



CRITICAL ISSUES UNDER GST

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GST – Some Critical Issues

Coverage:

Levy

Input Tax Credit

Time of Supply

Exports & Refunds

Place of Supply



Industry Coverage



Real Estate



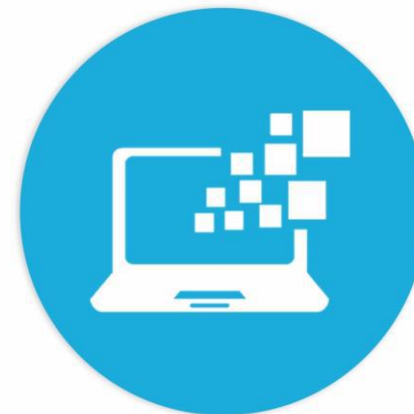
Renew Energy



Freight & Logistics



Infrastructure



IT/ITeS



A high-angle photograph of a wooden desk. In the upper left, a stack of papers is fanned out. To its right is a portion of a white keyboard. In the upper right, a tablet is partially visible. In the lower right, a black fountain pen with silver accents lies on the desk. The word "LEVY" is centered in a white serif font on a dark blue horizontal band.

LEVY

Critical Issues on Levy under GST

- Taxable event under GST is “Supply of goods and / or services”.
 - ‘Supply’ is defined in an inclusive manner in law. It includes all forms of supply of goods and / or services sale, transfer, barter, exchange etc.
 - GST is a common law governing both goods and services. The supplies can include combination of one or more goods or services. Therefore, concept of **Composite supply and Mixed supply** becomes relevant to determine tax treatment under GST.
- Critical issues on levy under GST in backdrop of the discussion:
 - Notice Pay Recovery
 - Composite Supply Vs. Mixed Supply



A person wearing a light blue dress shirt and a dark tie is shown from the chest down. Their hands are clasped together, holding a silver pen, resting on an open notebook with cream-colored pages. The notebook is placed on a dark, reflective surface, creating a clear reflection of the hands and the notebook. A semi-transparent dark blue banner is overlaid across the middle of the image, containing the text "Notice Pay Recoveries" in a white, serif font.

Notice Pay Recoveries

Notice Pay Recovery

- Employees would be legally bound to serve for specified period which could vary from 15 days to 3 months or more depending on designation or role of a particular employee during termination of employment contract. If employee fails to serve, then the security amount collected during appointment or amount which could be part of salary would be withheld by the organisation as 'Notice period pay'.
 - Agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act has been specifically stated to be treated a service in Schedule II.
 - Services by an employee to employer in course of or in relation to employment would not treated as either supply of goods or as services under Schedule III.
- **M/s. HCL Learning Systems Vs CCE, Noida, CESTAT Allahabad (DB)** - has held that when amounts are recovered out of salary already paid, such amounts would not be subject to service tax as salaries are not subject to tax.
 - **Satya Developers PVT. LTD. in 2017 (3) G.S.T.L. 325 (Del.)** has held that contract /document as a whole has to be looked into and its meaning has to be what parties intended to give. Therefore, it is evident that the employment contract shall be read as whole. Thus, it can be said that the notice pay recovery is separate contract and it can be concluded that notice pay recovery is the part of the contract and hence tax is not payable.





Preferential Location Charges (PLC)

Supply – Composite vs Mixed

COMPOSITE SUPPLY

- Supply of two or more goods or services together;
- Items are naturally bundled and cannot be supplied separately;
- Tax rate of principal item is charged on the total value.

Example:

Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply

MIXED SUPPLY

- Supply of two or more goods or services together;
- Items are not naturally bundled and can be supplied independently;
- Highest tax rate among all the items is charged on the total value

Example:

A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply.



Preferential Location Charges (PLC)

PLC is an additional cost that a home buyer has to pay for booking a unit which has an advantage over others in terms of location. Such as Vaastu, scenic beauty, floor-rise etc.



What is PLC?

- PLC, is value added service provided by builders, introduced in the **positive list of services** leviable to service tax vide insertion of a new clause of **“Builder Special services” (zzzzu) in section 65(105) of the Finance Act w.e.f July 01, 2010.**
- Under erstwhile negative list regime under service tax as well as GST law, there has been a confusion with respect to treatment of PLC i.e. whether such service constitutes a composite supply which is naturally bundled with construction service, with the latter being the principal supply, or not.
- Accordingly, there exists an ambiguity if the said service is taxable at the same rate as applicable for construction service or standard rate of GST @ 18% shall be applicable for the same.



Preferential Location Charges (PLC)

• CURRENT STATUS UNDER GST

- M/s. Bengal Peerless Housing Development Company **2019 (5) TMI 311** in which case, the authority held that the Applicant is therefore, providing a composite supply of the bundle of services, construction service being the principal supply.
- The AAR ruling was challenged by the respective Commissionerate before West Bengal Appellate Authority for Advance Ruling ('AAAR'), [\[2019\(10\) TMI 3\]](#), where the builder charges the buyer separately for providing a better location, which may be in relation to the direction in which the flat is constructed etc.
- Thus, the abatement, which is allowed on the value of construction service, is for the plot of land on which construction is carried out is not liable to GST, cannot be deemed to be applicable in respect of PLC, which is altogether a separate service having no association with the land.
- The AAAR further highlighted that the erstwhile Service tax regime there existed a special category of service 'Builder's Special Service' to take care of such services as provided by the builders such as PLC, car parking etc. on which no abatement was available.



Preferential Location Charges (PLC)

- **CURRENT STATUS SERVICE TAX**

M/S SJP Infracon Limited VS. CCE, NOIDA 2018 (12) TMI 253 - CESTAT ALLAHABAD

- The charges for preferential location etc. **CANNOT BE INDEPENDENTLY PROVIDED** and they are essentially to be provided along with provision of construction of residential complex service. Therefore, the residential complex service is predominant and, therefore, the said charges should become part of the consideration for residential complex service. The **FINAL SALE DEEDS IS EXECUTED IN FAVOUR OF THE CUSTOMERS FOR THE ENTIRE AMOUNT** and there is no separate contract for providing above stated activities and that they are the part of the single contract.
- **Ruling** - Construction of residential complex service is the service which gives essential character to the package of the service and, therefore, the charges as stated above are essentially required to be bundled with the single service namely construction of residential complex service.
- Similar views in the case of LOGIX Infrastructure Pvt. Ltd. VS. CCE, NOIDA 2018 (11) TMI 462 - CESTAT ALLAHABAD

