commissionerate in whose jurisdiction the noticee is

registered. In case there are more than one noticees mentioned in the show cause notice having their principal places of business falling in multiple Commissionerates, the show cause notice shall be adjudicated by the competent central tax officer in whose jurisdiction, the principal place of business of the noticee from whom the highest demand of central tax and/or integrated tax (including cess) has been made falls.

7. Notwithstanding anything contained in para 6 above, a show cause notice issued by DGGSTI in which the principal places of business of the noticees fall in multiple Commissionerates and where the central tax and/or integrated tax (including cess) involved is more than Rs. 5 crores shall be adjudicated by an officer of the rank of Additional Director/Additional Commissioner (as assigned by the Board), who shall not be on the strength of DGGSTI and working there at the time of adjudication. Cases of similar nature may also be assigned to such an officer.

8. In case show cause notices have been issued on similar issues to a noticee(s) and made answerable to different levels of adjudicating authorities within a Commissionerate, such show cause notices should be adjudicated by the adjudicating authority competent to decide the case involving the highest amount of central tax and/or integrated tax (including cess).

9. It is requested that suitable trade notices may be issued to publicize the contents of this circular.

10. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

**(Upender Gupta)**  
**Commissioner (GST)**

## Circulars

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Circular No. 32/06/2018-GST

**F. No. 354/17/2018-TRU**

Government of India  
Ministry of Finance  
Department of Revenue  
Tax Research Unit

**Room No. 146G, North Block,  
New Delhi, 12<sup>th</sup> February 2018**

To

The Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/  
Commissioner of Central Tax (All) / The Principal Director Generals/ Director Generals (All)  
Madam/Sir,

**Subject: Clarifications regarding GST in respect of certain services**

I am directed to issue clarification with regard to the following issues approved by the GST Council in its 25<sup>th</sup> meeting held on 18<sup>th</sup> January 2018:-

S. No.	Issue	Clarification
1.	Is hostel accommodation provided by Trusts to students covered within the definition of Charitable Activities and thus, exempt under Sl. No. 1 of notification No. 12/2017-CT (Rate).	Hostel accommodation services do not fall within the ambit of charitable activities as defined in para 2(r) of notification No. 12/2017-CT(Rate). However, services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below one thousand rupees per day or equivalent are exempt. Thus, accommodation service in hostels including by Trusts having declared tariff below one thousand rupees per day is exempt. [Sl. No. 14 of notification No. 12/2017-CT(Rate) <i>refers</i> ]
2.	Is GST leviable on the fee/amount charged in the following situations/cases: – (1) A customer pays fees while registering complaints to Consumer Disputes Redressal Commission office and its subordinate offices.	Services by any court or Tribunal established under any law for the time being in force is neither a supply of goods nor services. Consumer Disputes Redressal Commissions (National/ State/ District) may not be tribunals literally as they may not have been set up directly under Article



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	<p>These fees are credited into State Customer Welfare Fund's bank account.</p> <p>(2) Consumer Disputes Redressal Commission office and its subordinate offices charge penalty in cash when it is required.</p> <p>(3) When a person files an appeal to Consumers Disputes Redressal Commission against order of District Forum, amount equal to 50% of total amount imposed by the District Forum or Rs 25000/- whichever is less, is required to be paid.</p>	<p>323B of the Constitution. However, they are clothed with the characteristics of a tribunal on account of the following: -</p> <p>(1) Statement of objects and reasons as mentioned in the Consumer Protection Bill state that one of its objects is to provide speedy and simple redressal to consumer disputes, for which a quasi-judicial machinery is sought to be set up at District, State and Central levels.</p> <p>(2) The President of the District/State/National Disputes Redressal Commissions is a person who has been or is qualified to be a District Judge, High Court Judge and Supreme Court Judge respectively.</p> <p>(3) These Commissions have been vested with the powers of a civil court under CPC for issuing summons, enforcing attendance of defendants/witnesses, reception of evidence, discovery/production of documents, examination of witnesses, etc.</p> <p>(4) Every proceeding in these Commissions is deemed to be judicial proceedings as per sections 193/228 of IPC.</p> <p>(5) The Commissions have been deemed to be a civil court under CrPC.</p> <p>(6) Appeals against District Commissions lie to State Commission while appeals against the State Commissions lie to the National Commission. Appeals against National Commission lie to the Supreme Court.</p> <p>In view of the aforesaid, it is hereby clarified that fee paid by litigants in the Consumer Disputes Redressal Commissions are not leviable to GST. Any penalty imposed by or amount paid to these Commissions will also not attract GST.</p>
3.	Whether the services of elephant or camel	Elephant/ camel joy rides cannot be classified

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	ride, rickshaw ride and boat ride should be classified under heading 9964 (as passenger transport service) in which case, the rate of tax on such services will be 18% or under the heading 9996 (recreational, cultural and sporting services) treating them as joy rides, leviable to GST@ 28%?	as transportation services. These services will attract GST @ 18% with threshold exemption being available to small service providers. [Sl. No 34(iii) of notification No. 11/2017-CT(Rate) dated 28.06.2017 as amended by notification No. 1/2018-CT(Rate) dated 25.01.2018 <i>refers</i> ]
4.	What is the GST rate applicable on rental services of self-propelled access equipment (Boom Scissors/ Telehandlers)? The equipment is imported at GST rate of 28% and leased further in India where operator is supplied by the leasing company, diesel for working of machine is supplied by customer and transportation cost including loading and unloading is also paid by the customer.	Leasing or rental services, with or without operator, for any purpose are taxed at the same rate of GST as applicable on supply of like goods involving transfer of title in goods. Thus, the GST rate for the rental services in the given case shall be 28%, provided the said goods attract GST of 28%. IGST paid at the time of import of these goods would be available for discharging IGST on rental services. Thus, only the value added gets taxed. [Sl. No 17(vii) of notification No. 11/2017- CT(Rate) dated 28.6.17 as amended <i>refers</i> ].
5.	Is GST leviable in following cases: (1) Hospitals hire senior doctors/ consultants/ technicians independently, without any contract of such persons with the patient; and pay them consultancy charges, without there being any employer-employee relationship. Will such consultancy charges be exempt from GST? Will revenue take a stand that they are providing services to hospitals and not to patients and hence must pay GST? (2) Retention money: Hospitals charge the patients, say, Rs.10000/- and pay to the consultants/ technicians only Rs. 7500/- and keep the balance for providing ancillary services which include nursing care, infrastructure facilities, paramedic care, emergency services, checking of temperature, weight, blood pressure etc. Will GST be applicable on such money	Health care services provided by a clinical establishment, an authorised medical practitioner or para-medics are exempt. [Sl. No. 74 of notification No. 12/2017- CT(Rate) dated 28.06.2017 as amended <i>refers</i> ]. (1) Services provided by senior doctors/ consultants/ technicians hired by the hospitals, whether employees or not, are healthcare services which are exempt. (2) Healthcare services have been defined to mean any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India[para 2(zg) of notification No. 12/2017- CT(Rate)]. Therefore, hospitals also provide healthcare services. The entire amount charged by them from the patients including the retention money and the fee/payments made to the doctors etc., is towards the healthcare

	<p>retained by the hospitals?</p> <p>(3) Food supplied to the patients: Health care services provided by the clinical establishments will include food supplied to the patients; but such food may be prepared by the canteens run by the hospitals or may be outsourced by the Hospitals from outdoor caterers. When outsourced, there should be no ambiguity that the suppliers shall charge tax as applicable and hospital will get no ITC. If hospitals have their own canteens and prepare their own food; then no ITC will be available on inputs including capital goods and in turn if they supply food to the doctors and their staff; such supplies, even when not charged, may be subjected to GST.</p>	<p>services provided by the hospitals to the patients and is exempt.</p> <p>(3) Food supplied to the in-patients as advised by the doctor/nutritionists is a part of composite supply of healthcare and not separately taxable. Other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable.</p>
6.	<p>Appropriate clarification may be issued regarding taxability of Cost Petroleum.</p>	<p>As per the Production Sharing Contract(PSC) between the Government and the oil exploration &amp; production contractors, in case of a commercial discovery of petroleum, the contractors are entitled to recover from the sale proceeds all expenses incurred in exploration, development, production and payment of royalty. Portion of the value of petroleum which the contractor is entitled to take in a year for recovery of these contract costs is called "Cost Petroleum".</p> <p>The relationship of the oil exploration and production contractors with the Government is not that of partners but that of licensor/lessor and licensee/lessee in terms of the Petroleum and Natural Gas Rules, 1959. Having acquired the right to explore, exploit and sell petroleum in lieu of royalty and a share in profit petroleum, contractors carry out the exploration and production of petroleum for themselves and not as a service to the Government. Para 8.1 of the Model Production Sharing Contract (MPSC) states that subject to the provisions of the</p>

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		<p>PSC, the Contractor shall have exclusive right to carry out Petroleum Operations to recover costs and expenses as provided in this Contract. The oil exploration and production contractors conduct all petroleum operations at their sole risk, cost and expense. Hence, cost petroleum is not a consideration for service to GOI and thus not taxable per se. However, cost petroleum may be an indication of the value of mining or exploration services provided by operating member to the joint venture, in a situation where the operating member is found to be supplying service to the oil exploration and production joint venture.</p>
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2. Difficulty if any, in the implementation of this circular may be brought to the notice of the Board. Hindi version would follow.

Yours Faithfully,

Harsh Singh  
Technical Officer (TRU)  
Email: harshsingh.irs@gov.in

Circular No. 33/07/2018-GST

**F. No. 267/67/2017-CX.8  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs**

New Delhi, dated the 23<sup>rd</sup> Feb., 2018

To

The Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/  
Commissioner of Central Tax (All),

The Principal Director Generals/ Director Generals (All).

Madam/Sir,

**Sub: Directions under Section 168 of the CGST Act regarding non-transition of CENVAT credit under section 140 of CGST Act or non-utilization thereof in certain cases-reg.**

In exercise of the powers conferred under section 168 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "Act"), for the purposes of uniformity in implementation of the Act, the Central Board of Excise and Customs hereby directs the following.

**2. Non-utilization of Disputed Credit carried forward**

2.1 Where in relation to a certain CENVAT credit pertaining to which a show cause notice was issued under rule 14 of the CENVAT Credit Rules, 2004, which has been adjudicated and where in the last adjudication order or the last order-in-appeal, as it existed on 1<sup>st</sup> July, 2017, it was held that such CENVAT credit is not admissible, then such CENVAT credit (herein and after referred to as "disputed credit"), credited to the electronic credit ledger in terms of sub-section (1), (2), (3), (4), (5) (6) or (8) of section 140 of the Act, shall not be utilized by a registered taxable person to discharge his tax liability under this Act or under the IGST Act, 2017, till the order-in-original or the last order-in-appeal, as the case may be, holding that disputed credit as inadmissible is in existence.

2.2 During the period, when the last order-in-original or the last order-in-appeal, as the case may be, holding that disputed credit as inadmissible is in operation, if the said disputed credit is utilised, it shall be recovered from the tax payer, with interest and penalty as per the provisions of the Act.

**3. Non-transition of Blocked Credit**

3.1 In terms of clause (i) of sub-section (1) of section 140 of the Act, a registered person shall not take in his electronic credit ledger, amount of CENVAT credit as is carried forward in the return relating to the period ending with the day immediately preceding the appointed day which is not

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eligible under the Act in terms of sub-section (5) of section 17 (hereinafter referred to as „blocked credit ), such as, telecommunication towers and pipelines laid outside the factory premises.

3.2 If the said blocked credit is carried forward and credited to the electronic credit ledger in contravention of section 140 of the Act, it shall not be utilized by a registered taxable person to discharge his tax liability under this Act or under the IGST Act, 2017, and shall be recovered from the tax payer with interest and penalty as per the provisions of the Act.

4. In all cases where the disputed credit as defined in terms of para 2.1 or blocked credit under para 3.1 is higher than Rs. ten lakhs, the taxpayers shall submit an undertaking to the jurisdictional officer of the Central Government that such credit shall not be utilized or has not been availed as transitional credit, as the case may be. In other cases of transitional credit of an amount lesser than Rs. ten lakhs, the directions as above shall apply but the need to submit the undertaking shall not apply.

5. Trade may be suitably informed and difficulty if any in implementation of the circular may be brought to the notice of the Board.

(ROHAN)  
Under Secretary to the Govt. of India

Circular No. 34/8/2018-GST

**F. No. 354/17/2018-TRU**  
**Government of India**  
**Ministry of Finance**  
**Department of Revenue**  
**Tax research Unit**

**Room No. 146G, North Block,**  
**New Delhi, 1<sup>st</sup> March 2018**

To,

The Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/  
Commissioner of Central Tax (All) / The Principal Director Generals/ Director Generals (All)

Madam/Sir,

**Subject: Clarifications regarding GST in respect of certain services**

I am directed to issue clarification with regard to the following issues as approved by the Fitment Committee to the GST Council in its meeting held on 9<sup>th</sup>, 10<sup>th</sup> and 13<sup>th</sup> January 2018:-

S. No.	Issue	Clarification
1.	Whether activity of bus body building, is a supply of goods or services?	In the case of bus body building there is supply of goods and services. Thus, classification of this composite supply, as goods or service would depend on which supply is the principal supply which may be determined on the basis of facts and circumstances of each case.
2.	Whether retreading of tyres is a supply of goods or services?	<p>In retreading of tyres, which is a composite supply, the pre-dominant element is the process of retreading which is a supply of service. Rubber used for retreading is an ancillary supply. Which part of a composite supply is the principal supply, must be determined keeping in view the nature of the supply involved. Value may be one of the guiding factors in this determination, but not the sole factor. The primary question that should be asked is what is the essential nature of the composite supply and which element of the supply imparts that essential nature to the composite supply.</p> <p>Supply of retreaded tyres, where the old tyres belong to the supplier of retreaded tyres, is a supply of goods</p>

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		(retreaded tyres under heading 4012 of the Customs Tariff attracting GST @ 28%)
3.	Whether Priority Sector Lending Certificates (PSLCs) are outside the purview of GST and therefore not taxable?	<p>In Reserve Bank of India FAQ on PSLC, it has been mentioned that PSLC may be construed to be in the nature of goods, dealing in which has been notified as a permissible activity under section 6(1) of the Banking Regulation Act, 1949 vide Government of India notification dated 4<sup>th</sup> February, 2016. PSLC are not securities. PSLC are akin to freely tradeable duty scrips, Renewable Energy Certificates, REP license or replenishment license, which attracted VAT.</p> <p>In GST there is no exemption to trading in PSLCs. Thus, PSLCs are taxable as goods at standard rate of 18% under the residuary S. No. 453 of Schedule III of notification No. 1/2017-Central Tax(Rate). GST payable on the certificates would be available as ITC to the bank buying the certificates.</p>
4.	<p>(1) Whether the activities carried by DISCOMS against recovery of charges from consumers under State Electricity Act are exempt from GST?</p> <p>(2) Whether the guarantee provided by State Government to state owned companies against guarantee commission, is taxable under GST?</p>	<p>(1) Service by way of transmission or distribution of electricity by an electricity transmission or distribution utility is exempt from GST under notification No. 12/2017-CT (R), Sl. No. 25. The other services such as, -</p> <ol style="list-style-type: none"> <li>Application fee for releasing connection of electricity;</li> <li>Rental Charges against metering equipment;</li> <li>Testing fee for meters/ transformers, capacitors etc.;</li> <li>Labour charges from customers for shifting of meters or shifting of service lines;</li> <li>charges for duplicate bill;</li> </ol> <p>provided by DISCOMS to consumer are taxable.</p> <p>(2) The service provided by Central Government/State Government to any business entity including PSUs by way of guaranteeing the loans taken by them from financial institutions against consideration in any form including Guarantee Commission is taxable</p>



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2. Difficulty if any, in the implementation of this circular may be brought to the notice of the Board.

Yours Faithfully,

Harsh Singh  
Technical Officer (TRU)  
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Tel: 011-23095543

Circular No. 35/9/2018-GST

**F. No. B-1/20/2016-TRU  
Government of India  
Ministry of Finance  
Department of Revenue  
Tax research Unit**

**Room No. 146G, North Block,  
New Delhi, 5<sup>th</sup> March 2018**

To,

The Principal Chief Commissioners/Chief Commissioners/ Principal Commissioners/  
Commissioner of Central Tax (All) / The Principal Director Generals/ Director Generals (All)

Madam/Sir,

**Subject: Joint Venture ---taxable services provided by the members of the Joint**

**Venture (JV) to the JV and vice versa and inter se between the members of the JV-reg**

I am directed to say that in the Service Tax regime, CBEC vide Circular No. 179/5/2014 – ST issued from F.No. 179/5/2014-ST dated 24 September 2014 had clarified that if cash calls are merely transaction in money, then they are excluded from the definition of service provided in Section 65B (44) of the Finance Act, 1994. Whether a cash call is merely a transaction in money and hence not in the nature of consideration for taxable service, would depend on the terms of the Joint Venture Agreement, which may vary from case to case. The Circular clarified that cash calls, sometimes, could be in the nature of advance payments made by members towards taxable services received from joint venture(JV); and that payments made out of cash calls pooled by a JV towards taxable services received from a member or a third party is in the nature of consideration and hence attracts Service Tax. The Circular further stated that JV being an unincorporated temporary association constituted for the limited purpose of carrying out a specified project within a time frame, a comprehensive examination of the various JV agreements (at times, there could be number of inter se agreements between members of the JV) holds the key to understanding of the taxation of transactions involving taxable services between the JV and its members or interse between the members of a JV. Therefore, officers in the field formations were advised to carefully examine the leviability of service tax with reference to the specific terms/clauses of each JV agreement.

2. In the Service Tax Law, service was defined as an activity carried out by a person for another for consideration [Section 65B(44) of the Finance Act 1994]. Explanation 3 to the said definition stated than an unincorporated association or a body of persons as the case may be, and a member thereof shall be treated as distinct persons.

3. GST is levied on intra-State and inter-State supply of goods and services. According to section 7 of CGST Act, 2017, the expression “supply” includes all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business, and includes activities specified in Schedule II to the CGST Act, 2017. The definition of “business” in section 2(17) of CGST Act states that “*business*” includes provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members. The term person is defined in section 2(84) of the CGST Act, 2017 to include an association of persons or a body of individuals, whether incorporated or not, in India or outside India. Further, Schedule II of CGST Act, 2017 enumerates activities which are to be treated as supply of goods or as supply of services. It states in para 7 that *supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration shall be treated as supply of goods*. A conjoint reading of the above provisions of the law implies that supply of services by an unincorporated association or body of persons (AOP) to a member thereof for cash, deferred payment or other valuable consideration shall be treated as supply of services. The above entry in Schedule II is analogous to and draws strength from the provision in Article 366(29A)(e) of the Constitution according to which a tax on the sale or purchase of goods includes a tax on the supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.

4. Therefore, the law with regard to levy of GST on service supplied by member of an unincorporated joint venture (JV) to the JV or to other members of the JV, or by JV to the members, essentially remains the same as it was under service tax law. Thus, it is clarified that the clarification given vide Board Circular No. 179/5/2014 – ST dated 24.09.2014 *ibid* in the context of service tax is applicable for the purpose of levy of GST also. It is reiterated that the question whether cash calls are taxable or not will entirely depend on the facts and circumstances of each case. ‘Cash calls’ are raised by an operating member of the joint venture on other members in proportion to their participating interests in the joint venture (unincorporated) to meet the expenditure on the operations to be carried out as per the approved work programme and budget. Taxability of cash calls can be further explained by the following illustrations:

*Illustration A: There are 4 members in the JV including the operating member and each one contributes Rs 100 as part of their share. A total amount of Rs 400 is collected. The operating member purchases machinery for Rs 400 for the JV to be used in oil production.*

*Illustration B: There are 4 members in the JV including the operating member and each one contributes Rs 100 as part of their share. A total amount of Rs 400 is collected. The operating member thereafter uses its own machine and performs exploration and production activities on behalf of the JV.*

4.1 Illustration A will not be the subject matter of ‘ST/GST’ for the reason that the operating member is not carrying out an activity for another for consideration. In Illustration A, the money

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paid for purchase of machinery is merely in the nature of capital contribution and is therefore a transaction in money.

4.2 On the other hand, in Illustration B, the operating member uses its own machinery and is therefore providing 'service' within the scope of supply of CGST Act, 2017. This is because in this scenario, the operating member is recovering the cost appropriated towards machinery and services from the other JV members in their participating interest ratio.

5. Difficulty if any, in the implementation of this circular may be brought to the notice of the Board.

Yours Faithfully,

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Technical Officer (TRU)  
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Tel: 011-23095543

Circular No. 36/10/2018-GST

**F. No. 349/48/2017-GST  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs  
GST Policy Wing**

**New Delhi,  
Dated the 13<sup>th</sup> March, 2018**

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/  
Commissioners of Central Tax (All)

The Principal Director Generals / Director Generals (All) The Principal Chief Controller  
of Accounts, CBEC Madam / sir,

**Subject: Processing of refund applications for UIN entities**

The GST Council, in its 23<sup>rd</sup> meeting held at Guwahati on 10<sup>th</sup> November 2017, has decided that the entities having Unique Identity Number (UIN) may be given centralized registration at the option of such entities. Further, it was also decided that the Central Government will be responsible for all administrative compliances in respect of such entities.

2. In order to clarify some of the issues and to ensure uniformity of implementation across field formations, the Board, in exercise of its powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act") hereby clarifies the following issues:

3. **Status of registration for UINs:**

- i. Entities having UINs are given a special status under the CGST Act as these are not covered under the definition of registered person. These entities have been granted UINs to enable them to claim refund of GST paid on inward supply of goods or services or both received by them. Therefore, if any such entity is making supply of goods or services or both in the course or furtherance of business then such entity will need to apply for GSTIN as per the provisions contained in the CGST Act read with the rules made thereunder.
- ii. The process for applying for UIN has been outlined under Rule 17 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "CGST Rules"). As stated in the said rule, any person covered under clause (a) of sub-section (9) of section 25 of the CGST Act may submit an application electronically in **FORM GST REG-13** on the common portal. Therefore, Specialised agency of the United Nations Organisation or any Multilateral

Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries shall apply for grant of UIN electronically by filling **FORM GST REG-13**.

- iii. Due to delays in making available **FORM GST REG-13** on the common portal, an alternative mechanism has been developed. Entities covered under clause (a) of sub-section (9) of Section 25 of the CGST Act may approach the Protocol Division, Ministry of External Affairs in this regard, who will facilitate grant of UINs in coordination with the Central Board of Excise and Customs (CBEC) and GSTN.
- iv. It is clarified that the facility of single UIN is optional and an entity may seek more than one UIN.

#### 4. Filing of return by UIN agencies:

- i. The procedure for filing returns by UIN entities is specified under sub-rule (1) of Rule 82 of the CGST Rules. The UIN entity is required to file details of inward supplies in **FORM GSTR-11**.
- ii. It may be noted that return in **FORM GSTR-11** is required to be filed only for those tax periods for which refund is being claimed. In other words, if an UIN entity is not claiming refund for a particular period, it need not file return in **FORM GSTR-11** for that period.

#### 5. Applying for refund by UIN agencies:

- i. All the entities who have been issued UINs and are notified under Section 55 of the CGST Act will be eligible for refund of inward supply of goods or services in terms of notification No. 16/2017-Central Tax (Rate) dated 28<sup>th</sup> June 2017 as amended.
- ii. It may be noted that the conditions specified under the said notification need to be complied with while applying for refund claims. Further, field officers are hereby instructed to ensure that all the certificates / undertaking etc. as stipulated in the said notification be duly checked while processing the refund claims.
- iii. The procedure for filing a refund application has been outlined under Rule 95 of the CGST Rules which provides for filing of refund on quarterly basis in **FORM RFD-10** along with a statement of inward invoices in **FORM GSTR-11**. It is hereby clarified that **FORM GSTR-11** along with **FORM GST RFD-10** has to be filed separately for each of those quarters for which refund claim is being filed.
- iv. Agencies which have been allotted UINs may visit User Manual / FAQ section on the common portal ([www.gst.gov.in](http://www.gst.gov.in)) for step by step instructions on how to file **FORM GSTR-11** and **FORM RFD-10**.
- v. It is hereby clarified that all the entities claiming refund shall submit the duly filled in print out of **FORM RFD-10** to the jurisdictional Central Tax Commissionerate. All refund claims

shall be processed and sanctioned by respective Central Tax offices. In order to facilitate processing of refund claims of UIN entities, a nodal officer has been designated in each State details of whom are given in **Annexure A**. Application for refund claim may be submitted before the designated Central Tax nodal officers in the State in which the UIN has been obtained.

- vi. There may be cases where multiple UINs existed for the same entity but were later merged into one single UIN. In such cases, field formations are requested to process refund claims for earlier unmerged UINs also. Hence, the refund application will be made with the single UIN only but invoices of old UINs may be declared in the refund claim, which may be accepted and taken into account while processing the refund claim.

**6. Passing of refund order and settlement of funds:**

- i. The facility of centralized UIN ensures that irrespective of the type of tax (CGST, SGST, IGST or Cess) and the State where such inward supply of goods or services have been procured, all refunds would be processed by Central authorities only. Therefore, field formations are advised that all refunds are to be processed on merits irrespective of where and which type of tax is paid on inward supply of goods or services or both by such entities.
  - ii. A monthly report as prescribed in **Annexure B** is required to be furnished to the Director General of Goods and Services Tax by the 30<sup>th</sup> of the succeeding month.
  - iii. Field officers shall send a copy of the order passed for such refunds to their State counterparts for information purposes only.
7. It is requested that suitable trade notices may be issued to publicize the contents of this circular.
8. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

**-sd-**  
**(Upender Gupta)**  
**Commissioner (GST)**

## Annexure A

S. No.	State/UT	Nodal Commissionerate	Contact Address of the Commissionerate	Nodal Officer	Phone number and E-mail id of Nodal Officer
1	Andhra Pradesh	Guntur CGST	GST Bhavan, Kannavarithota, Guntur-522004	Mr. K. Mahipal Chandra, Assistant Commissioner	0863-2234713, mahipal.chandra@gov.in
2	Andaman & Nicobar Islands	Haldia	Assistant Commissioner of Central Tax. A & N Division, Kandahar Marg (VIP Road), Port Blair – 744103	Mr. T Inigo, Assistant Commissioner, Andaman & Nicobar	Inigo.timothy@gov.in
3	Arunachal Pradesh	Itanagar	CGST & CX Commissionerate, Itanagar-791110	Mr. N.K.Nandi, Assistant Commissioner	0360-2351213, nknandi2014@gmail.com
4	Assam	Dibrugarh	CGST & CX Commissionerate, Dibrugarh-786003	Mr. B.B.Baruah, Assistant Commissioner	0373-2314082, Bbhusan.baruah@gov.in
5	Assam	Guwahati	CGST & CX Commissionerate, Guwahati-781005	Mr. Sanjeet Kumar, Assistant Commissioner	0361-2465197, sanjeet.kumar@icegate.gov.in
6	Bihar	Patna-II	4th Floor, C.R.Building (Annexe), Bir Chand Patel Path, Patna-800001	Mr. Suhrit Mukherjee, Assistant Commissioner	0612-2504814, suhrit9933@gmail.com
7	Chandigarh	Chandigarh	Plot No. 19 Sector 17-C, C.R Building Chandigarh	Ms.Mamta Saini, Deputy Commissioner	0172-2704196, mamtasaini.india@gmail.com
8	Chhattisgarh	Raipur	Division-II, CGST Bhawan Civil Lines, Raipur	Mr. Sumit Kumar Agrawal, Assistant Commissioner	0771-2425636, sumitk.agrawal@gov.in
9	Dadra and	Daman	2nd Floor, Hani's Landmark, Vapi-	Mr. B.P. Singh, Additional	0260-2460502, binay.singh@icegat



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	Nagar Haveli		Daman Road, Chala , Vapi, Gujarat	Commissioner, Daman	e.gov.in
10	Daman and Diu	Daman	2nd Floor, Hani's Landmark, Vapi-Daman Road, Chala , Vapi, Gujarat	Mr. B.P. Singh, Additional Commissioner, Daman	0260-2460502, binay.singh@icegate.gov.in
11	Goa	Goa	GST Bhavan, EDC Complex, Patto, Panaji-403001	Mr. S. K. Sinha, Additional Commissioner	0832-2437190, sanjay1.sinha@icegate.gov.in
12	Gujarat	Gandhinagar	O/o the Commissioner, CGST, Gandhinagar Custom House, Near All India Radio, Navrangpura, Ahmedabad-380009.	Dr. Amit Singal, Joint Commissioner	079-27540424, singalamit@rediffmail.com
13	Haryana	Gurugram	Plot No. 36-37, Sector-32, Gurugram	Mr. Raj Karan Aggarwal, Assistant Commissioner	0124-2380269, Aggarwalrajkar@gmail.com
14	Himachal Pradesh	Shimla	Camp at Plot No. 19 Sector 17-C, C.R Building Chandigarh	Mr. Nikhil Kumar Singh, Assistant Commissioner	0172-2704196, nikhil.singh@icegate.gov.in
15	Jammu and Kashmir	Jammu	OB-32, Rail Head Complex, Jammu	Mr. Prakash Choudhary, Assistant Commissioner	0191-2475320, prakash.online1984@gmail.com
16	Jharkhand	Ranchi	5th Floor, C.R. Building, 5-A, Main Road, Ranchi-834001	Mr. Debabrata Chatterjee, Assistant Commissioner	0651-2330218, debabrata.chatterjee@gmail.com