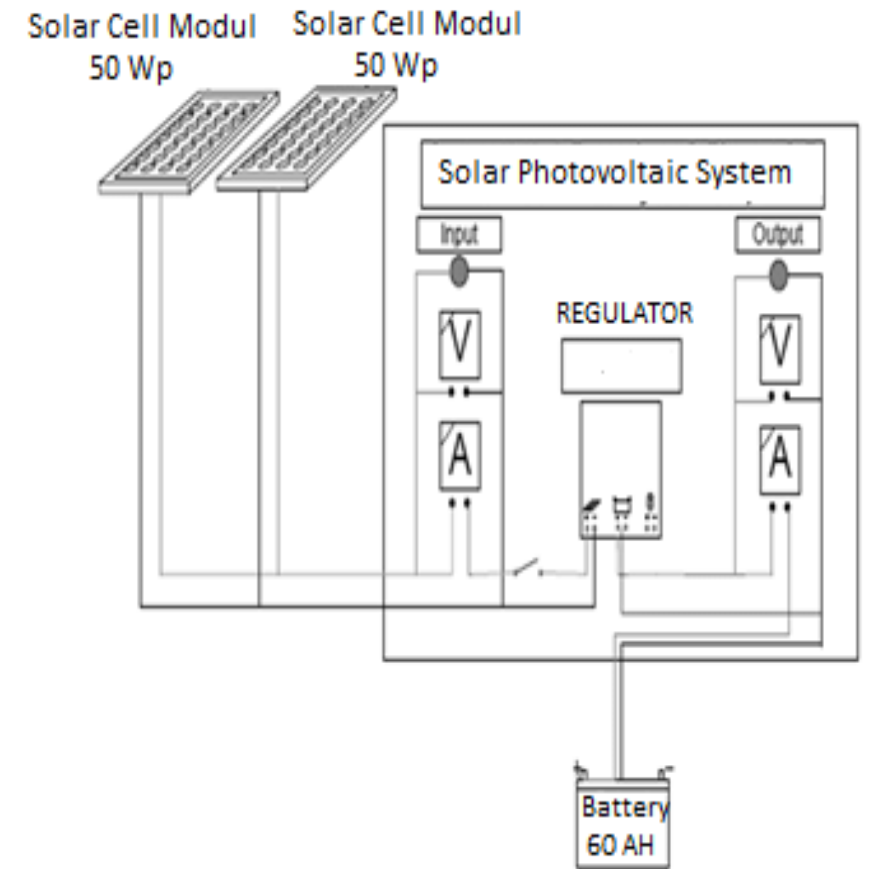


A photograph of a two-story house with dark blue horizontal siding and white window frames. The roof is covered with a large array of blue solar panels. A brick chimney is visible on the roof. The sky is clear and blue. A semi-transparent dark blue horizontal band is overlaid across the middle of the image, containing the text 'RENEWABLE ENERGY SECTOR' in white, bold, serif font.

RENEWABLE ENERGY SECTOR

Renewable Energy Sector

- Setting up of a renewable energy system involves the following:
 - supply of goods and
 - Services for commissioning, erection and installation of infrastructure.
- Notification No. 01/2017- CTR provides for a concessional GST @ 5% on Supply of renewable energy devices and parts covered under Chapter 84, 85 or 94.
- Notification No.24 & 27/2018-CTR w.e.f 01 January 2019 provides if renewable energy devices were supplied along with supply of other goods and taxable services in relation to their setting up, then 70 per cent of the gross consideration would be deemed as 'value of supply of goods' attracting GST of 5% and the remaining 30 per cent would be 'value of services' attracting GST of 18%
- ETR is 8.90% (70% X 5 % + 30 % X 18 %).
- Under erstwhile laws, the Solar Power Generating systems were exempted under Notification No.12/2012- C.E (T) as per List 8.



Tax Conundrum in the industry:

Works Contract @ 18%

- Maharashtra AAR in case of M/s. Fermi Solar Farms Pvt Ltd [Order No. GST-ARA-03/2017/B-07]
- Karnataka AAR in case of M/S. Solarsys Non-conventional Energy Private Limited 2019 (11) TMI 995
- Rajasthan AAAR in case of RFE Solar Private Limited, Jaipur, 2019 (3) TMI 920

In all the above cases, authorities have stated that the said services would qualify under 'Works Contract' as the Solar Power Generating system is in essence Immovable Property and attracts GST @ 18%.

Composite Supply @ 5%

- Uttarakhand AAR in case of M/s. Premier Solar Systems (P) Limited stated that the whole supply would be treated as 'Composite Supply' [2019 (23) G.S.T.L. 234 (A.A.R. - GST)]

Current Industry Woes

- The industry believes that in such contracts, over 90% of the total supplies constitute 'goods' and only the balance 10% or less constitute supply of services.
- Solar Power Development Association (SPDA) filed a writ petition in the Delhi HC challenging the new tax rates levied on solar power generating systems is considerably higher when compared to the rate of 1.5 to 2 percent in the pre-GST era.
- Delhi HC in response to the writ filed by SPDA directed the GST Council to review the tax structure for solar power projects.
- The GST Council, in its meeting held on June 21, 2019, had sent its recommendations to the Fitment Committee.





EXPORTS & REFUNDS

Export of Goods / Services

Export of Goods

'Export of Goods' means taking goods out of India to a place outside India.

Export of Services

'Export of Services' means the supply of any service when,

- the supplier of service is located in India;
- the recipient of service is located outside India;
- the place of supply of service is outside India;
- the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India*; and
- the supplier of service and the recipient of service are not merely establishments of a distinct person

***W.e.f. 01 February 2019**



Export of Services

Rule 96A of the CGST Rules, 2017

Earlier read as "Refund of integrated tax paid on export"

Changed to "Export of goods or services under Bond/LUT" w.e.f Feb'19

- Any registered person availing the option to supply services for export without payment of integrated tax shall furnish, prior to export, a bond or a Letter of Undertaking in FORM GST RFD-11 to the jurisdictional Commissioner, binding himself to pay the tax due along with the interest specified under section 50 (1) **within a period of 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 or in Indian rupees, wherever permitted by the Reserve Bank of India.
- **WHERE THE GOODS** are not exported within the time specified in sub-rule (1) and the registered person fails to pay the amount mentioned in the said sub-rule, **the export as allowed under bond or Letter of Undertaking shall be withdrawn forthwith** and the said amount shall be recovered from the registered person in accordance with the provisions of section 79.
- The export as allowed under bond or Letter of Undertaking withdrawn in terms of sub-rule (3) shall be restored immediately when the registered person pays the amount due



Export of Services

Rule 96A of the CGST Rules, 2017

- Convertible foreign exchange or in Indian rupees, wherever permitted by the Reserve Bank of India - Master Directions on Export of Goods and Services' issued by Foreign Exchange Department, RBI permits export proceeds against specific exports can 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

Issue: Whether the amendment in the provisions are prospective w.e.f 01 February 2019.



A man in a dark blue suit, white shirt, and blue patterned tie is standing in front of a glass surface. He is holding a black marker and has just finished drawing a checklist. The checklist consists of four square boxes arranged vertically. The top box and the bottom box are checked with a white checkmark. The middle two boxes are empty. The background is a solid blue color.