## Circulars

17	Karnataka	Bengaluru (South)	Bengaluru South Commissionerate, C.R. Building, Queen's Road, Bengaluru-560001	Mrs. Gayathri Chandra Menon, Assistant Commissioner	080-25522370 sd07.gst@gov.in
18	Kerala	Kochi	Central Revenue Building, I.S. Press Road, Kochi-682018	Mr. Ashwin John George, Assistant Commissioner	0484-2533169 ashwinjohngeorge@gmail.com
19	Lakshadweep	Kochi	Central Revenue Building, I.S. Press Road, Kochi-682018	Mr. Ashwin John George, Assistant Commissioner	0484-2533169 ashwinjohngeorge@gmail.com
20	Madhya Pradesh	Bhopal	Division – I Bhopal, Jail Road Paryawas Bhawan, Bhopal	Mr. Piyush Thorat, Assistant Commissioner	0755-2761620, piyushthorat19@gmail.com
21	Maharashtra	Mumbai Central	4th Floor, GST Bhavan, 115, M.K.Road, Opp Churchgate Station, Mumbai-400020	Ms. Manpreet Arya, Additional Commissioner	022-26210384, manpreetarya@yahoo.co.in
22	Manipur	Imphal	CGST & CX Commissionerate, Imphal-795001	Mr. R.K.Shurchandra Singh, Assistant Commissioner	0385-2460735, shurchandra.rk@gov.in
23	Meghalaya	Shillong	CGST & CX Commissionerate, Shillong-793001	Mr. Om Prakash Tiwary, Assistant Commissioner	0364-2506758, tiwary.op@gov.in
24	Mizoram	Aizawl	CGST & CX Commissionerate, Aizawl-796001	Mr. L.Ralte, Deputy Commissioner	0389-2346515, lal.ralte@icegate.gov.in
25	Nagaland	Dimapur	CGST & CX Commissionerate, Dimapur-797112	Mr. Gopeswar Chandra Paul, Assistant Commissioner	0386-2351772, paul.gopeswar3@gmail.com
26	NCT of Delhi	Delhi (South)	2nd & 3rd Floor, EIL Annexe	Mr. Shikhar Pant, Assistant	011-40785842 shikhar.pant@gov.i

## Circulars

			Building, Bhikaji Cama Place, New Delhi, Delhi 110066	Commissioner	n
27	Odisha	Bhubaneswar	C.R. Building, (GST Bhawan), Rajaswar Vihar, Bhubaneswar-751007	Mr. Sateesh Chandar, Joint Commissioner	0674-2589694 sateesh.chandar@nic.in
28	Puducherry	Puducherry	I, Goubert Avenue (Beach Road), Puducherry - 605001.	Joint Commissioner	0413-2224062, 0413-2331244, pondycex.gst@gov.in
29	Punjab	Ludhiana	Central Excise House, F-Block, Rishi Nagar, Ludhiana.	Mr. Neeraj Soi, Deputy Commissioner	0161-2679452, soineeraj@gmail.com
30	Rajasthan	Jaipur	N.C.R. Building, Statue Circle, Jaipur	Mrs. Ruchita Vij, Additional Commissioner	0141-2385342 ruchitavij@gmail.com
31	Sikkim	Siliguri	Gangtok CGST Division, Indira Bypass Road, Sichey Near District Court, Gangtok – 737101	Mr. Puran Lama, Assistant Commissioner, Sikkim (Gangtok)	03592-284182, Gtk_div@rediffmail.com
32	Tamil Nadu	Chennai (North)	GST Bhawan, 26/1, Mahatma Gandhi Road, Nungambakkam, Chennai – 600034	Additional Commissioner	044-28331177, 044-28331188, commr-cexchn1@nic.in
33	Telangana	Hyderabad	O/o the Principal Commissioner of Central Tax, Hyderabad GST Commissionerate, GST Bhawan, L B Stadium Road, Basheerbagh,	Mr. P. Anand Kumar, Additional Commissioner	040-23240725, ak.pulapaka@gov.in

## Circulars

			Hyderabad - 500004.		
34	Tripura	Agartala	CGST &CX Commissionerate, Agartala-799001	Mr. S.K.Mazumdar, Assistant Commissioner	0381-2304099 , sanjoymaz85@gmail.com
35	Uttar Pradesh	Lucknow	7-A, Ashok Marg,Lucknow-226001	Mr. Avijit Pegu, Assistant Commissioner	0522-2233001, avijit.pegu@icegate.gov.in
36	Uttarakhand	Dehradun	Office of the Commissioner, Central Goods & Services Tax, E-Block, Nehru Colony, Dehradun	Mr. Sanjay Kumar Shukla	0135-2668668, sanjay2.shukla@icegate.gov.in
37	West Bengal	Kolkata (North)	180, Shanti Pally, Rajganda Main Road, Kolkata	Mr. Shobhit Sinha, Assistant Commissioner	033-24416813, Shobhitsinha.jsr@gov.in

### Annexure B

Office of the Commissioner -----

Report for the month of -----

Name of the State	Details of the Entity		Time Period		Name of the State for which refund has been sanctioned	Central Tax	State Tax / UT Tax	Integrat ed tax	Cess
	Name	UIN	From	To					

Circular No. 37/11/2018-GST

**F. No.349/47/2017-GST  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs  
GST Policy Wing**

New Delhi,

Dated the 15<sup>th</sup> March, 2018

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/  
Commissioners of Central Tax (All)

The Principal Directors General/ Directors General (All)

Madam/Sir,

**Subject: Clarifications on exports related refund issues- regarding**

Board vide Circular No. 17/17/2017 – GST dated 15<sup>th</sup> November 2017 and Circular No. 24/24/2017 – GST dated 21<sup>st</sup> December 2017 clarified various issues in relation to processing of claims for refund. Since then, several representations have been received seeking further clarifications on issues relating to refund. In order to clarify these issues and with a view to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (CGST Act), hereby clarifies the issues raised as below:

2. Non-availing of drawback: The third proviso to sub-section (3) of section 54 of the CGST Act states that no refund of input tax credit shall be allowed in cases where the supplier of goods or services or both avails of drawback in respect of central tax.

2.1 This has been clarified in paragraph 8.0 of Circular No. 24/24/2017 – GST, dated 21<sup>st</sup> December 2017. In the said paragraph, reference to “section 54(3)(ii) of the CGST Act” is a typographical error and it should read as “section 54(3)(i) of the CGST Act”. It may be noted that in the said circular reference has been made only to central tax, integrated tax, State / Union territory tax and not to customs duty leviable under the Customs Act, 1962. Therefore, a supplier availing of drawback only with respect to basic customs duty shall be eligible for refund of unutilized input tax credit of central tax / State tax / Union territory tax / integrated tax / compensation cess under the said provision. It is further clarified that refund of eligible credit on account of State tax shall be available even if the supplier of goods or services or both has availed of drawback in respect of central tax.

3. Amendment through Table 9 of GSTR-1: It has been reported that refund claims are not being processed on account of mis-matches between data contained in FORM GSTR-1, FORM GSTR-3B and shipping bills/bills of export. In this connection, it may be noted that the facility of filing of Table 9 in FORM GSTR-1, an amendment table which allows for amendments of invoices/ shipping bills details furnished in FORM GSTR-1 for earlier tax period, is already available. If a taxpayer has committed an error while entering the details of an invoice / shipping bill / bill of export in Table 6A or Table 6B of FORM GSTR-1, he can rectify the same in Table 9 of FORM GSTR-1.

3.1. It is advised that while processing refund claims on account of zero rated supplies, information contained in Table 9 of FORM GSTR-1 of the subsequent tax periods should be taken into cognizance, wherever applicable.

3.2. Field formations are also advised to refer to Circular No. 26/26/2017 – GST dated 29<sup>th</sup> December, 2017, wherein the procedure for rectification of errors made while filing the returns in FORM GSTR-3B has been provided. Therefore, in case of discrepancies between the data furnished by the taxpayer in FORM GSTR-3B and FORM GSTR-1, the officer shall refer to the said Circular and process the refund application accordingly.

4. Exports without LUT: Export of goods or services can be made without payment of integrated tax under the provisions of rule 96A of the Central Goods and Services Tax Rules, 2017 (the CGST Rules). Under the said provisions, an exporter is required to furnish a bond or Letter of Undertaking (LUT) to the jurisdictional Commissioner before effecting zero rated supplies. A detailed procedure for filing of LUT has already been specified vide Circular No. 8/8/2017 –GST dated 4<sup>th</sup> October, 2017. It has been brought to the notice of the Board that in some cases, such zero rated supplies have been made before filing the LUT and refund claims for unutilized input tax credit have been filed.

4.1. In this regard, it is emphasised that the substantive benefits of zero rating may not be denied where it has been established that exports in terms of the relevant provisions have been made. The delay in furnishing of LUT in such cases may be condoned and the facility for export under LUT may be allowed on ex post facto basis taking into account the facts and circumstances of each case.

5. Exports after specified period: Rule 96A (1) of the CGST Rules provides that any registered person may export goods or services without payment of integrated tax after furnishing a LUT / bond and that he would be liable to pay the tax due along with the interest as applicable within a period of fifteen days after the expiry of three months or such further period as may be allowed by the Commissioner from the date of issue of the invoice for export, if the goods are not exported out of India. The time period in case of services is fifteen days after the expiry of one year or such further period as may be allowed by the Commissioner from the date of issue of the invoice for export, if the payment of such services is not received by the exporter in convertible foreign exchange.

5.1 It has been reported that the exporters have been asked to pay integrated tax where the goods have been exported but not within three months from the date of the issue of the invoice for

export. In this regard, it is emphasised that exports have been zero rated under the Integrated Goods and Services Tax Act, 2017 (IGST Act) and as long as goods have actually been exported even after a period of three months, payment of integrated tax first and claiming refund at a subsequent date should not be insisted upon. In such cases, the jurisdictional Commissioner may consider granting extension of time limit for export as provided in the said sub-rule on post facto basis keeping in view the facts and circumstances of each case. The same principle should be followed in case of export of services.

6. Deficiency memo: It may be noted that if the application for refund is complete in terms of sub-rule (2), (3) and (4) of rule 89 of the CGST Rules, an acknowledgement in FORM GST RFD-02 should be issued. Rule 90 (3) of the CGST Rules provides for communication in FORM GST RFD-03 (deficiency memo) where deficiencies are noticed. The said sub-rule also provides that once the deficiency memo has been issued, the claimant is required to file a fresh refund application after the rectification of the deficiencies.

6.1. In this connection, a clarification has been sought whether with respect to a refund claim, deficiency memo can be issued more than once. In this regard rule 90 of the CGST Rules may be referred to, wherein it has been clearly stated that once an applicant has been communicated the deficiencies in respect of a particular application, the applicant shall furnish a fresh refund application after rectification of such deficiencies. It is therefore, clarified that there can be only one deficiency memo for one refund application and once such a memo has been issued, the applicant is required to file a fresh refund application, manually in FORM GST RFD-01A. This fresh application would be accompanied with the original ARN, debit entry number generated originally and a hard copy of the refund application filed online earlier. It is further clarified that once an application has been submitted afresh, pursuant to a deficiency memo, the proper officer will not serve another deficiency memo with respect to the application for the same period, unless the deficiencies pointed out in the original memo remain unrectified, either wholly or partly, or any other substantive deficiency is noticed subsequently.

7. Self-declaration for non-prosecution: It is learnt that some field formations are asking for a self-declaration with every refund claim to the effect that the claimant has not been prosecuted.

7.1. The facility of export under LUT is available to all exporters in terms of notification No. 37/2017- Central Tax dated 4<sup>th</sup> October, 2017, except to those who have been prosecuted for any offence under the CGST Act or the IGST Act or any of the existing laws in force in a case where the amount of tax evaded exceeds two hundred and fifty lakh rupees. Para 2(d) of the Circular No. 8/8/2017-GST dated 4<sup>th</sup> October, 2017, mentions that a person intending to export under LUT is required to give a self-declaration at the time of submission of LUT that he has not been prosecuted. Persons who are not eligible to export under LUT are required to export under bond.

7.2. It is clarified that this requirement is already satisfied in case of exports under LUT and asking for self-declaration with every refund claim where the exports have been made under LUT is not warranted.

8. Refund of transitional credit: Refund of unutilized input tax credit is allowed in two scenarios mentioned in sub-section (3) of section 54 of the CGST Act. These two scenarios are zero rated supplies made without payment of tax and inverted tax structure. In sub-rule (4) and (5) of rule 89 of the CGST Rules, the amount of refund under these scenarios is to be calculated using the formulae given in the said sub-rules. The formulae use the phrase 'Net ITC' and defines the same as "input tax credit availed on inputs and input services during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both". It is clarified that as the transitional credit pertains to duties and taxes paid under the existing laws viz., under Central Excise Act, 1944 and Chapter V of the Finance Act, 1994, the same cannot be said to have been availed during the relevant period and thus, cannot be treated as part of 'Net ITC'.

9. Discrepancy between values of GST invoice and shipping bill/bill of export: It has been brought to the notice of the Board that in certain cases, where the refund of unutilized input tax credit on account of export of goods is claimed and the value declared in the tax invoice is different from the export value declared in the corresponding shipping bill under the Customs Act, refund claims are not being processed. The matter has been examined and it is clarified that the zero rated supply of goods is effected under the provisions of the GST laws. An exporter, at the time of supply of goods declares that the goods are for export and the same is done under an invoice issued under rule 46 of the CGST Rules. The value recorded in the GST invoice should normally be the transaction value as determined under section 15 of the CGST Act read with the rules made thereunder. The same transaction value should normally be recorded in the corresponding shipping bill / bill of export.

9.1 During the processing of the refund claim, the value of the goods declared in the GST invoice and the value in the corresponding shipping bill / bill of export should be examined and the lower of the two values should be sanctioned as refund.

10. Refund of taxes paid under existing laws: Sub-sections (3), (4) and (5) of section 142 of the CGST Act provide that refunds of tax/duty paid under the existing law shall be disposed of in accordance with the provisions of the existing law. It is observed that certain taxpayers have applied for such refund claims in FORM GST RFD-01A also. In this regard, the field formations are advised to reject such applications and pass a rejection order in FORM GST PMT-03 and communicate the same on the common portal in FORM GST RFD-01B. The procedures laid down under the existing laws viz., Central Excise Act, 1944 and Chapter V of the Finance Act, 1994 read with above referred sub-sections of section 142 of the CGST Act shall be followed while processing such refund claims.

10.1 Furthermore, it has been brought to the notice of the Board that the field formations are rejecting, withholding or re-crediting CENVAT credit, while processing claims of refund filed under the existing laws. In this regard, attention is invited to sub-section (3) of section 142 of the CGST Act which provides that the amount of refund arising out of such claims shall be refunded in cash. Further, the first proviso to the said sub-section provides that where any claim for refund of CENVAT credit is fully or partially rejected, the amount so rejected shall lapse and therefore, will not be transitioned into GST. Furthermore, it should be ensured that no refund of the amount of



CENVAT credit is granted in case the said amount has been transitioned under GST. The field formations are advised to process such refund applications accordingly.

11. Filing frequency of Refunds: Various representations have been made to the Board regarding the period for which refund applications can be filed. Section 2(107) of the CGST Act defines the term “tax period” as the period for which the return is required to be furnished. The terms ‘Net ITC’ and ‘turnover of zero rated supply of goods/services’ are used in the context of the relevant period in rule 89(4) of CGST Rules. The phrase ‘relevant period’ has been defined in the said sub-rule as ‘the period for which the claim has been filed’.

11.1 In many scenarios, exports may not have been made in that period in which the inputs or input services were received and input tax credit has been availed. Similarly, there may be cases where exports may have been made in a period but no input tax credit has been availed in the said period. The above referred rule, taking into account such scenarios, defines relevant period in the context of the refund claim and does not link it to a tax period.

11.2 In this regard, it is hereby clarified that the exporter, at his option, may file refund claim for one calendar month / quarter or by clubbing successive calendar months / quarters. The calendar month(s) / quarter(s) for which refund claim has been filed, however, cannot spread across different financial years.

12. BRC / FIRC for export of goods: It is clarified that the realization of convertible foreign exchange is one of the conditions for export of services. In case of export of goods, realization of consideration is not a pre-condition. In rule 89 (2) of the CGST Rules, a statement containing the number and date of invoices and the relevant Bank Realisation Certificates (BRC) or Foreign Inward Remittance Certificates (FIRC) is required in case of export of services whereas, in case of export of goods, a statement containing the number and date of shipping bills or bills of export and the number and the date of the relevant export invoices is required to be submitted along with the claim for refund. It is therefore clarified that insistence on proof of realization of export proceeds for processing of refund claims related to export of goods has not been envisaged in the law and should not be insisted upon.

13. Supplies to Merchant Exporters: Notification No. 40/2017 – Central Tax (Rate), dated 23<sup>rd</sup> October 2017 and notification No. 41/2017 – Integrated Tax (Rate) dated 23<sup>rd</sup> October 2017 provide for supplies for exports at a concessional rate of 0.05% and 0.1% respectively, subject to certain conditions specified in the said notifications.

13.1 It is clarified that the benefit of supplies at concessional rate is subject to certain conditions and the said benefit is optional. The option may or may not be availed by the supplier and / or the recipient and the goods may be procured at the normal applicable tax rate.

13.2 It is also clarified that the exporter will be eligible to take credit of the tax @ 0.05% / 0.1% paid by him. The supplier who supplies goods at the concessional rate is also eligible for refund on account of inverted tax structure as per the provisions of clause (ii) of the first proviso to sub-section (3) of section 54 of the CGST Act. It may also be noted that the exporter of such goods can

## Circulars

export the goods only under LUT / bond and cannot export on payment of integrated tax. In this connection, notification No. 3/2018-Central Tax, dated 23.01.2018 may be referred.

14. Requirement of invoices for processing of claims for refund: It has been brought to the notice of the Board that for processing of refund claims, copies of invoices and other additional information are being insisted upon by many field formations.

14.1 It was envisaged that only the specified statements would be required for processing of refund claims because the details of outward supplies and inward supplies would be available on the common portal which would be matched. Most of the other information like shipping bills details etc. would also be available because of the linkage of the common portal with the Customs system. However, because of delays in operationalizing the requisite modules on the common portal, in many cases, suppliers' invoices on the basis of which the exporter is claiming refund may not be available on the system. For processing of refund claims of input tax credit, verifying the invoice details is quintessential. In a completely electronic environment, the information of the recipients' invoices would be dependent upon the suppliers' information, thus putting an in-built check-and-balance in the system. However, as the refund claims are being filed by the recipient in a semi-electronic environment and is completely based on the information provided by them, it is necessary that invoices are scrutinized.

14.2 A list of documents required for processing the various categories of refund claims on exports is provided in the Table below. Apart from the documents listed in the Table below, no other documents should be called for from the taxpayers, unless the same are not available with the officers electronically:

**Table**

Type of Refund	Documents
Export of Services with payment of tax (Refund of IGST paid on export of services)	<ul style="list-style-type: none"><li>✓ Copy of FORM RFD-01A filed on common portal</li><li>✓ Copy of Statement 2 of FORM RFD-01A</li><li>✓ Invoices w.r.t. input, input services and capital goods</li><li>✓ BRC/FIRC for export of services</li><li>✓ Undertaking / Declaration in FORM RFD-01A</li></ul>
Export (goods or services) without payment of tax (Refund of accumulated ITC of IGST / CGST / SGST / UTGST / Cess)	<ul style="list-style-type: none"><li>✓ Copy of FORM RFD-01A filed on common portal</li><li>✓ Copy of Statement 3A of FORM RFD-01A generated on common portal</li><li>✓ Copy of Statement 3 of FORM RFD-01A</li><li>✓ Invoices w.r.t. input and input services</li><li>✓ BRC/FIRC for export of services</li><li>✓ Undertaking / Declaration in FORM RFD-01A</li></ul>

## **Circulars**

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15. These instructions shall apply to exports made on or after 1<sup>st</sup> July, 2017. It is also advised that refunds may not be withheld due to minor procedural lapses or non-substantive errors or omission.

16. It is requested that suitable trade notices may be issued to publicize the contents of this circular.

17. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

**(Upender Gupta)**  
**Commissioner (GST)**

Circular No.38/12/2018

**F. No. 20/16/03/2017-GST**  
**Government of India**  
**Ministry of Finance**  
**Department of Revenue**  
**Central Board of Excise and Customs**  
**GST Policy Wing**

New Delhi, Dated the 26<sup>th</sup> March, 2018

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/  
Commissioners of Central Tax (All)/The Principal Directors General/ Directors General (All)

Madam/Sir,

**Subject: Clarification on issues related to Job Work**

Various representations have been received regarding the procedures to be followed for sending goods for job work and the related compliance requirements for the principal and the job worker. In view of the difficulties being faced by the taxpayers and to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017, (hereinafter referred to as the "CGST Act") hereby clarifies the various issues raised as below:

2. As per clause (68) of section 2 of the CGST Act, 2017, "job work" means any treatment or process undertaken by a person on goods belonging to another registered person and the expression "job worker" shall be construed accordingly. The registered person on whose goods (inputs or capital goods) job work is performed is called the "Principal" for the purposes of section 143 of the CGST Act. The said section which encapsulates the provisions related to job work, provides that the registered principal may, without payment of tax, send inputs or capital goods to a job worker for job work and, if required, from there subsequently to another job worker and so on. Subsequently, on completion of the job work (by the last job worker), the principal shall either bring back the goods to his place of business or supply (including export) the same directly from the place of business/premises of the job worker within one year in case of inputs or within three years in case of capital goods (except moulds and dies, jigs and fixtures or tools).

3. It may be noted that the responsibility of keeping proper accounts of the inputs and capital goods sent for job work lies with the principal. Moreover, if the time frame of one year / three years for bringing back or further supplying the inputs / capital goods is not adhered to, the activity of sending the goods for job work shall be deemed to be a supply by the principal on the day when the said inputs / capital goods were sent out by him. Thus, essentially, sending goods for job work is not a supply as such, but it acquires the character of supply only when the inputs/capital goods sent for job work are neither received back by the principal nor supplied further by the principal from the place of business / premises of the job worker within one/three years of being sent out. It

may be noted that the responsibility for sending the goods for job work as well as bringing them back or supplying them has been cast on the principal.

4. With respect to the above legal requirements, various issues have been raised on the following aspects:

- a. Scope / ambit of job work;
- b. Requirement of registration for a principal / job worker;
- c. Supply of goods by the principal from the job worker's place of business / premises;
- d. Movement of goods from the principal to the job worker and the documents and intimation required therefor;
- e. Liability to issue invoice, determination of place of supply and payment of GST; and
- f. Availability of input tax credit to the principal and the job worker.

5. Scope/ambit of job work: Doubts have been raised on the scope of job work and whether any inputs, other than the goods provided by the principal, can be used by the job worker for providing the services of job work. It may be noted that the definition of job work, as contained in clause (68) of section 2 of the CGST Act, entails that the job work is a treatment or process undertaken by a person on goods belonging to another registered person. Thus, the job worker is expected to work on the goods sent by the principal and whether the activity is covered within the scope of job work or not would have to be determined on the basis of facts and circumstances of each case. Further, it is clarified that the job worker, in addition to the goods received from the principal, can use his own goods for providing the services of job work.

6. Requirement of registration for the principal/ job worker: It is important to note that the provisions of section 143 of the CGST Act are applicable to a registered person. Thus, it is only a registered person who can send the goods for job work under the said provisions. It may also be noted that the registered person (principal) is not obligated to follow the said provisions. It is his choice whether or not to avail or not to avail of the benefit of these special provisions.

6.1 Doubts have been raised about the requirement of obtaining registration by job workers when they are located in the same State where the principal is located or when they are located in a State different from that of the principal. It may be noted that the job worker is required to obtain registration only if his aggregate turnover, to be computed on all India basis, in a financial year exceeds the specified threshold limit (i.e. Rs 20 lakhs or Rs. 10 lakhs in case of special category States except Jammu & Kashmir) in case both the principal and the job worker are located in the same State. Where the principal and the job worker are located in different States, the requirement for registration flows from clause (i) of section 24 of the CGST Act which provides for compulsory registration of suppliers making any inter-State supply of services. However, exemption from registration has been granted in case the aggregate turnover of the inter- State supply of taxable services does not exceed Rs 20 lakhs or Rs. 10 lakhs in case of special category States except Jammu & Kashmir in a financial year vide notification No. 10/2017 – Integrated Tax dated

13.10.2017. Therefore, it is clarified that a job worker is required to obtain registration only in cases where his aggregate turnover, to be computed on all India basis, in a financial year exceeds the threshold limit regardless of whether the principal and the job worker are located in the same State or in different States.

7. Supply of goods by the principal from job worker's place of business/ premises: Doubts have been raised as to whether the principal can supply goods directly from the job worker's place of business / premises to its end customer and if yes, whether the supply will be regarded as having been made by the principal or by the job worker. It is clarified that the supply of goods by the principal from the place of business / premises of the job worker will be regarded as supply by the principal and not by the job worker as specified in section 143(1)(a) of the CGST Act.

8. Movement of goods from the principal to the job worker and the documents and intimation required therefor:

8.1 Issues: Doubts have been raised about the documents required to be issued for sending the goods (i) by the principal to the job worker, (ii) from one job worker to another job worker; and (iii) from the job worker back to the principal.

8.2 Legal provisions: Section 143 of the CGST Act provides that the principal may send and/or bring back inputs/capital goods for job work without payment of tax, under intimation to the proper officer and subject to the prescribed conditions. Rule 45 of the CGST Rules provides that the inputs, semi-finished goods or capital goods being sent for job work (including that being sent from one job worker to another job worker for further job work or those being sent directly to a job worker) shall be sent under the cover of a challan issued by the principal, containing the details specified in rule 55 of the CGST Rules. This rule has been amended vide notification No. 14/2018-Central tax dated 23.03.2018 to provide that a job worker may endorse the challan issued by the principal. The principal is also required to file FORM GST ITC-04 every quarter stating the said details. Further, as per the provisions contained in rule 138 of the CGST Rules, an e-way bill is required to be generated by every registered person who causes movement of goods of consignment value exceeding fifty thousand rupees even in cases where such movement is for reasons other than for supply (e.g. in case of movement for job work). Further, the third proviso to rule 138(1) of the CGST Rules provides that the e-way bill shall be generated either by the principal or by the registered job worker irrespective of the value of the consignment, where goods are sent by a principal located in one State/Union territory to a job worker located in any other State/ Union territory.

8.3 As mentioned above, rule 45 of the CGST Rules provides that inputs, semi-finished goods or capital goods shall be sent to the job worker under the cover of a challan issued by the principal, including in cases where such goods are sent directly to a job worker. Further, rule 55 of the CGST Rules provides that the consignor may issue a delivery challan containing the prescribed particulars in case of transportation of goods for job work. It may be noted that rule 45 provides for the issuance of a challan by the principal whereas rule 55 provides that the consignor may issue the delivery challan. It is also important to note that as per the provisions contained in rule 138 of the CGST Rules, an e-way bill is required to be generated by every registered person who causes

movement of goods of consignment value exceeding fifty thousand rupees even in cases where such movement is for reasons other than for supply (e.g. in case of movement for job work). The third proviso to rule 138(1) of the CGST Rules provides that the e-way bill shall be generated either by the principal or by the registered job worker irrespective of the value of the consignment, where goods are sent by a principal located in one State/Union territory to a job worker located in any other State/ Union territory. It may also be noted that as per Explanation 1 to rule 138(3) of the CGST Rules, where the goods are supplied by an unregistered supplier to a registered recipient, the movement shall be said to be caused by such recipient if the recipient is known at the time of commencement of the movement of goods. In other words, the e-way bill shall be generated by the principal, wherever required, in case the job worker is unregistered.

8.4 Clarification: On conjoint reading of the relevant legal provisions, the following is clarified with respect to the issuance of challan, furnishing of intimation and other documentary requirements in this regard:

- (i) Where goods are sent by principal to only one job worker: The principal shall prepare in triplicate, the challan in terms of rules 45 and 55 of the CGST Rules, for sending the goods to a job worker. Two copies of the challan may be sent to the job worker along with the goods. The job worker should send one copy of the said challan along with the goods, while returning them to the principal. The FORM GST ITC-04 will serve as the intimation as envisaged under section 143 of the CGST Act, 2017.
- (ii) Where goods are sent from one job worker to another job worker: In such cases, the goods may move under the cover of a challan issued either by the principal or the job worker. In the alternative, the challan issued by the principal may be endorsed by the job worker sending the goods to another job worker, indicating therein the quantity and description of goods being sent. The same process may be repeated for subsequent movement of the goods to other job workers.
- (iii) Where the goods are returned to the principal by the job worker: The job worker should send one copy of the challan received by him from the principal while returning the goods to the principal after carrying out the job work.
- (iv) Where the goods are sent directly by the supplier to the job worker: In this case, the goods may move from the place of business of the supplier to the place of business/premises of the job worker with a copy of the invoice issued by the supplier in the name of the buyer (i.e. the principal) wherein the job worker's name and address should also be mentioned as the consignee, in terms of rule 46(o) of the CGST Rules. The buyer (i.e., the principal) shall issue the challan under rule 45 of the CGST Rules and send the same to the job worker directly in terms of para (i) above. In case of import of goods by the principal which are then supplied directly from the customs station of import, the goods may move from the customs station of import to the place of business/premises of the job worker with a copy of the Bill of Entry and the principal shall issue the challan under rule 45 of the CGST Rules and send the same to the job worker directly.