INPUT TAX CREDIT & TIME OF SUPPLY

Input Tax Credit (ITC)

Conditions for availing Input Tax Credit (Section 16)

- Possession of tax invoice / debit note issued by registered supplier
- Received of goods / services
- **Tax is paid by the supplier**
- Return is filed by the recipient of goods / services **(GSTR 2A auto-population)**
- Amount towards supply of goods and services and tax thereon to be paid to supplier **within 180 days** from the date of invoice
- Not eligible if depreciation on tax claimed under Income tax

- **Critical issues on ITC under GST in backdrop of the discussion:**
 - Claim of ITC on retention money (satisfaction of condition of payment of 180 days) vis-à-vis the time of supply in case of retention money
 - Transitional credit of Krishi Kalyan Cess (KKC)



A high-angle, close-up photograph of a wooden desk. In the upper left, a large stack of papers is fanned out, showing many edges. To the right, a portion of a white computer keyboard is visible. Further right, a tablet computer lies flat. In the lower right, a black pen with a silver clip is resting on the desk. The lighting is warm and directional, creating soft shadows and highlighting the textures of the wood, paper, and plastic.

RETENTION MONEY

Input Tax Credit (ITC)

Claim of ITC on retention money (satisfaction of condition of payment of 180 days) vis-à-vis the time of supply in case of retention money

- Retention Money is defined generally as “amount of progress billing which are not paid until certain period of time known as **“Defects Liability Period”** or until defects, if any are rectified.
- The GST law provides for disallowance of credit due to non-payment (of value and tax) to the vendors within 180 days
- This would result in working capital blockage either in the hands of the project owners or the sub-contractors.
- GST is applicable on advance paid for services (while the provision regarding applicability of GST on advance of goods has currently been deferred). In case of long term advances of contracts, where **“mobilization advance”** is paid to the contractors and the recovery of such advances is also done proportionately from the invoices being raised. Hence, the project owner would be required to pay GST on advance payments to contractors. However, credit is allowed only after receipt of invoice and goods/services. This would result in working capital blockage.



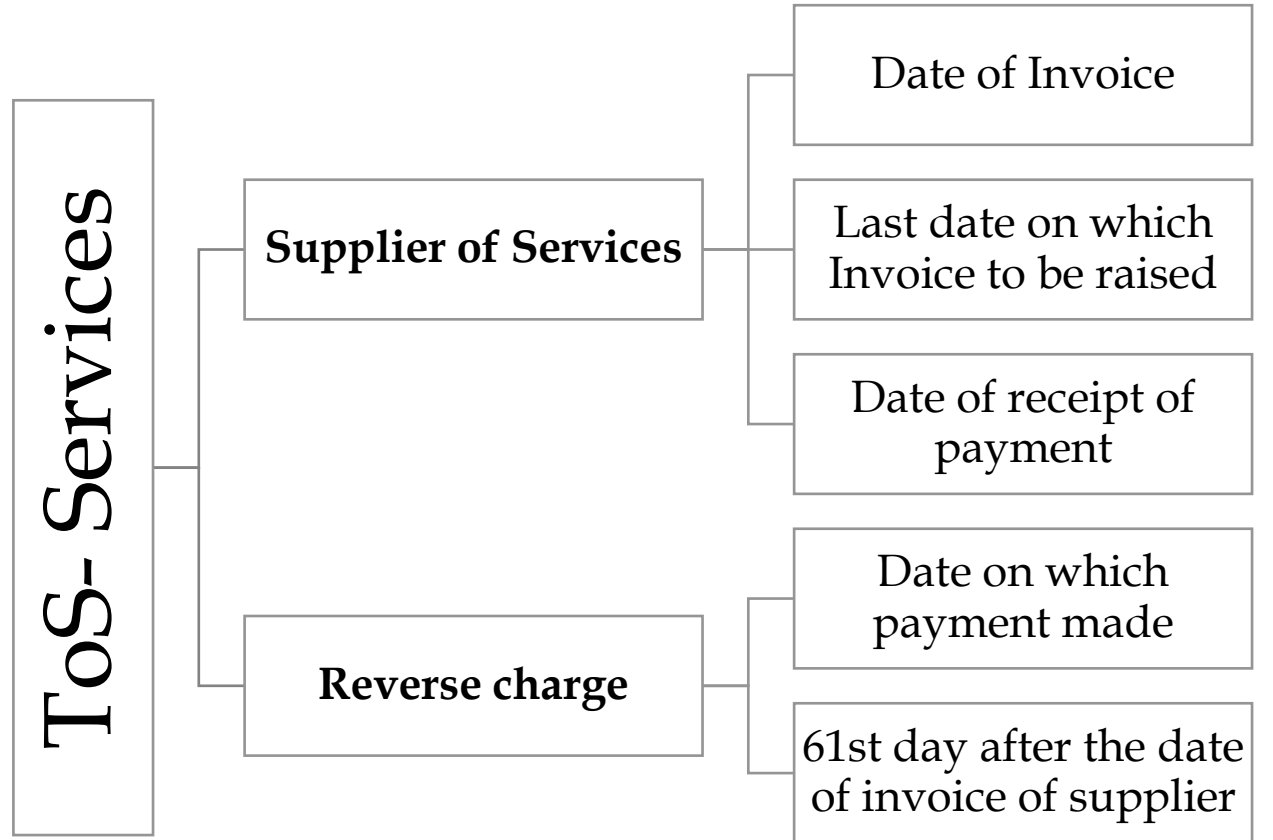
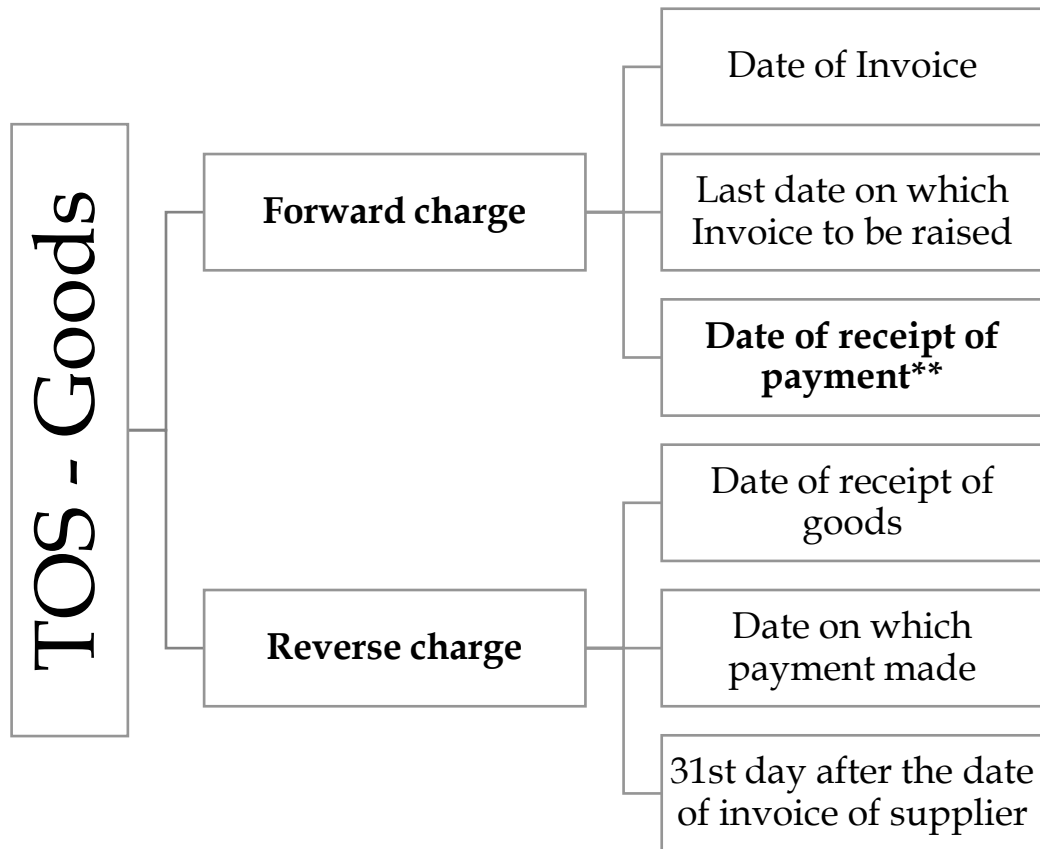
Time of Supply