- (v) Where goods are returned in piecemeal by the job worker: In case the goods after carrying out the job work, are sent in piecemeal quantities by a job worker to another job worker or to the principal, the challan issued originally by the principal cannot be endorsed and a fresh challan is required to be issued by the job worker.
  - (vi) Submission of intimation: Rule 45(3) of the CGST Rules provides that the principal is required to furnish the details of challans in respect of goods sent to a job worker or received from a job worker or sent from one job worker to another job worker during a quarter in FORM GST ITC-04 by the 25<sup>th</sup> day of the month succeeding the quarter or within such period as may be extended by the Commissioner. It is clarified that it is the responsibility of the principal to include the details of all the challans relating to goods sent by him to one or more job worker or from one job worker to another and its return therefrom. The FORM GST ITC-04 will serve as the intimation as envisaged under section 143 of the CGST Act.
9. Liability to issue invoice, determination of place of supply and payment of GST:
- 9.1 Issues: Doubts have been raised about the time, value and place of supply in the hands of principal or job worker as also about the issuance of invoices by the principal or job worker, as the case may be, with regard to the supply of goods from principal to the recipient from the job worker's place of business / premises and the supply of services by the job worker.
- 9.2 Legal provisions: As mentioned earlier, section 143 of the CGST Act provides that the inputs/capital goods may be sent for job work without payment of tax and unless they are brought back by the principal, or supplied from the place of business / premises of the job worker within a period of one / three years, as the case may be, it would be deemed that such inputs or capital goods (other than moulds and dies, jigs and fixtures or tools) have been supplied by the principal to the job worker on the day when the said inputs or capital goods were sent out. Further, the job worker is liable to pay GST on the supply of job work services.
- 9.3 The provisions relating to time of supply are contained in sections 12 and 13 of the CGST Act and that for determining the value of supply are in section 15 of the CGST Act. The provisions relating to place of supply are contained in section 10 of the IGST Act, 2017. Further, the provisions relating to the issuance of an invoice are contained in section 31 of the CGST Act read with rule 46 of the CGST Rules.
- 9.4 On conjoint reading of all the provisions, the following is clarified with respect to the issuance of an invoice, time of supply and value of supply:
- (i) Supply of job work services: The job worker, as a supplier of services, is liable to pay GST if he is liable to be registered. He shall issue an invoice at the time of supply of the services as determined in terms of section 13 read with section 31 of the CGST Act. The value of services would be determined in terms of section 15 of the CGST Act and would include not only the service charges but also the value of any goods or services used by him for supplying the job work services, if recovered from the principal. Doubts have been raised whether the value of moulds and dies, jigs and fixtures or tools which have been provided by the principal to the job worker and have been used by the latter for providing job work



services would be included in the value of job work services. In this regard, attention is invited to section 15 of the CGST Act which lays down the principles for determining the value of any supply under GST. Importantly, clause (b) of sub-section (2) of section 15 of the CGST Act provides that any amount that the supplier is liable to pay in relation to the supply but which has been incurred by the recipient will form part of the valuation for that particular supply, provided it has not been included in the price for such supply. Accordingly, it is clarified that the value of such moulds and dies, jigs and fixtures or tools may not be included in the value of job work services provided its value has been factored in the price for the supply of such services by the job worker. It may be noted that if the job worker is not registered, GST would be payable by the principal on reverse charge basis in terms of the provisions contained in section 9(4) of the CGST Act. However, the said provision has been kept in abeyance for the time being.

- (ii) Supply of goods by the principal from the place of business/ premises of job worker: Section 143 of the CGST Act provides that the principal may supply, from the place of business / premises of a job worker, inputs after completion of job work or otherwise or capital goods (other than moulds and dies, jigs and fixtures or tools) within one year or three years respectively of their being sent out, on payment of tax within India, or with or without payment of tax for exports, as the case may be. This facility is available to the principal only if he declares the job worker's place of business / premises as his additional place of business or if the job worker is registered.

Since the supply is being made by the principal, it is clarified that the time, value and place of supply would have to be determined in the hands of the principal irrespective of the location of the job worker's place of business/premises. Further, the invoice would have to be issued by the principal. It is also clarified that in case of exports directly from the job worker's place of business/premises, the LUT or bond, as the case may be, shall be executed by the principal.

Illustration: The principal is located in State A, the job worker in State B and the recipient in State C. In case the supply is made from the job worker's place of business / premises, the invoice will be issued by the supplier (principal) located in State A to the recipient located in State C. The said transaction will be an inter-State supply. In case the recipient is also located in State A, it will be an intra-State supply.

- (iii) Supply of waste and scrap generated during the job work: Sub - section (5) of Section 143 of the CGST Act provides that the waste and scrap generated during the job work may be supplied by the registered job worker directly from his place of business or by the principal in case the job worker is not registered. The principles enunciated in para (ii) above would apply mutatis mutandis in this case.

9.5 Violation of conditions laid down in section 143: As per the provisions contained in section 143 of the CGST Act, if the inputs or capital goods (other than moulds and dies, jigs and fixtures or tools) are neither received back by the principal nor supplied from the job worker's place of business within the specified time period, the inputs or capital goods (other than moulds and dies,

jigs and fixtures or tools) would be deemed to have been supplied by the principal to the job worker on the day when such inputs or capital goods were sent out to the first job worker.

9.6 Thus, if the inputs or capital goods are neither returned nor supplied from the job worker's place of business / premises within the specified time period, the principal would issue an invoice for the same and declare such supplies in his return for that particular month in which the time period of one year / three years has expired. The date of supply shall be the date on which such inputs or capital goods were initially sent to the job worker and interest for the intervening period shall also be payable on the tax. If such goods are returned by the job worker after the stipulated time period, the same would be treated as a supply by the job worker to the principal and the job worker would be liable to pay GST if he is liable for registration in accordance with the provisions contained in the CGST Act read with the rules made thereunder. It may be noted that if the job worker is not registered, GST would be payable by the principal on reverse charge basis in terms of the provisions contained in section 9(4) of the CGST Act. However, the said provision has been kept in abeyance for the time being. Further, there is no requirement of either returning back or supplying the goods from the job worker's place of business/premises as far as moulds and dies, jigs and fixtures, or tools are concerned.

10. Availability of input tax credit to the principal and job worker: Doubts have been raised regarding the availability of input tax credit (ITC) to the principal in respect of inputs / capital goods that are directly received by the job worker. Doubts have also been raised whether the job worker is eligible for ITC in respect of inputs, etc. used by him in supplying job work services. It is clarified that, in view of the provisions contained in clause (b) of sub-section (2) of section 16 of the CGST Act, the input tax credit would be available to the principal, irrespective of the fact whether the inputs or capital goods are received by the principal and then sent to the job worker for processing, etc. or whether they are directly received at the job worker's place of business/premises, without being brought to the premises of the principal. It is also clarified that the job worker is also eligible to avail ITC on inputs, etc. used by him in supplying the job work services if he is registered.

11. It is requested that suitable trade notices may be issued to publicize the contents of this circular.

12. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

**(Upender Gupta)**  
**Commissioner (GST)**

Circular No. 39/13/2018-GST

**F. No. 267/7/2018-CX.8**

**Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Indirect Taxes and Customs**

New Delhi, dated the 3<sup>rd</sup> April, 2018

To

The Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/  
Commissioner of Central Tax (All),

The Principal Director Generals/ Director Generals (All).

**Sub: Setting up of an IT Grievance Redressal Mechanism to address the grievances of taxpayers due to technical glitches on GST Portal-reg.**

Madam/Sir,

It has been decided to put in place an IT-Grievance Redressal Mechanism to address the difficulties faced by a section of taxpayers owing to technical glitches on the GST portal and the relief that needs to be given to them. The relief could be in the nature of allowing filing of any Form or Return prescribed in law or amending any Form or Return already filed. The details of the said grievance redressal mechanism are provided below:

**2. Introduction**

Where an IT related glitch has been identified as the reason for failure of a class of taxpayer in filing of a return or a form within the time limit prescribed in the law and there are collateral evidences available to establish that the taxpayer has made bonafide attempt to comply with the process of filing of form or return, GST Council has delegated powers to the IT Grievance Redressal Committee to approve and recommend to the GSTN the steps to be taken to redress the grievance and the procedure to be followed for implementation of the decision.

**3. Scope**

Problems which are proposed to be addressed through this mechanism would essentially be those which relate to Common Portal (GST Portal) and affect a large section of taxpayers. Where the problem relates to individual taxpayer, due to localised issues such as non- availability of internet connectivity or failure of power supply, this mechanism shall not be available.

**4. IT-Grievance Redressal Committee**

Any issue which needs to be addressed through this mechanism shall be identified by GSTN and the method of resolution approved by the GST Implementation Committee (GIC) which shall act as the IT Grievance Redressal Committee. In GIC meetings convened to address IT issues or IT

glitches, the CEO, GSTN and the DG (Systems), CBEC shall participate in these meetings as special invitees.

### **5. Nodal officers and identification of issues**

5.1 GSTN, Central and State government would appoint nodal officers in requisite number to address the problem a taxpayer faces due to glitches, if any, in the Common Portal. This would be publicized adequately.

5.2 Taxpayers shall make an application to the field officers or the nodal officers where there was a demonstrable glitch on the Common Portal in relation to an identified issue, due to which the due process as envisaged in law could not be completed on the Common Portal.

5.3 Such an application shall enclose evidences as may be needed for an identified issue to establish bonafide attempt on the part of the taxpayer to comply with the due process of law.

5.4 These applications shall be collated by the nodal officer and forwarded to GSTN who would on receipt of application examine the same. GSTN shall after verifying its electronic records and the applications received, identify the issue involved where a large section of tax payers are affected. GSTN shall forward the same to the IT Grievance Redressal Committee with suggested solutions for resolution of the problem.

### **6. Suggested solutions**

6.1 GST Council Secretariat shall obtain inputs of the Law Committee, where necessary, on the proposal of the GSTN and call meeting of GIC to examine the proposal and take decision thereon.

6.2 The committee shall examine and approve the suggested solution with such modifications as may be necessary.

6.3 IT-Grievance Redressal Committee may give directions as necessary to GSTN and field formations of the tax administrations for implementation of the decision.

### **7. Legal issues**

7.1 Where an IT related glitch has been identified as the reason for failure of a taxpayer in filing of a return or form prescribed in the law, the consequential fine and penalty would also be required to be waived. GST Council has delegated the power to the IT Grievance Redressal Committee to recommend waiver of fine or penalty, in case of an emergency, to the Government in terms of section 128 of the CGST Act, 2017 under such mitigating circumstances as are identified by the committee. All such notifications waiving fine or penalty shall be placed before GST Council.

7.2 Where adequate time is available, the issue of waiver of fee and penalty shall be placed before the GST Council with recommendation of the IT-Grievance Redressal Committee.

### **8. Resolution of stuck TRAN-1s and filing of GSTR-3B**

8.1 A large number of taxpayers could not complete the process of TRAN-1 filing either at the stage of original or revised filing as they could not digitally authenticate the TRAN-1s due to IT related glitches. As a result, a large number of such TRAN-1s are stuck in the system. GSTN shall

identify such taxpayers who could not file TRAN-1 on the basis of electronic audit trail. It has been decided that all such taxpayers, who tried but were not able to complete TRAN-1 procedure (original or revised) of filing them on or before 27.12.2017 due to IT-glitch, shall be provided the facility to complete TRAN-1 filing. It is clarified that the last date for filing of TRAN 1 is not being extended in general and only these identified taxpayers shall be allowed to complete the process of filing TRAN-1.

8.2 The taxpayer shall not be allowed to amend the amount of credit in TRAN-1 during this process vis-à-vis the amount of credit which was recorded by the taxpayer in the TRAN-1, which could not be filed. If needed, GSTN may request field formations of Centre and State to collect additional document/ data etc. or verify the same to identify taxpayers who should be allowed this procedure.

8.3 GSTN shall communicate directly with the taxpayers in this regard and submit a final report to GIC about the number of TRAN-1s filed and submitted through this process.

8.4 The taxpayers shall complete the process of filing of TRAN 1 stuck due to IT glitches, as discussed above, by 30<sup>th</sup> April 2018 and the process of completing filing of GSTR 3B which could not be filed for such TRAN 1 shall be completed by 31<sup>st</sup> May 2018.

9. The decisions of the Hon'ble High Courts of Allahabad, Bombay etc., where no case specific decision has been taken, may be implemented in-line with the procedure prescribed above, subject to fulfilment of the conditions prescribed therein. Where these conditions are not satisfied, Hon'ble Courts may be suitably informed and if needed review or appeal may be filed.

10. Trade may be suitably informed and difficulty if any in implementation of the circular may be brought to the notice of the Board.

(ROHAN)

(Deputy Commissioner)

Circular No. 40/14/2018-GST

**F. No. 349/82/2017-GST  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Indirect Taxes and Customs  
(GST Policy Wing)**

New Delhi, April 6, 2018

To,

The Principal Chief Commissioners / Chief Commissioners / Principal Commissioners/  
Commissioners of Central Tax (All) / The Principal Director Generals / Director Generals (All)

Madam/Sir,

**Subject: Clarification on issues related to furnishing of Bond/Letter of Undertaking for exports – Reg.**

Various communications have been received from the field formations and exporters that the LUTs being submitted online in **FORM GST RFD-11** on the common portal are not visible to the jurisdictional officers of Central Board of Indirect Taxes and Customs and of a few States. Therefore, a need was felt for a clarification regarding the acceptance of LUTs being submitted online in **FORM GST RFD-11**.

2. Accordingly, in partial modification of Circular No. 8/8/2017-GST dated 4<sup>th</sup> October, 2017, sub-para (c), (d) and (e) of para 2 of the said Circular are hereby replaced by the following:

*"c) **Form for LUT:** The registered person (exporters) shall fill and submit **FORM GST RFD-11** on the common portal. An LUT shall be deemed to be accepted as soon as an acknowledgement for the same, bearing the Application Reference Number (ARN), is generated online.*

*d) **Documents for LUT:** No document needs to be physically submitted to the jurisdictional office for acceptance of LUT.*

*e) **Acceptance of LUT/bond:** An LUT shall be deemed to have been accepted as soon as an acknowledgement for the same, bearing the Application Reference Number (ARN), is generated online. If it is discovered that an exporter whose LUT has been so accepted, was ineligible to furnish an LUT in place of bond as per Notification No. 37/2017-Central Tax, then the exporter's LUT will be liable for rejection. In case of rejection, the LUT shall be deemed to have been rejected ab initio."*

**Circulars**

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3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.
4. Difficulty, if any, in the implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)  
Commissioner (GST)

Circular No. 41/15/2018-GST

**CBEC-20/16/03/2017-GST**  
**Government of India**  
**Ministry of Finance**  
**Department of Revenue**  
**Central Board of Indirect Taxes and Customs**  
**GST Policy Wing**

New Delhi, Dated the 13<sup>th</sup> April, 2018

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/  
Commissioners of Central Tax (All)/The Principal Directors General/ Directors General (All)

Madam/Sir,

**Subject: Procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances–Reg.**

Sub-section (1) of section 68 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”) stipulates that the person in charge of a conveyance carrying any consignment of goods of value exceeding a specified amount shall carry with him the documents and devices prescribed in this behalf. Sub-section (2) of the said section states that the details of documents required to be carried by the person in charge of the conveyance shall be validated in such manner as may be prescribed. Sub-section (3) of the said section provides that where any conveyance referred to in sub-section (1) of the said section is intercepted by the proper officer at any place, he may require the person in charge of the conveyance to produce the documents for verification, and the said person shall be liable to produce the documents and also allow the inspection of goods.

1.1 Rules 138 to 138D of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the “CGST Rules”) lay down, in detail, the provisions relating to e-way bills. As per the said provisions, in case of transportation of goods by road, an e-way bill is required to be generated before the commencement of movement of the consignment. Rule 138A of the CGST rules prescribes that the person in charge of a conveyance shall carry the invoice or bill of supply or delivery challan, as the case may be; and in case of transportation of goods by road, he shall also carry a copy of the e-way bill in physical form or the e-way bill number in electronic form or mapped to a Radio Frequency Identification Device embedded on to the conveyance in such manner as may be notified by the Commissioner.

1.2 Section 129 of the CGST Act provides for detention, seizure and release of goods and conveyances in transit while section 130 of the CGST Act provides for the confiscation of goods or conveyances and imposition of penalty.



2. In this regard, various references have been received regarding the procedure to be followed in case of interception of conveyances for inspection of goods in movement and detention, seizure and release and confiscation of such goods and conveyances. In order to ensure uniformity in the implementation of the provisions of the CGST Act across all the field formations, the Board, in exercise of the powers conferred under section 168 (1) of the CGST Act, hereby issues the following instructions:

- (a) The jurisdictional Commissioner or an officer authorised by him for this purpose shall, by an order, designate an officer/officers as the proper officer/officers to conduct interception and inspection of conveyances and goods in the jurisdictional area specified in such order.
- (b) The proper officer, empowered to intercept and inspect a conveyance, may intercept any conveyance for verification of documents and/or inspection of goods. On being intercepted, the person in charge of the conveyance shall produce the documents related to the goods and the conveyance. The proper officer shall verify such documents and where, prima facie, no discrepancies are found, the conveyance shall be allowed to move further. An e-way bill number may be available with the person in charge of the conveyance or in the form of a printout, sms or it may be written on an invoice. All these forms of having an e-way bill are valid. Wherever a facility exists to verify the e-way bill electronically, the same shall be so verified, either by logging on to <http://mis.ewaybillgst.gov.in> or the Mobile App or through SMS by sending **EWBVER <EWB\_NO>** to the mobile number **77382 99899** (For e.g. EWBVER 120100231897).
- (c) For the purposes of verification of the e-way bill, interception and inspection of the conveyance and/or goods, the proper officer under rule 138B of the CGST Rules shall be the officer who has been assigned the functions under sub-section (3) of section 68 of the CGST Act vide Circular No. 3/3/2017 – GST, dated 05.07.2017.
- (d) Where the person in charge of the conveyance fails to produce any prescribed document or where the proper officer intends to undertake an inspection, he shall record a statement of the person in charge of the conveyance in **FORM GST MOV-01**. In addition, the proper officer shall issue an order for physical verification/inspection of the conveyance, goods and documents in **FORM GST MOV-02**, requiring the person in charge of the conveyance to station the conveyance at the place mentioned in such order and allow the inspection of the goods. The proper officer shall, within twenty four hours of the aforementioned issuance of **FORM GST MOV-02**, prepare a report in **Part A of FORM GST EWB-03** and upload the same on the common portal.
- (e) Within a period of three working days from the date of issue of the order in **FORM GST MOV-02**, the proper officer shall conclude the inspection proceedings, either by himself or through any other proper officer authorised in this behalf. Where circumstances warrant such time to be extended, he shall obtain a written permission in **FORM GST MOV-03** from the Commissioner or an officer authorized by him, for extension of time beyond three working days and a copy of the order of extension shall be served on the person in charge of the conveyance.

- (f) On completion of the physical verification/inspection of the conveyance and the goods in movement, the proper officer shall prepare a report of such physical verification in **FORM GST MOV-04** and serve a copy of the said report to the person in charge of the goods and conveyance. The proper officer shall also record, on the common portal, the final report of the inspection in **Part B** of **FORM GST EWB-03** within three days of such physical verification/inspection.
- (g) Where no discrepancies are found after the inspection of the goods and conveyance, the proper officer shall issue forthwith a release order in **FORM GST MOV-05** and allow the conveyance to move further. Where the proper officer is of the opinion that the goods and conveyance need to be detained under section 129 of the CGST Act, he shall issue an order of detention in **FORM GST MOV-06** and a notice in **FORM GST MOV-07** in accordance with the provisions of sub-section (3) of section 129 of the CGST Act, specifying the tax and penalty payable. The said notice shall be served on the person in charge of the conveyance.
- (h) Where the owner of the goods or any person authorized by him comes forward to make the payment of tax and penalty as applicable under clause (a) of sub-section (1) of section 129 of the CGST Act, or where the owner of the goods does not come forward to make the payment of tax and penalty as applicable under clause (b) of sub-section (1) of the said section, the proper officer shall, after the amount of tax and penalty has been paid in accordance with the provisions of the CGST Act and the CGST Rules, release the goods and conveyance by an order in **FORM GST MOV-05**. Further, the order in **FORM GST MOV-09** shall be uploaded on the common portal and the demand accruing from the proceedings shall be added in the electronic liability register and the payment made shall be credited to such electronic liability register by debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act.
- (i) Where the owner of the goods, or the person authorized by him, or any person other than the owner of the goods comes forward to get the goods and the conveyance released by furnishing a security under clause (c) of sub-section (1) of section 129 of the CGST Act, the goods and the conveyance shall be released, by an order in **FORM GST MOV-05**, after obtaining a bond in **FORM GST MOV-08** along with a security in the form of bank guarantee equal to the amount payable under clause (a) or clause (b) of sub-section (1) of section 129 of the CGST Act. The finalisation of the proceedings under section 129 of the CGST Act shall be taken up on priority by the officer concerned and the security provided may be adjusted against the demand arising from such proceedings.
- (j) Where any objections are filed against the proposed amount of tax and penalty payable, the proper officer shall consider such objections and thereafter, pass a speaking order in **FORM GST MOV-09**, quantifying the tax and penalty payable. On payment of such tax and penalty, the goods and conveyance shall be released forthwith by an order in **FORM GST MOV-05**. The order in **FORM GST MOV-09** shall be uploaded on the common portal and the demand

accruing from the order shall be added in the electronic liability register and, upon payment of the demand, such register shall be credited by either debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act.

- (k) In case the proposed tax and penalty are not paid within seven days from the date of the issue of the order of detention in **FORM GST MOV-06**, action under section 130 of the CGST Act shall be initiated by serving a notice in **FORM GST MOV-10**, proposing confiscation of the goods and conveyance and imposition of penalty.
- (l) Where the proper officer is of the opinion that such movement of goods is being effected to evade payment of tax, he may directly invoke section 130 of the CGST Act by issuing a notice proposing to confiscate the goods and conveyance in **FORM GST MOV-10**. In the said notice, the quantum of tax and penalty leviable under section 130 of the CGST Act read with section 122 of the CGST Act, and the fine in lieu of confiscation leviable under sub-section (2) of section 130 of the CGST Act shall be specified. Where the conveyance is used for the carriage of goods or passengers for hire, the owner of the conveyance shall also be issued a notice under the third proviso to sub-section (2) of section 130 of the CGST Act, proposing to impose a fine equal to the tax payable on the goods being transported in lieu of confiscation of the conveyance.
- (m) No order for confiscation of goods or conveyance, or for imposition of penalty, shall be issued without giving the person an opportunity of being heard.
- (n) An order of confiscation of goods shall be passed in **FORM GST MOV-11**, after taking into consideration the objections filed by the person in charge of the goods (owner or his representative), and the same shall be served on the person concerned. Once the order of confiscation is passed, the title of such goods shall stand transferred to the Central Government. In the said order, a suitable time not exceeding three months shall be offered to make the payment of tax, penalty and fine imposed in lieu of confiscation and get the goods released. The order in **FORM GST MOV-11** shall be uploaded on the common portal and the demand accruing from the order shall be added in the electronic liability register and, upon payment of the demand, such register shall be credited by either debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act. Once an order of confiscation of goods is passed in **FORM GST MOV-11**, the order in **FORM GST MOV-09** passed earlier with respect to the said goods shall be withdrawn.
- (o) An order of confiscation of conveyance shall be passed in **FORM GST MOV-11**, after taking into consideration the objections filed by the person in charge of the conveyance and the same shall be served on the person concerned. Once the order of confiscation is passed, the title of such conveyance shall stand transferred to the Central Government. In the order passed above, a suitable time not exceeding three months shall be offered to make the payment of penalty and fines imposed in lieu of confiscation and get the conveyance released. The order in **FORM GST MOV-11** shall be uploaded on the common portal and

## Circulars

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the demand accruing from the order shall be added in the electronic liability register and, upon payment of the demand, such register shall be credited by either debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act.

- (p) The order referred to in clauses (n) and (o) above may be passed as a common order in the said **FORM GST MOV-11**.
  - (q) In case neither the owner of the goods nor any person other than the owner of the goods comes forward to make the payment of tax, penalty and fine imposed and get the goods or conveyance released within the time specified in **FORM GST MOV-11**, the proper officer shall auction the goods and/or conveyance by a public auction and remit the sale proceeds to the account of the Central Government.
  - (r) Suitable modifications in the time allowed for the service of notice or order for auction or disposal shall be done in case of perishable and/or hazardous goods.
  - (s) Whenever an order or proceedings under the CGST Act is passed by the proper officer, a corresponding order or proceedings shall be passed by him under the respective State or Union Territory GST Act and if applicable, under the Goods and Services Tax (Compensations to States) Act, 2017. Further, sub-sections (3) and (4) of section 79 of the CGST Act/respective State GST Acts may be referred to in case of recovery of arrears of central tax/State tax/Union territory tax.
  - (t) The procedure narrated above shall be applicable mutatis mutandis for an order or proceeding under the IGST Act, 2017.
  - (u) Demand of any tax, penalty, fine or other charges shall be added in the electronic liability ledger of the person concerned. Where no electronic liability ledger is available in case of an unregistered person, a temporary ID shall be created by the proper officer on the common portal and the liability shall be created therein. He shall also credit the payments made towards such demands of tax, penalty or fine and other charges by debiting the electronic cash ledger of the concerned person.
  - (v) A summary of every order in **FORM GST MOV-09** and **FORM GST MOV-11** shall be uploaded electronically in **FORM GST-DRC-07** on the common portal.
3. The format of **FORMS GST MOV-01** to **GST MOV-11** are annexed to this Circular.
  4. It is requested that suitable standing orders and trade notices may be issued to publicise the contents of this Circular.
  5. Difficulties, if any, in implementation of the above instructions may be brought to the notice of the Board at an early date. Hindi version will follow.

(Upender Gupta)

Commissioner (GST)

**List of Forms prescribed to follow the above procedure:**

<b>Sl. No.</b>	<b>Form</b>	<b>Purpose</b>
1.	FORM GST MOV01	For recording statement of the person in charge of the conveyance
2.	FORM GST MOV-02	An order for physical verification/inspection of the conveyance, goods and documents
3.	FORM GST MOV-03	For taking permission , for extension of time beyond three working days of concluding the inspection proceedings
4.	FORM GST MOV-04	Report of such physical verification
5.	FORM GST MOV-05	Release order to allow the conveyance to move further
6.	FORM GST MOV-06	An order of detention of goods
7.	FORM GST MOV-07	Notice specifying the tax and penalty payable
8.	FORM GST MOV-08	Bond for release of goods and conveyance
9.	FORM GST MOV-09	Form for release of goods on payment of tax and penalty.
10.	FORM GST MOV10	Notice proposing confiscation of the goods and conveyance and imposition of penalty.
11.	FORM GST MOV-11	An order of confiscation of goods

Circular No. 42/16/2018-GST

**CBEC-20/16/03/2017-GST**  
**Government of India**  
**Ministry of Finance**  
**Department of Revenue**  
**Central Board of Indirect Taxes and Customs**  
**GST Policy Wing**

New Delhi, Dated the 13<sup>th</sup> April, 2018

To

The Principal Chief Commissioners/Chief Commissioners/ Principal Commissioners/  
Commissioner of Central Tax (All) / The Principal Directors General/ Directors General (All)

**Sub: Clarification regarding procedure for recovery of arrears under the existing law and reversal of inadmissible input tax credit-reg.**

Madam/ Sir,

Kind attention is invited to the provisions of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act) relating to the recovery of arrears of central excise duty /service tax and CENVAT credit thereof, CENVAT credit carried forward erroneously and related interest, penalty or late fee payable arising as a result of the proceedings of assessment, adjudication, appeal etc. initiated before, on or after the appointed date under the provisions of the existing law. In this regard, representations have been received seeking clarification on the procedure for recovery of such arrears in the GST regime.

2. The issues have been examined and to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017, (hereinafter referred to as the "CGST Act") hereby specifies the procedure to be followed for recovery of arrears arising out of proceedings under the existing law.

3. **Legal provisions relating to the recovery of arrears of central excise duty and service tax and CENVAT credit thereof arising out of proceedings under the existing law (Central Excise Act, 1944 and Chapter V of the Finance Act, 1994)**

i) **Recovery of arrears of wrongly availed CENVAT Credit:**

In case where any proceeding of appeal, review or reference relating to a claim for CENVAT credit had been initiated, whether before, on or after the appointed day, under the existing law, any amount of such credit becomes recoverable, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under the CGST Act [Section 142(6)(b) of the CGST Act refers].

ii) **Recovery of CENVAT Credit carried forward wrongly:**

CENVAT credit of central excise duty/service tax availed under the existing law may be carried forward in terms of transitional provisions as per section 140 of the CGST Act subject to the conditions prescribed therein. Any credit which is not admissible in terms of section 140 of the CGST Act shall not be allowed to be transitioned or carried forward and the same shall be recovered as an arrear of tax under section 79 of the CGST Act.

iii) **Recovery of arrears of central excise duty and service tax:**

- a. Where in pursuance of an assessment or adjudication proceedings instituted, whether before, on or after the appointed day, under the existing law, any amount of tax, interest, fine or penalty becomes recoverable, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under the CGST Act [Section 142(8)(a) of the CGST Act refers].
- b. If due to any proceedings of appeal, review or reference relating to output duty or tax liability initiated, whether before, on or after the appointed day, under the existing law, any amount of output duty or tax becomes recoverable, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under the CGST Act [Section 142(7)(a) of the CGST Act refers].

iv) **Recovery of arrears due to revision of return under the existing law:** Where any return, furnished under the existing law, is revised after the appointed day and if, pursuant to such revision, any amount is found to be recoverable or any amount of CENVAT credit is found to be inadmissible, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under the CGST Act [Section 142(9)(a) of the CGST Act refers].

4. In view of the above legal provisions, recovery of central excise duty/ service tax and CENVAT credit thereof arising out of the proceedings under the existing law, unless recovered under the existing law, and that of inadmissible transitional credit, is required to be made as an arrear of tax under the CGST Act. The following procedure is hereby prescribed for the recovery of arrears:

**4.1 Recovery of central excise duty, service tax or wrongly availed CENVAT credit thereof under the existing law and inadmissible transitional credit:**

- (a) The CENVAT credit of central excise duty or service tax wrongly carried forward as transitional credit shall be recovered as central tax liability to be paid through the utilization of amounts available in the **electronic credit ledger or electronic cash ledger** of the registered person, and the same shall be recorded in **Part II** of the Electronic Liability Register (**FORM GST PMT-01**).
- (b) The arrears of central excise duty, service tax or wrongly availed CENVAT credit thereof under the existing law arising out of any of the situations discussed in para 3 above, shall, unless recovered under the existing law, be recovered as central tax liability to be paid through the utilization of amounts available in the **electronic credit ledger or electronic**

**cash ledger** of the registered person, and the same shall be recorded in **Part II** of the Electronic Liability Register (**FORM GST PMT-01**).