Claim of ITC on retention money (satisfaction of condition of payment of 180 days) vis-à-vis the time of supply in case of retention money

- The moot question also is “whether the time of supply arises at the time of completion of DLP period and not before.
- From Direct tax perspective also, law has settled that retention money becomes taxable only when the concerned obligations under the contract are fulfilled or contingencies get decided. (except ambiguity of ICDS)
- Conditions of Time of Supply - **As applicable for goods & services**



Time of Supply



Time of Supply

Claim of ITC on retention money (satisfaction of condition of payment of 180 days) vis-à-vis the time of supply in case of retention money

- In general, the time of supply is the date on which the tax invoice for a supply is raised or the date on which payment for that supply is received, whichever comes first **ACROSS ALL GST/VAT laws**
- Where a construction service is provided, the supplier must account for the GST in relation to the retention money only when a payment in respect of such amount is received or a tax invoice for such retention money is issued by the supplier, whichever is the earlier – **GLOBAL TIME OF SUPPLY TREATMENT FOR RETENTION MONEY**
- **Issue under Indian GST Law –**
 - In India based on strict interpretation of the provisions and modus-operandi, Retention money is amount which is withheld out of the invoices raised by the contractor, therefore, since invoice is already raised for such an amount tax is required to be paid before the retention amount becomes due to the contractor



A wooden gavel with a tiered head and a long handle rests on a rectangular wooden block. The background is a blurred library with rows of books on shelves. A dark blue horizontal band is overlaid across the middle of the image, containing the text 'TRANSITONAL CREDIT OF KKC' in white, bold, serif capital letters.

TRANSITONAL CREDIT OF KKC

KKC Credit under GST

Claim - Reversal of Krishi Kalyan Cess - Reclaim?

- Provision -

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 of eligible duties carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law.

Explanation 3.—FOR REMOVAL OF DOUBTS, it is hereby clarified that the expression “eligible duties and taxes” excludes any cess which has not been specified in Explanation 1 or Explanation 2 and any cess which is collected as additional duty of customs under sub-section (1) of section 3 of the Customs Tariff Act, 1975.’.

In Union of India vs. Martin Lottery Agencies Ltd. 2009 (14) S.T.R. 593 (S.C.), The Apex Court held that merely by use of the words "it is hereby declared" it is clarified "for removal of doubt" it cannot be said that the amendment is clarificatory in nature.

It is, therefore, evident that by reason of an explanation, a substantive law may also be introduced. If a substantive law is introduced, it will have no retrospective effect



KKC Credit under GST

Claim - Reversal of Krishi Kalyan Cess - Reclaim?

Krishi Kalyan Cess

161 . (1) This Chapter shall come into force on the 1st day of June, 2016.

(2) There shall be levied and collected in accordance with the provisions of this Chapter, a cess to be called the Krishi Kalyan Cess, as service tax on all or any of the taxable services at the rate of 0.5 per cent. on the value of such services for the purposes of financing and promoting initiatives to improve agriculture or for any other purpose relating thereto.

- Explanation 1 & Explanation 2 - Change in clause & insertion of "For sub-section (1)" not yet notified in the CGST Amendment Act. [\[Notification 02/2019 - CT\]](#)

except clause (b) of section 8, section 17, section 18, clause (a) of section 20, sub-clause (i) of clause (b) and sub-clause (i) of clause (c) of section 28, shall come into force.



KKC Credit under GST

Claim - Reversal of Krishi Kalyan Cess - Reclaim?

- **Sutherland Global Services Private Limited (Madras HC)** - Madras HC allows writ petition of Sutherland Global that challenged Department's denial of credit of Education Cess, Secondary and Higher Education Cess and Krishi Kalyan Cess (KKC) on transition to GST regime.
 - There was **no statutory backing to the contention that the accumulated credit of cesses had lapsed.**
 - It held that since the revenue authorities had allowed the petitioner to carry forward the same in its returns, it was impermissible for them to now question their eligibility.
 - The intention of the GST laws ever since has been propagated by the Government as subsuming of all the laws



PLACE OF SUPPLY - OCEAN FREIGHT?



Place of Supply

Place of supply of services for “Courier services” or “Ocean Freight”

- The place of supply of services by way of transportation of goods, including by mail or courier to,--
 - (a) a registered person, shall be the location of such person;
 - (b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation.

- IGST Amendment Act, 2018 inserted a proviso

“Provided that where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods”

- Now, this has led to a situation where –
 - PoS in Outside India
 - Supplier is in India
 - Supplies do not qualify as “Export of services”
 - IGST is applicable, the PoS is “Other territory” and not the “location of recipient”.Leading to questions on if such IGST ITC is available to assessee?

** Exemption for transportation of goods by aircraft/vessel until 30 September 2020*



Place of Supply – Ocean Freight

Double taxation of GST on “Ocean Freight” on importers

- where the location of **SP or SR is outside India** it is normally the location of SR unless SR is not known then it is SP's location but for Transportation of goods Section 13(9) of IGST Act, 2017 shall apply which says that **Place of Supply of Service shall be place of destination of such goods. Hence where goods are imported in India then Destination is India hence such service is taxable and under Import of Service liable under GST.**
- Customs Act, 1962- 1% added to CIF value of imports is assessable value. Hence IGST shall be Paid on CIF Value which includes Ocean Freight.