**4.2 Recovery of interest, penalty and late fee payable:**

- (a) The arrears of interest, penalty and late fee in relation to CENVAT credit wrongly carried forward, arising out of any of the situations discussed in para 3 above, shall be recovered as interest, penalty and late fee of central tax to be paid through the utilization of the amount available in **electronic cash ledger** of the registered person and the same shall be recorded in **Part II** of the Electronic Liability Register (**FORM GST PMT-01**).
- (b) The arrears of interest, penalty and late fee in relation to arrears of central excise duty, service tax or wrongly availed CENVAT credit thereof under the existing law arising out of any of the situations discussed in para 3 above, shall, unless recovered under the existing law, be recovered as interest, penalty and late fee of central tax to be paid through the utilization of the amount available in the **electronic cash ledger** of the registered person and the same shall be recorded in **Part II** of the Electronic Liability Register (**FORM GST PMT-01**).

**4.3 Payment of central excise duty & service tax on account of returns filed for the past period:**

The registered person may file Central Excise / Service Tax return for the period prior to 1<sup>st</sup> July, 2017 by logging onto **www.aces.gov.in** and make payment relating to the same through EASIEST portal (**cbec-easiest.gov.in**), as per the practice prevalent for the period prior to the introduction of GST. However, with effect from 1<sup>st</sup> of April, 2018, the return filing shall continue on **www.aces.gov.in** but the payment shall be made through the ICEGATE portal. As the registered person shall be automatically taken to the payment portal on filing of the return, the user interface remains the same for him.

**4.4 Recovery of arrears from assesseees under the existing law in cases where such assesseees are not registered under the CGST Act, 2017:**

Such arrears shall be recovered in cash, under the provisions of the existing law and the payment of the same shall be made as per the procedure mentioned in para 4.3 supra.

- 5. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.
- 6. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)  
Commissioner (GST)



Circular No. 43/17/2018-GST

**F. No. 349/48/2017-GST  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Indirect Taxes and Customs  
GST Policy Wing**

New Delhi, Dated the 13<sup>th</sup> April, 2018

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/  
Commissioners of Central Tax (All)

The Principal Director Generals/ Director Generals (All)

Madam / Sir,

**Subject: Queries regarding processing of refund applications for UIN agencies**

The Board vide Circular No. 36/10/2017 dated 13<sup>th</sup> March, 2018 clarified and specified the detailed procedure for UIN refunds. After issuance of the Circular, a number of queries and representations have been received regarding the processing of refund to agencies which have been allotted UINs. In order to clarify some of the issues and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred under section 168 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act") hereby clarifies the following issues:

**2. Providing statement of invoices while submitting the refund application:**

2.1. The procedure for filing a refund application has been outlined under rule 95 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as „the CGST Rules ) which provides for filing of refund on a quarterly basis in **FORM RFD-10** along with a statement of inward invoices in **FORM GSTR-11**. It has come to the notice of the Board that the print version of **FORM GSTR-11** generated by the system does not have invoice-wise details. Therefore, it is clarified that till the system generated **FORM GSTR-11** does not have invoice-level details, UIN agencies are requested to manually furnish a statement containing the details of all the invoices on which refund has been claimed, along with refund application.

2.2. Further, the officers are advised not to request for original or hard copy of the invoices unless necessary.

**3. No mention of UINs on Invoices:**

3.1. It has been represented that many suppliers did not record the UINs on the invoices of supplies of goods or services to UIN agencies. It is hereby clarified that the recording of UIN on the invoice is a necessary condition under rule 46 of the CGST Rules, 2017. If suppliers / vendors are not recording the UINs, action may be initiated against them under the provisions of the CGST Act, 2017.

3.2. Further, in cases where, UIN has not been recorded on the invoices pertaining to refund claim for the quarters of July – September 2017, October – December 2017 and January – March 2018, a one-time waiver is being given by the Government, subject to the condition that copies of such invoices will be submitted to the jurisdictional officers and will be attested by the authorized representative of the UIN agency. Field officers are advised that the terms of Notification No. 16/2017-Central Tax (Rate) dated 28<sup>th</sup> June 2017 and corresponding notifications under the Integrated Goods and Services Tax Act, 2017, Union Territory Goods and Services Tax Act, 2017 and respective State Goods and Services Tax Acts should be satisfied while processing such refund claims.

4. It is requested that suitable trade notices may be issued to publicize the contents of this circular.

5. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)  
Commissioner (GST)

Circular No.44/18/2018-CGST

**F. No. 341/28/2017-TRU  
Government of India  
Ministry of Finance  
Department of Revenue  
Tax Research Unit**

New Delhi, the 2<sup>nd</sup> May, 2018

To

The Principal Chief Commissioner/Chief Commissioners/ Principal Commissioner/ Commissioner of Central Tax (All) /The Principal Director Generals/ Director Generals (All)

Madam/Sir,

**Subject: Issue related to taxability of 'tenancy rights' under GS T - regarding**

Doubts have been raised as to,-

- (i) Whether transfer of tenancy rights to an incoming tenant, consideration for which is in form of tenancy premium, shall attract GST when stamp duty and registration charges is levied on the said premium, if yes what would be the applicable rate?
- (ii) Further, in case of transfer of tenancy rights, a part of the consideration for such transfer accrues to the outgoing tenant, whether such supplies will also attract GST?

2. The issue has been examined. The transfer of tenancy rights against tenancy premium which is also known as "*pagadi system*" is prevalent in some States. In this system the tenant acquires, tenancy rights in the property against payment of tenancy premium(pagadi). The landlord may be owner of the property but the possession of the same lies with the tenant. The tenant pays periodic rent to the landlord as long as he occupies the property. The tenant also usually has the option to sell the tenancy right of the said property and in such a case has to share a percentage of the proceed with owner of land, as laid down in their tenancy agreement. Alternatively, the landlord pays to tenant the prevailing tenancy premium to get the property vacated. Such properties in Maharashtra are governed by Maharashtra Rent Control Act, 1999.

3. As per section 9(1) of the CGST Act there shall be levied central tax on the intra-State supplies of services. The scope of supply includes all forms of supply of goods and services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business and also includes the activities specified in Schedule II. The activity of transfer of tenancy right against consideration in the form of tenancy premium is a supply of service liable to GST. It is a form of lease or renting of property and such activity is specifically declared to be a service in para 2 of Schedule II i.e. any lease, tenancy, easement, licence to occupy land is a supply of services

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4. The contention that stamp duty and registration charges is levied on such transfers of tenancy rights, and such transaction thus should not be subjected to GST, is not relevant. Merely because a transaction or a supply involves execution of documents which may require registration and payment of registration fee and stamp duty, would not preclude them from the scope of supply of goods and services and from payment of GST. The transfer of tenancy rights cannot be treated as sale of land or building declared as neither a supply of goods nor of services in para 5 of Schedule III to CGST Act, 2017. Thus a consideration for the said activity shall attract levy of GST.

5. To sum up, the activity of transfer of 'tenancy rights' is squarely covered under the scope of supply and taxable per-se. Transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium is taxable. However, renting of residential dwelling for use as a residence is exempt Sl. No. 12 of notification No. 12/2017-Central Tax(Rate)]. Hence, grant of tenancy rights in a residential dwelling for use as residence dwelling against tenancy premium or periodic rent or both is exempt. As regards services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of a portion of tenancy premium is liable to GST.

6. Difficulty if any, in the implementation of this circular may be brought to the notice of the Board.

Yours Faithfully,

Harsh Singh

Technical Officer (TRU)

Email: harshsingh.irs@gov.in

Circular No. 1/1/2017-IGST

**F. No. 354/119/2017 –TRU (Pt)**  
**Government of India**  
**Ministry of Finance**  
**Department of Revenue**  
**Tax Research Unit**

**North Block, New Delhi**

**Dated the 7th of July, 2017**

To,

The Principal Chief Commissioner/Chief Commissioners/ Principal Commissioner/  
Commissioner of Central Tax (All) / Director General of Systems

**Subject: Clarification on Inter-state movement of various modes of conveyance,  
carrying goods or passengers or for repairs and maintenance- regarding.**

The issue relating to levy of IGST exemption on inter-state movement of various modes of conveyance, carrying goods or passengers or for repairs and maintenance, between distinct persons as specified in section 25(4) of the Central Goods and Services Tax Act, 2017, carrying goods or passengers or both; or for repairs and maintenance, [except in cases where such movement is for further supply of the same conveyance] has been examined.

2. In the above context, the legal provisions in GST laws are as under:

- (a) As per section 24 (1) (i) of the Central Goods and Services Tax Act, 2017, persons making any inter-State taxable supply shall be required to be registered under this Act.
- (b) As per section 25(4) of the said Act a person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.
- (c) Schedule I to the said Act specifies situations where activities are to be treated as supply even if made without consideration which also includes supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business
- (d) Section 7 (2) envisages that activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services.

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3. Against the above background, the issue of inter-state movement of goods like movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the said Act, not involving further supply of such conveyance, including-

- i. Trains,
- ii. Buses,
- iii. Trucks,
- iv. Tankers,
- v. Trailers,
- vi. Vessels,
- vii. Containers,
- viii. Aircrafts,

(a) carrying goods or passengers or both; or (b) for repairs and maintenance, [except in cases where such movement is for further supply of the same conveyance] was discussed in GST Council's meeting held on 11<sup>th</sup> June, 2017 and the Council recommended that such inter-state movement shall be treated 'neither as a supply of goods or supply of service' and therefore not be leviable to IGST.

4. In view of above, it is hereby clarified that "the inter-state movement of goods like movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the Central Goods and Services Tax Act, 2017, including the ones specified at (i) to (viii) of para 3, may not be treated as supply and consequently IGST will not be payable on such supply.

5. However, applicable CGST/SGST/IGST, as the case may be, shall be leviable on repairs and maintenance done for such conveyance.

(Ruch Bisht.)

Under Secretary (TRU)

Circular No. 2/1/2017-IGST

**F. No. 354/173/2017-TRU**

Government of India  
Ministry of Finance  
Department of Revenue  
Tax research Unit

**North Block, New Delhi**

**27<sup>th</sup> September 2017**

To,

The Principal Chief Commissioners/Chief Commissioners/ Principal Commissioners/  
Commissioner of Central Tax (All) /The Principal Director Generals/ Director Generals  
(All) Madam/Sir,

Subject: Clarification on supply of satellite launch services by ANTRIX Corporation Ltd -  
regarding.

Request has been received regarding taxability of satellite launch services provided to both  
international and domestic customers by ANTRIX Corporation Limited which is a wholly  
owned Government of India Company under the administrative control of Department of  
Space (DOS).

2. In the above context, the legal provisions in GST laws are as under:

- a) Export of services is defined in IGST Act in Section 2(6) where the following 5  
conditions have been prescribed as necessary for a supply to qualify as export of  
service:
- (i) the supplier of service is located in India;
  - (ii) the recipient of service is located outside India;
  - (iii) the place of supply of service is outside India;
  - (iv) the payment for such service has been received by the supplier of service in  
convertible foreign exchange; and
  - (v) the supplier of service and the recipient of service are not merely establishments  
of a distinct person in accordance with Explanation 1 in section 8;

One of the five conditions for a supply of service to be considered as "export of service"  
is that the place of supply of service is outside India.

- b) Section 13(9) of the IGST Act provides that where location of supplier of services or  
location of recipient of services is outside India, the place of supply of services of  
transportation of goods, other than by way of mail or courier, shall be the place of  
destination of such goods. However, where location of supplier and recipient of  
services is in India, then the place of supply is governed by section 12 (8) of the IGST

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Act, which stipulates that place of supply will be the location of the recipient of services provided he is registered; if not registered, then the place of supply will be the place where goods are handed over for their transportation.

3. In view of the above, place of supply of satellite launch services supplied by ANTRIX Corporation Limited to international customers would be outside India in terms of section 13(9) of IGST Act, 2017 and such supply which meets the requirements of section 2(6) of IGST Act, thus constitutes export of service and shall be zero rated in accordance with section 16 of the IGST Act. Where satellite launch service is provided by ANTRIX Corporation Limited to a person located in India, the place of supply of satellite launch service would be governed by section 12 (8) of the IGST Act and would be taxable under CGST Act, UTGST Act or IGST Act, as the case may be.

4. Difficulty if any, in the implementation of the circular should be brought to the notice of the Board. Hindi version would follow.

Yours Faithfully,  
Rachna  
Technical Officer (TRU)



**Circular No.1 /1/2017-Compensation Cess**

**F.No.354/136/2017-TRU  
Government of India  
Ministry of Finance  
Department of Revenue  
(Tax Research Unit)**

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New Delhi, Dated 26th July, 2017

To

Principal Chief Commissioners/Principal Directors General,  
Chief Commissioners/Directors General,  
Principal Commissioners/Commissioners,  
All under CBEC.

Madam/Sir,

Subject: Clarification regarding applicability of section 16 of the IGST Act, 2017, relating to zero rated supply for the purpose of Compensation Cess on exports – Regarding.

The issue of zero rating of exports with reference to Compensation Cess has been examined.

2. In this regard section 8 of the Goods and Services tax (Compensation to States) Act, 2017 hereinafter referred to as [GSTC Act, 2017] provides for levy and collection of Compensation Cess and reads as under:

*“8. (1) There shall be levied a cess on such intra-State supplies of goods or services or both, as provided for in section 9 of the Central Goods and Services Tax Act, and such inter State supplies of goods or services or both as provided for in section 5 of the Integrated Goods and Services Tax Act, and collected in such manner as may be prescribed, on the recommendations of the Council, for the purposes of providing compensation to the States for loss of revenue arising on account of implementation of the goods and services tax with effect from the date from which the provisions of the Central Goods and Services Tax Act is brought into force, for a period of five years or for such period as may be prescribed on the recommendations of the Council:*

*(2) The cess shall be levied on such supplies of goods and services as are specified in column (2) of the Schedule, on the basis of value, quantity or on such basis at such rate not exceeding the rate set forth in the corresponding entry in column (4) of the Schedule, as the Central Government may, on the recommendations of the Council, by notification in the Official Gazette, specify.”*

3. Accordingly, based on the recommendation of GST Council, the effective rates of Compensation Cess leviable on various supplies, stand notified vide Notification No.1/2017-Compensation Cess (Rate).

4. Further, as per sub-section (5) of section 7 of IGST Act, 2017, supply of goods or services or both, when the supplier is located in India and place of supply is outside India, will be treated as inter-state supply. Therefore, exports being inter-state supplies, they will be liable to Compensation Cess. This however will not be in line with the principle that no taxes be exported, and exports have to be zero rated.

5. Provisions relating to zero rating of exports are

*“16. (1) “zero rated supply” means any of the following supplies of goods or services or both, namely: –*

- (a) export of goods or services or both; or*
- (b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.*

*(2) Subject to the provisions of sub-section (5) of section 17 of the Central Goods and Services Tax Act, credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply.*

*(3) A registered person making zero rated supply shall be eligible to claim refund under either of the following options, namely: —*

- (a) he may supply goods or services or both under bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of unutilised input tax credit; or*
- (b) he may supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied,*

*in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder”.*

6. Moreover, the section 11 of the Goods and Services tax (Compensation to States) Act, 2017, provides that:

*11. (1) The provisions of the Central Goods and Services Tax Act, and the rules made thereunder, including those relating to assessment, input tax credit, non-levy, short-levy, interest, appeals, offences and penalties, shall, as far as may be, mutatis mutandis, apply, in relation to the levy and collection of the cess leviable under section 8 on the intra-State supply of goods and services, as they apply in relation to the levy*

*and collection of central tax on such intra-State supplies under the said Act or the rules made thereunder.*

*(2) The provisions of the Integrated Goods and Services Tax Act, and the rules made thereunder, including those relating to assessment, input tax credit, non-levy, short-levy, interest, appeals, offences and penalties, shall, mutatis mutandis, apply in relation to the levy and collection of the cess leviable under section 8 on the inter-State supply of goods and services, as they apply in relation to the levy and collection of integrated tax on such inter-State supplies under the said Act or the rules made thereunder:*

*Provided that the input tax credit in respect of cess on supply of goods and services leviable under section 8, shall be utilised only towards payment of said cess on supply of goods and services leviable under the said section.*

7. Therefore, sub-section (2) of section 11 of the Goods and Services tax (Compensation to States) Act, 2017 provides that provisions of Integrated Goods and Services Tax Act, and the rules made thereunder, shall, mutatis mutandis, apply in relation to the levy and collection of the cess leviable under section 8 on the inter-State supply of goods and services, as they apply in relation to the levy and collection of integrated tax on such inter-State supplies under the said Act or the rules made thereunder.

8. In view of the above, it is hereby clarified that provisions of section 16 of the IGST Act, 2017, relating to zero rated supply will apply mutatis mutandis for the purpose of Compensation Cess ( wherever applicable), that is to say that:

- a) Exporter will be eligible for refund of Compensation Cess paid on goods exported by him [on similar lines as refund of IGST under section 16(3) (b) of the IGST, 2017]; or
- (b) No Compensation Cess will be charged on goods exported by an exporter under bond and he will be eligible for refund of input tax credit of Compensation Cess relating to goods exported [on similar lines as refund of input taxes under section 16(3) (a) of the IGST, 2017].

9. All concerned are requested to acknowledge the receipt of this circular.

10. Trade Notice/Public Notice to be issued. Difficulty if any, in the implementation of the circular should be brought to the notice of the Board. Hindi version would follow.

Yours faithfully,

(Devranjan Mishra)  
Technical Officer (TRU)



[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (ii)]

**Government of India  
Ministry of Finance  
(Department of Revenue)**

New Delhi, the 13th October, 2017

**THE CENTRAL GOODS AND SERVICES TAX (REMOVAL OF DIFFICULTIES) ORDER,  
2017**

**Order No. 01/2017-Central Tax**

S.O. (E). – Whereas, certain difficulties have arisen in giving effect to the provisions of the Central Goods and Services Tax Act, 2017 (12 of 2017), hereinafter in this order referred to as the said Act, in so far as it relates to the provisions of section 10 of the said Act;

Now, therefore, in exercise of the powers conferred by section 172 of the said Act, the Central Government, on recommendations of the Council, hereby makes the following Order, namely:-

1. This Order may be called the Central Goods and Services Tax (Removal of Difficulties) Order, 2017.

2. For the removal of difficulties,-

(i) it is hereby clarified that if a person supplies goods and/or services referred to in clause (b) of paragraph 6 of Schedule II of the said Act and also supplies any exempt services including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, the said person shall not be ineligible for the composition scheme under section 10 subject to the fulfilment of all other conditions specified therein.

(ii) it is further clarified that in computing his aggregate turnover in order to determine his eligibility for composition scheme, value of supply of any exempt services including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, shall not be taken into account.

[F. No. 354/173/2017-TRU]

(Ruchi Bisht)

Under Secretary to the Government of India

## Orders

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**F. No. 349/58/2017-GST  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs**

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**New Delhi, the 18th September, 2017**

**Order No. 02/2017-GST**

**Subject: Extension of time limit for submitting the declaration in FORM GST TRAN-1 under rule 120A of the Central Goods and Service Tax Rules, 2017**

In exercise of the powers conferred by rule 120A of the Central Goods and Services Tax Rules, 2017 read with section 168 of the Central Goods and Services Tax Act, 2017, the Commissioner, on the recommendations of the Council, hereby extends the period for submitting the declaration in **FORM GST TRAN-1** till 31st October, 2017.

-sd-

(Upender Gupta)  
Commissioner (GST)

**F. No. 349/58/2017-GST  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs**

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**New Delhi, the 21st September, 2017**

**Order No. 03/2017-GST**

**Subject: Extension of time limit for submitting the declaration in FORM GST TRAN-1 under rule 117 of the Central Goods and Services Tax Rules, 2017**

In exercise of the powers conferred by rule 117 of the Central Goods and Services Tax Rules, 2017 read with section 168 of the Central Goods and Services Tax Act, 2017, on the recommendations of the Council, the period for submitting the declaration in **FORM GST TRAN-1** is extended till 31st October, 2017.

-sd-

(Upender Gupta)  
Commissioner (GST)

## Orders

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**F. No. 349/58/2017-GST  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs**

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New Delhi, the 29th September, 2017

### **Order No. 04/2017-GST**

**Subject: Extension of time limit for intimation of details of stock held on the date preceding the date from which the option for composition levy is exercised in FORM GST CMP-03**

In exercise of the powers conferred by sub-rule (4) of rule 3 of the Central Goods and Services Tax Rules, 2017 read with section 168 of the Central Goods and Services Tax Act, 2017 (referred to as "the Act" hereafter), on the recommendations of the Council, the period for intimation of details of stock held on the date preceding the date from which the option to pay tax under section 10 of the Act is exercised in FORM GST CMP-03 is extended till 31st October, 2017.

(Upender Gupta)  
Commissioner (GST)

**F. No. 349/58/2017-GST  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs**

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New Delhi, the 28th October, 2017

### **Order No. 05/2017-GST**

**Subject: Extension of time limit for intimation of details of stock held on the date preceding the date from which the option for composition levy is exercised in FORM GST CMP-03**

In exercise of the powers conferred by sub-rule (4) of rule 3 of the Central Goods and Services Tax Rules, 2017 read with section 168 of the Central Goods and Services Tax Act, 2017 (hereafter referred to as "the Act"), on the recommendations of the Council, and in supersession of Order No. 04/2017-GST dated 29th September, 2017, the period for intimation of details of stock held on the date preceding the date from which the option to pay tax under section 10 of the Act is exercised in FORM GST CMP-03 is extended till 30<sup>th</sup> November, 2017.

(Upender Gupta)  
Commissioner (GST)

## Orders

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**F. No. 349/58/2017-GST  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs**

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New Delhi, the 28th October, 2017

### **Order No. 06/2017-GST**

#### **Subject: Extension of time limit for submitting application in FORM GST REG-26**

In exercise of the powers conferred by clause (b) of sub-rule (2) of rule 24 of the Central Goods and Services Tax Rules, 2017 read with section 168 of the Central Goods and Services Tax Act, 2017, the Commissioner, on the recommendations of the Council, hereby extends the period for submitting electronically the application in the FORM GST REG- 26 till 31st December 2017.

(Upender Gupta)  
Commissioner (GST)

**F. No. 349/58/2017-GST  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs**

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New Delhi, the 28th October, 2017

### **Order No.07/2017-GST**

#### **Subject: Extension of time limit for submitting the declaration in FORM GST TRAN-1 under rule 117 of the Central Goods and Services Tax Rules, 2017**

In exercise of the powers conferred by rule 117 of the Central Goods and Services Tax Rules, 2017 read with section 168 of the Central Goods and Services Tax Act, 2017, and in supersession of Order No. 03/2017-GST dated 21st September, 2017, the Commissioner, on the recommendations of the Council, hereby extends the period for submitting the declaration in FORM GST TRAN-1 till 30th November, 2017.

(Upender Gupta)  
Commissioner (GST)



## Orders

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**F. No. 349/58/2017-GST  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs**

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New Delhi, the 28th October, 2017

### **Order No. 08/2017-GST**

**Subject: Extension of time limit for submitting the declaration in FORM GST TRAN-1 under rule 120A of the Central Goods and Service Tax Rules, 2017**

In exercise of the powers conferred by rule 120A of the Central Goods and Services Tax Rules, 2017 read with section 168 of the Central Goods and Services Tax Act, 2017, and in supersession of Order No. 02/2017-GST dated 18th September, 2017, the Commissioner, on the recommendations of the Council, hereby extends the period for submitting the declaration in FORM GST TRAN-1 till 30th November, 2017.

(Upender Gupta)  
Commissioner (GST)

**F. No. 349/58/2017-GST  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs**

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New Delhi, the 15th November, 2017

### **Order No. 9/2017-GST**

**Subject: Extension of time limit for submitting the declaration in FORM GST TRAN-1 under rule 117 of the Central Goods and Service Tax Rules, 2017**

In exercise of the powers conferred by rule 117 of the Central Goods and Services Tax Rules, 2017 read with section 168 of the Central Goods and Services Tax Act, 2017, on the recommendations of the Council, and in supersession of Order No. 07/2017-GST dated 28th October, 2017, except as respects things done or omitted to be done before such supersession, the period for submitting the declaration in **FORM GST TRAN-1** is extended till 27th December, 2017.

(Upender Gupta)  
Commissioner (GST)

## Orders

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**F. No. 349/58/2017-GST  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs**

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New Delhi, the 15th November, 2017

### **Order No. 10/2017-GST**

**Subject: Extension of time limit for submitting the declaration in FORM GST TRAN-1 under rule 120A of the Central Goods and Service Tax Rules, 2017**

In exercise of the powers conferred by rule 120A of the Central Goods and Services Tax Rules, 2017 read with section 168 of the Central Goods and Services Tax Act, 2017, on the recommendations of the Council, and in supersession of Order No. 08/2017-GST dated 28th October, 2017, except as respects things done or omitted to be done before such supersession, the period for submitting the declaration in **FORM GST TRAN-1** is extended till 27th December, 2017.

(Upender Gupta)  
Commissioner (GST)

**F. No. 349/58/2017-GST  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs**

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New Delhi, the 21st December, 2017

### **Order No. 11/2017-GST**

**Subject: Extension of time limit for intimation of details of stock held on the date preceding the date from which the option for composition levy is exercised in FORM GST CMP-03**

In exercise of the powers conferred by sub-rule (4) of rule 3 of the Central Goods and Services Tax Rules, 2017 read with section 168 of the Central Goods and Services Tax Act, 2017 (hereafter referred to as "the Act"), on the recommendations of the Council, and in supersession of Order No. 05/2017-GST dated 28th October, 2017, the period for intimation of details of stock held on the date preceding the date from which the option to pay tax under section 10 of the Act is exercised in FORM GST CMP-03 is extended till 31st January, 2018.

(Upender Gupta)  
Commissioner (GST)

**Orders**

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**Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs**

New Delhi, the 28<sup>th</sup> March, 2018

Order No. 1 /2018 – Central Tax

Subject: Extension of date for submitting the statement in FORM GST TRAN-2 under rule 117(4)(b)(iii) of the Central Goods and Service Tax Rules, 2017

In exercise of the powers conferred by sub-clause (iii) of clause (b) of sub-rule (4) of rule 117 of the Central Goods and Services Tax Rules, 2017 read with section 168 of the Central Goods and Services Tax Act, 2017, the Commissioner, on the recommendations of the Council, hereby extends the period for furnishing the statement in FORM GST TRAN-2 under sub-clause (iii) of clause (b) of sub-rule (4) of rule 117 of the Central Goods and Services Tax Rules, 2017 till the 30<sup>th</sup> day of June, 2018.

(Upender Gupta)  
Commissioner (GST)

**F.No. 354/03/2018-TRU**  
**Ministry of Finance**  
**Department of Revenue**  
**(Central Board of Excise and Customs)**  
**(Tax Research Unit)**

New Delhi

Dated: the 31st day of March, 2018

To

Sh. Sanjiv Garg,  
Additional Member (Tourism & Catering),  
Railway Board, Ministry of Railways,  
Rail Bhawan, New Delhi – 110001.

Sir,

**Subject: Incidence of GST on providing catering services in train – regarding.**

Kind reference is invited to your letter No. 2012/TG.III/631/2 dated 01.02.2018 requesting therein to clarify the rate of GST applicable to supply of food and drink in trains.

2. Different GST rates are being applied for mobile and static catering in Indian Railways which is presently leading to a situation whereby the same licensee (selected by Indian Railways/IRCTC) supplying the same food would be subjected to different GST rates depending on whether it is mobile or static catering, as also which variant of mobile catering it is [pre-paid (without option), pre-paid (with option) or post-paid]. The rate difference is resulting in the same food being supplied at two different rates to the railway passengers, which is anomalous.

3. The passenger is not aware as to the GST rate applicable to the food ordered by him/her. This may also lead to unnecessary litigation and thus further strengthens the need for uniform application of tax rate in respect of food and drinks in/by Railways.

4. With a view to remove any doubt or uncertainty in the matter and bring uniformity in the rate of GST applicable for all kinds of supply of food and drinks made available in trains, platforms or stations, it is clarified with the approval of GST Implementation Committee, that the GST rate on supply of food and/or drinks by the Indian Railways or Indian Railways Catering and Tourism Corporation Ltd. or their licensees, whether in trains or at platforms (static units), will be 5% without ITC.

Yours Sincerely,

(Parmod Kumar)  
OSD (TRU II)

Telephone: 011-23092374

E-mail: parmodykumar.71@gov.in

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (ii)]

**Government of India**  
**Ministry of Finance**  
**(Department of Revenue)**

New Delhi, the 13th October, 2017

**THE UNION TERRITORY GOODS AND SERVICES TAX (REMOVAL OF DIFFICULTIES) ORDER, 2017**

**Order No. 01/2017-Union Territory Tax**

S.O. (E). – Whereas, difficulties have arisen in giving effect to the provisions of the Union Territory Goods and Services Tax Act, 2017 (14 of 2017), in so far as it relates to the provisions of section 21 of the said Act read with section 10 of the Central Goods and Services Tax Act, 2017 (12 of 2017);

Now, therefore, in exercise of the powers conferred by section 26 of the Union Territory Goods and Services Tax Act, the Central Government, hereby makes the following Order, namely: -

1. This Order may be called the Union Territory Goods and Services Tax (Removal of Difficulties) Order, 2017.

2. For the removal of difficulties,-

(i) it is hereby clarified that if a person supplies goods and/or services referred to in clause (b) of paragraph 6 of Schedule II of the Central Goods and Services Tax Act, 2017 and also supplies any exempt services, including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, the said person shall not be ineligible for the composition scheme under section 10 of the said Act, subject to the fulfilment of all other conditions specified therein.

(ii) it is further clarified that in computing his aggregate turnover in order to determine his eligibility for composition scheme, value of supply of any exempt services including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, shall not be taken into account.

[F. No. 354/173/2017-TRU]

(Ruchi Bisht)

Under Secretary to the Government of India