A tax is a fine for doing well, a
fine is a tax for doing wrong.

Mark Twain



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THANK YOU



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SABKA VISHWAS LEGACY DISPUTE RESOLUTION SCHEME

2019



BY
CA RAMAKRISHNA SANGU MCOM, FCA

R K SANGU & ASSOCIATES

————— CHARTERED ACCOUNTANTS —————

Definitions – Sec. 121 of FA 2019



Amount declared	The amount of tax declared to be due as per the assessee.				
Amount estimated	<table border="0"> <tr> <td>Amount of tax dues</td> <td>XXXX</td> </tr> <tr> <td>Less: relief</td> <td>XXXX</td> </tr> </table>	Amount of tax dues	XXXX	Less: relief	XXXX
Amount of tax dues	XXXX				
Less: relief	XXXX				
Appellate Forum	Commr. (Appeals), CESTAT, HC, SC				
Enquiry or investigation	Shall include, search of premises, issue of summons, requiring production of accounts or documents, recording of statements.				
Order	Means an order of determination passed in relation to SCN				
Order in Appeal	Means an order passed by the Appellate Forum WRT appeal filed before it				
Amount in arrears	discussed in next slide				

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CHARTERED ACCOUNTANTS

Amount in arrears meaning – Sec. 121



- Amount in arrears means – the amount of duty which is recoverable as arrears of duty under the indirect tax enactment, on account of –
 - (i) no appeal having been filed by the declarant against an order or an order in appeal before expiry of the period of time for filing appeal; or
 - (ii) an order in appeal relating to the declarant attaining finality; or
 - (iii) the declarant having filed a return under the indirect tax enactment on or before the 30th day of June, 2019, wherein he has admitted a tax liability but not paid it.

Meaning of the term Tax Dues

Nature of demand

A single appeal is arising out of an order is pending as on 30.6.2019 before the appellate forum

More than one appeal arising out of an order one by the declarant and the other being a departmental appeal which are pending as on 30.6.2019 before appellate forum

Where a SCN has been issued and has been received by the declarant on or before 30th June

Where an enquiry, investigation or audit is pending against declarant

Where the amount has been voluntarily disclosed

Where an amount in arrears relating to the declarant is due

Meaning of tax dues

total amount which is being disputed.

the sum of the total duty which is disputed by declarant in his appeal and departmental appeal – the dispute should not have been heard finally before said date.

the amount of duty stated to be payable by the declarant in said notice.

the amount of duty payable which has been quantified on or before said date.

the amount of duty stated in the declaration.

the amount in arrears.

Cases/persons *ineligible* under the scheme 125



- Appeal filed before 30.6.2019 and such appeal has been finally heard before the said date;
- Person who has been convicted for an offence under an indirect tax enactment.
- A SCN has been issued before 30.6.2019 and it has been finally heard before the said date.
- A person whom a SCN has been issued in relation to erroneous refund.
- In relation to enquiry, investigation, audit and the amount of duty involved has not been quantified on or before 30.6.2019.
- Who have filed an application before settlement commission.
- SCN relating to goods set fourth in fourth schedule to the central excise Act.

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Relief under the Scheme – Sec. 124



- **Tax dues**
- **In relation to a SCN; or**
- **One or more appeals arising out of such SCN**
- **Which is pending as on 30.6.19**
- **And if the amount of duty is -**

Rs. 50L or less

Relief = 70% of such tax dues

More than Rs. 50 L

Relief = 50%

- tax dues
- are relatable to a show cause notice for late fee or penalty only,
- and the amount of duty in the said notice has been paid or is nil -

Relief = entire amount of such late fee and penalty.

- **Tax arrears**
- **And amount of duty is –**

Rs. 50 L or less

Relief = 60% of such tax

More than 50 L

Relief = 40%

- Tax arrears where in a return filed under CE or ST, declared the amount of tax payable but not paid is -

Same as above

Relief under the Scheme



- **Tax dues**
- **are linked to an enquiry, investigation or audit against the declarant and the amount quantified on or before the 30th day of June, 2019 is -**

Rs. 50L or less

Relief = 70% of such tax dues

More than Rs. 50 L

Relief = 50%

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CHARTERED ACCOUNTANTS

The Process of filing application



- Go to www.cbic.gov.in
- Select tab SVLDRS
- Click on “click here to logon to the scheme”
- Click on “apply SVLDRS scheme”
- It will ask your service tax/central excise user id & password.
- Enter the details and login & change the password.
- Go to the menu and select SVLDRS- “apply SVLDRS 1”
- you will see list of questions for which your answer should be “NO” for all the questions.

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The Process of filing application



- Fill the application in Form SVLDRS 1.
- Once processed, DC will issue either SVLDRS 2 or SVLDRS 3.
- If form 2 is issued now the declarant can either accept or reject with or without PH in SVLDRS 2A.
- Once form 3 is issued, the declarant shall generate challan and generate mandate form in www.icegate.gov.in
- Make the payment in Bank using the mandate form.

The Process of filing application



- The time limit for issue of SVLDRS 3 is 30 days from the date of filing of SVLDRS 1.
- In case the appeal or SCN pending before any appellate forum, the same shall be deemed to have been withdrawn.
- However if the appellate forum is SC or HC then declarant shall file a withdrawal application before the said court and furnish the proof of withdrawal to the DC.
- Once the payment has been made and necessary proof has been submitted before the DC, it shall issue Discharge Certificate in form SVLDRS 4, which shall be conclusive evidence as to the matter and time period stated therein.

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Restrictions under the scheme – Sec. 130



- The amount payable under this scheme –
 - shall not be paid using ITC;
 - Shall not be refundable under any circumstances;
 - Shall not be taken as ITC .
 - shall not entitle any person to take input tax credit, as a recipient, of the excisable goods or taxable services, with respect to the matter and time period covered in the declaration
- In case any pre-deposit or other deposit already paid exceeds the amount payable as indicated in the statement of the designated committee, the difference shall not be refunded.

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————— CHARTERED ACCOUNTANTS —————

Time limits for filing Forms under SVLDRS



Forms	Time Limit
SVLDRS-1	As per section 125 declaration should be filed electronically on or before 31st December 2019
SVLDRS-2	Where the estimated amount payable is more than the amount declared under SVLDRS-1, the committee shall issue an estimate of amount payable within 30 days of receipt of declaration with an opportunity for personal hearing.
SVLDRS-2A	The declarant shall indicate his agreement or disagreement with the estimate or can make written submissions or waive personal hearing or can seek an adjournment. If no agreement or disagreement is filed before personal hearing and the declarant does not appear before the committee for personal hearing then the committee can decide the matter on the available records

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Time limits for filing Forms under SVLDRS



Forms	Time Limit
SVLDRS-2B	The committee shall issue this form only on receipt of request for adjournment .
SVLDRS-3	Within thirty days of issue of the form the committee can modify its order only to correct arithmetical or clerical error apparent on the face of record. The declarant is supposed to pay the amount within 30 days from the date of issue .
SVLDRS-4	On being satisfied that the declarant has paid the amount in full the designated committee shall issue a discharge certificate within 30 days of payment being made .

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Clarifications issued by CBIC



- If a person files an application whose case is actually not eligible, such an application shall be treated as void.
- In the case of tax arrears, relief shall be applied on net outstanding amount.
- In all other categories, the relief shall be applied on the gross amount (demand before appropriation of payments already made) and then the amount already paid will be deducted for calculating tax dues less relief.
- Some times during the audit, assessee should have paid duty without interest. In such cases department might have issued SCN proposing appropriation of tax and demanding interest and penalty. These cases are covered under the scheme.

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— CHARTERED ACCOUNTANTS —

Clarifications issued by CBIC



- Take a case where order has been served before 30.6.2019 but appeal is not filed before the said date and hence its not a case of appeal pending before appellate forum neither a SCN pending as on the said date. Whether he can file an application under the scheme ???
- Can be done under the category of arrears and gives an undertaking that he will not go for appeal on this order.
- 1073/06/2019 – CX dated 29.10.2019

Clarifications issued by CBIC



- Take another case where audit is conducted, completed and FAR has been issued before 30.6.2019, department may say that since the audit is completed and FAR has been issued, the same is not eligible for the scheme ???
- It has been clarified that till such time the audit report does not culminate into a SCN the same shall be treated as pending.
- Returns filed say ST 3, has also paid the duty before filing an application under this scheme. Whether he can still go ahead and file an application for waiver of interest for delayed payment of such service tax ???
- Yes, clarified.

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Clarifications issued by CBIC



- Assume a case where order has been passed before 30.6.2019 whereas appeal has been filed after the said date. Whether the assessee is eligible for the scheme?
- Such cases are not covered per se. However if the assessee withdraws the appeal and gives an undertaking that will not go for appeal, the same shall be eligible under the scheme.

Issues to be addressed



- There is no facility to pay the SVLDRS 3 amount directly using net banking. Assessee has to generate the challan, then proceed to view the challan and from there he need to generate mandate form in icegate website, take a printout, go to the bank and make payment through NEFT or RTGS.
- In some cases it is observed that once a mandate form is generated, and the same is lost before a print is taken, the portal is not allowing to generate another mandate form. Like this many assesseees could not pay the SVLDRS 3 amounts.
- There is no re-do or rectify facility in the system. Say for example Form 2 has been issued and while replying in 2A the assessee by mistake selected “waive PH”. Then the application status shows disagreed without PH. In such cases people are filing fresh applications.

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Some practical issues being faced



- In some cases, of arrears, the assessee's bank account must have been freeze, which is having huge amounts. These assessees have filed application under the scheme and got SVLDRS 3, but since the amounts were blocked in the said bank accounts they are not in a position to pay the amount to get discharge certificate, whether department by taking necessary steps safeguarding the revenue can unfreeze the account so that they can pay out of that bank balance.

Some practical issues being faced



- Existing dealers shall not register afresh at cbic website while filing SVLDRS.
- Filed SVLDRS 1 wrongly, submit a written application requesting for withdrawal of it and file new application.

R K SANGU & ASSOCIATES

————— CHARTERED ACCOUNTANTS —————



Thank you!



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r k sangu and associates

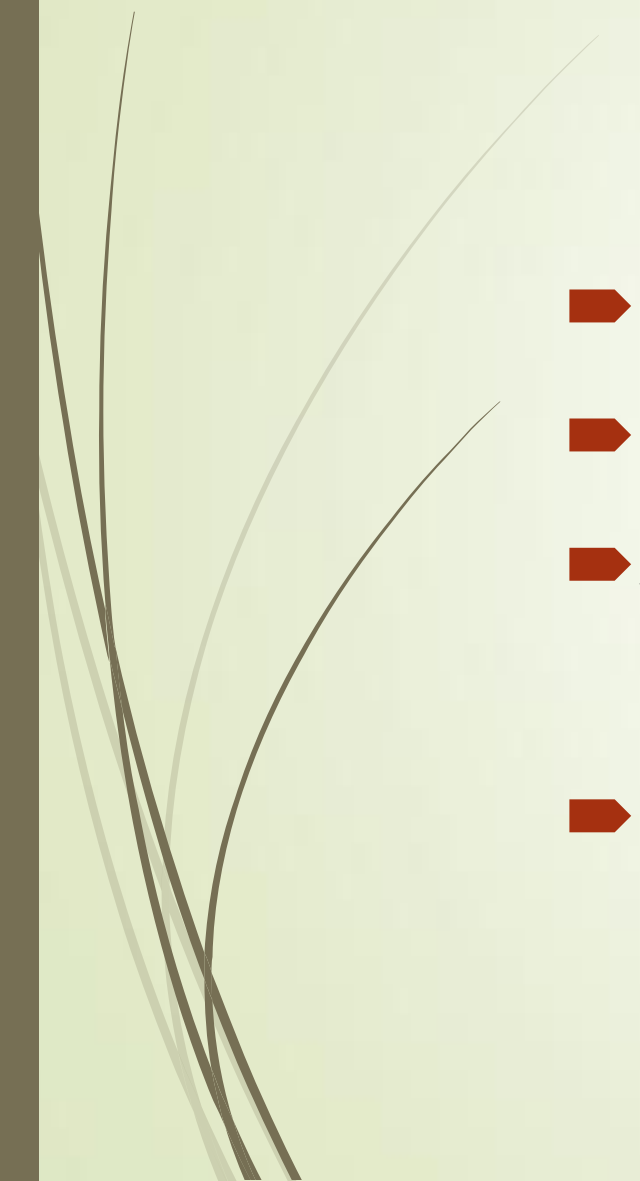


Audit, Inspection, Search, Seizure and Arrest under GST Laws

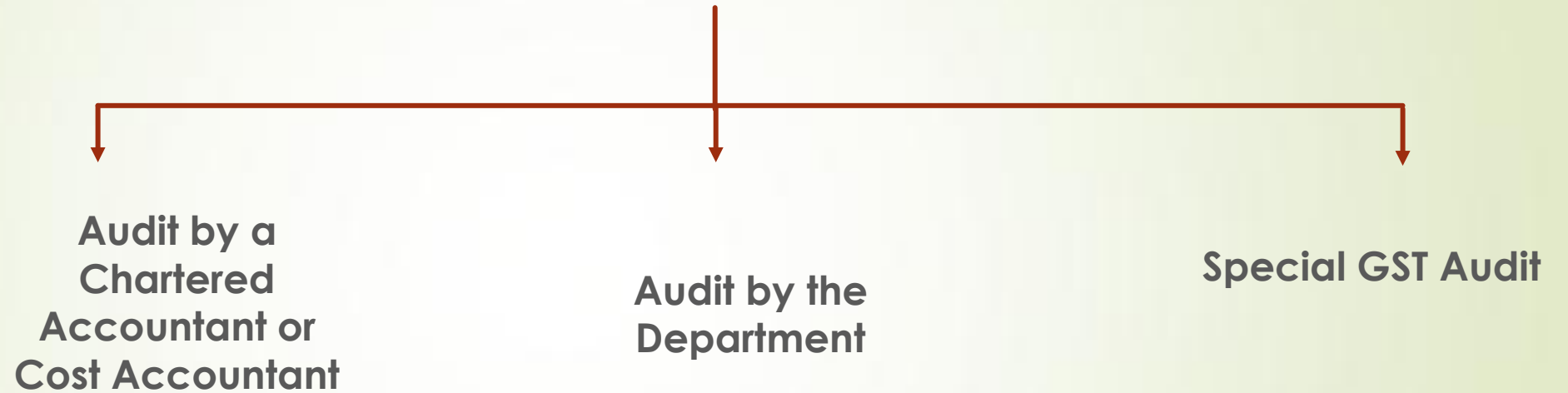
- Karan Talwar, Advocate



Outline of the Presentation

- Audit
 - Inspection
 - Search and Seizure
 - Detention and Confiscation of Goods
 - Arrest
- 

Audit under GST





Audit under GST – Applicable Provisions

- ▶ Section 2(13) – Definition of ‘audit’
- ▶ Section 65 - Audit by Tax Authorities
 - ▶ Rule 101 - Audit
- ▶ Section 66 - Special Audit
 - ▶ Rule 102 - Special Audit



“Audit” – Definition Section 2 (13)

- ▶ Examination of records, returns, and other documents
- ▶ Under GST Laws or any other law
- ▶ To verify correctness of
 - ▶ Turnover declared
 - ▶ Taxes paid
 - ▶ Refund claimed
 - ▶ ITC availed
 - ▶ Compliance with GST Laws



Audit by Department - Section 65 and Rule 101

- ▶ Audit of 'Registered Person'
- ▶ Who may conduct the audit?
 - ▶ Commissioner; or
 - ▶ Officer authorized by the Commissioner
- ▶ Prior intimation in **Form GST ADT- 01** (not less than 15 working days)
- ▶ When can an audit by tax authorities be conducted:
 - ▶ Financial year; or
 - ▶ Part thereof; or
 - ▶ Multiples thereof



Audit by Department - Section 65 and Rule 101 (cont.)

- ▶ Place of audit:
 - ▶ Place of business; or
 - ▶ Their Office
- ▶ The audit shall be completed within a period of:
 - ▶ 3 months from the date of commencement of audit;
 - ▶ Commissioner may extend for a period not exceeding 6 months



Audit by Department - Section 65 and Rule 101 (cont.)

- ▶ “Commencement of audit” shall mean:
 - ▶ Date on which the records or other documents are made available; or
 - ▶ Actual institution of audit at place of business;
 - ▶ Whichever is later




Audit by Department - Section 65 and Rule 101 (cont.)

- ▶ On conclusion of the audit, within 30 days, the registered person is to be informed of the following in **Form GST ADT- 02**
 - ▶ Findings of the audit
 - ▶ Reasons for such findings
 - ▶ Rights and obligations of the registered person
- ▶ Violation - action under S. 73 or S. 74


Special Audit- Section 66 and Rule 102

- ▶ Special Audit – Conditions precedent
 - ▶ Any stage of any proceedings before Assistant Commissioner or above
 - ▶ **Nature** and **complexity** of **case** & **interest of revenue**
 - ▶ Forms opinion that
 - ▶ Value has not been correctly declared
 - ▶ Credit availed is not within normal limits
 - ▶ Prior approval of Commissioner
 - ▶ Commissioner to nominate the Chartered/Cost Accountant
 - ▶ Personal Hearing?



Special Audit - Section 66 and Rule 102 (cont.)

- ▶ Direction issued in **FORM GST ADT-03**
- ▶ Costs to be borne by Commissioner
- ▶ Special Audit to be done regardless of any prior audit under GST laws or any other laws
- ▶ Chartered accountant or cost accountant shall submit a report to the Assistant Commissioner within-
 - ▶ 90 days;
 - ▶ May be extended by a further period of 90 days (on application or for material and sufficient reason)




Special GST Audit - Section 66 and Rule 102 (cont.)

- ▶ Findings of the special audit to be intimated to the registered person under **Form GST ADT-04**
- ▶ Opportunity of being heard in respect of material gathered in Special Audit
- ▶ Violation – Section 73 or 74 proceedings



Inspection: Applicable Provisions

- Section 2(85) - Place of Business
- Section 67 (1) - Power of inspection search and seizure
- Rule 139 - Inspection search and seizure



Inspection – Meaning

- **As per Black's Law Dictionary, 'Inspection' means**
 - Careful examination of something, such as goods
 - in response to a discovery request
- **GST Flyer/FAQs explains 'Inspection' as** a softer provision than search which enables officers to access any place of business of a taxable person and transporter/owner/warehouse or godown operator

Inspection - Who can conduct?

- ▶ Proper officer, not below Joint Commissioner
- ▶ **Section 2 (91):**
 - ▶ proper officer is the Commissioner or an officer of the central tax
 - ▶ who is assigned a certain function by the Commissioner in the Board
- ▶ **Circular No. 3/3/2017 – GST dated 05-07-2017:** Proper officer for inspection u/s. 67 (1) – Additional/Joint Commissioner of Central Tax

Inspection - When can it be conducted?

- ▶ Inspection can be conducted when proper officer has reasons to believe:
 - ▶ A taxable person has
 - ▶ Suppressed any transaction of supply of goods or services
 - ▶ Suppressed information relating to stock of goods in hand
 - ▶ claimed ITC in excess of his entitlement
 - ▶ contravened any other provisions, with an intent to evade taxes
 - ▶ A transporter or owner or operator of warehouse/godown/other place:
 - ▶ Keeping goods which escaped payment of tax
 - ▶ Kept his accounts or goods in a manner likely to cause evasion of tax

“Reasons to believe”

- GST FAQs on “Reasons to believe”
 - S.26 of IPC – “sufficient cause to believe that thing but not otherwise”
 - Not direct knowledge but cause a reasonable person to conclude
 - Objective determination as opposed to subjective consideration
 - Honest and reasonable person based on relevant material and circumstances
 - Not required to state reasons but must disclose material

“Reasons to believe” (contd.)

- ***Rimjhim Ispat Limited, Juhi Alloys Limited, Goyal Steels Pvt. Ltd. vs. State of U.P. - 2019 (3) TMI 916 - Allahabad High Court***
 - “Reasons to believe” should exist, be based on reasonable material and should not be fanciful or arbitrary.
 - The Court exercising writ jurisdiction cannot go into the sufficiency of the reasons – cannot act as an appellate court.
 - Reasons may or may not be communicated to the assessee – but the same must exist on record.



Inspection - Where shall it be conducted?

- Inspection shall be conducted at “place of business” of:
 - taxable person or
 - owner or transporter or
 - operator of warehouse/godown or any other place where goods are stored
- Authorisation to be given in **FORM GST INS-01**
- PO not below the rank of a Joint Commissioner



Inspection - Place of Business

- ▶ **Section 2 (85):** “place of business” includes a place:
 - ▶ where business is ordinarily conducted or a warehouse or godown
 - ▶ any other place where a taxable person stores his goods
 - ▶ where a taxable person maintains his books of accounts
 - ▶ where a taxable person is engaged in business through an agent



Search and Seizure - Applicable Provisions

- ▶ Section 67 (2-12)- Power of search and seizure
- ▶ Rule 139 - Inspection, search and seizure
- ▶ Rule 140(1) - Bond and Security for release of Goods
- ▶ Rule 141(1) - Procedure in respect of seized goods
- ▶ Section 93 of CrPC - When Search Warrant may be issued
- ▶ Section 100 of CrPC - Person in charge of closed place to allow search
- ▶ Section 165 of CrPC - Search by Police Officer



Search and Seizure: Meaning

- ▶ **As per Black's Law Dictionary 'Search' means:**
 - ▶ Examination of a person's house or buildings or premises, or of his person
 - ▶ with a view of discovery of illicit or stolen property, or some evidence of guilt
 - ▶ to be used in prosecution of a criminal action for some charged crime or offense



Search and Seizure: Meaning (contd.)

- As per Black's Law Dictionary 'Seizure' means:
 - Act of taking possession of goods or books or things
 - Contrary to the wishes of the owner
 - By an officer of law under a legal process

Search and Seizure: Section 67 (2)

- **Who can conduct:**
 - Proper officer, not below Joint Commissioner
 - any other officer of central tax authorised by him
- Rule 139(1)- authorization for search/seizure under Sec. 67(2) to be made in **Form GST INS-01**
- Rule 139(2)- order for seizure under Sec. 67(2) to be made in **Form GST INS-02**
- **Where can it be conducted:**
 - “Any place”



Search and Seizure: Section 67 (2)

➤ When can it be conducted:

- Pursuant to an inspection or otherwise
- If proper officer has reasons to believe that
 - any goods liable to confiscation or
 - documents or books or things which he thinks are relevant to any proceedings are secreted in any place
- May himself or through any authorized officer in writing search and seize

Search and Seizure: “secreted in any place”

- ***Durga Prasad Vs H.R. Gomes AIR 1966 SC 1209 (1216)***
- Construction of “secreted” in context of Sec. 105 of Customs Act:
 - ‘Secreted’ means documents which are kept not in the normal or usual place, with a view to conceal them
 - Includes documents or things which are likely to be secreted
 - Includes, documents or things a person is likely to keep out of the way or in a place where law officer cannot find it

Search and Seizure : “secreted in any place”

- ▶ ***M/s. Rajeev Traders vs. State of U.P. 2019 (8) TMI 1135 – Allahabad High Court***
- ▶ *Whether goods not disclosed in regular books of accounts lying at disclosed place of business could be construed as “secreted in any place” u/s. 67 (2)?*
 - ▶ “Secreted” implies to be hidden or not disclosed to the revenue authorities for making a fair self-assessment.
 - ▶ If goods (not reflected in books of accounts) found at assessee’s disclosed place of business, constructive presumption of goods “secreted” arises.
 - ▶ Ambit of the phrase includes both disclosed and undisclosed place of business of an assessee.

Search Warrant – GST FAQs

- Search Warrant – Issuable by Joint Commissioner of above
- Must indicate existence of reasonable belief leading to search
- Search Warrant should contain the following
 - Violation
 - Premises to be searched
 - Name and designation of authorized person
 - Name of Issuing Officer with full designation along with round seal
 - Date and place of issue
 - Serial number of Warrant
 - Period of validity – day or two days.



Search Warrant – GST FAQs – Basic requirements

- No search without a valid search warrant
- Invariably Lady Officer should accompany team to residence
- Identity cards to be disclosed
- Search Warrant to be shown to person in charge of premises and his signature should be taken along with that of 2 witnesses
- Two independent witnesses for the search
- Before search, and after completion, team of officials should offer themselves for personal search



Search Warrant – GST FAQs – Basic requirements

- ▶ Panchnama/Mahazar of search to be prepared. Signed by officials and independent witnesses
- ▶ Upon completion, executed search warrant to be returned to issuing officer with report regarding outcome
- ▶ Names of officers may also be written on the reverse of the search warrant
- ▶ Register of search warrants to be maintained
- ▶ Copy of Panchnama/Mahazhar to be given to person-in-charge/owner of premises

Invasion of privacy during search/seizure

- ▶ ***Paresh Nathalal Chauhan vs. State of Gujarat - 2019 (11) TMI 1032 - Gujarat High Court***
- ▶ Authorisation for search is issued qua a place, not a person; authorisation given for search cannot be converted to one for investigation
- ▶ GST officials cannot remain at assessee's premises once the search is completed. No provision empowers GST officers to remain at the premises to apprehend an accused
- ▶ Although section 157 of CGST Act provides that no proceedings shall lie against any officer under the Act for actions done in good faith, actions infringing fundamental rights of citizens may not be protected under this section



Search and Seizure: Section 67 (2) and (3)

- **Prohibition Order: Rule 139(4) - FORM GST INS – 03:**
 - When not practicable to seize goods
 - prohibiting owner/custodian of goods from dealing with seized goods except with permission of proper officer
- **Retention of Documents/Books:** PO can retain:
 - books/documents/things
 - only for so long as may be necessary for proceedings



Search and Seizure: Section 67 (2) and (3)

- **Return of Documents/Books:** PO shall return:
 - Seized documents/books/things
 - That have not been relied upon for issuing notice under the Act
 - within 30 days from date of issue of notice



Search and Seizure: Section 67 (4)


- ▶ Proper/authorised officer has power to:
 - ▶ Seal or break open door of any premises;
 - ▶ Break open any almirah, electronic devices, box
 - ▶ In which any goods, accounts, registers or documents
 - ▶ Are suspected to be concealed, and
 - ▶ Where the access is denied


Collection of cheques during raid

- ▶ ***Remark Flour Mills Pvt Ltd vs. State of Gujarat - 2018-VIL-191-GUJ – High Court of Gujarat***
- ▶ Collecting post-dated cheques under coercion *during raid*?
 - ▶ Held, impermissible when no quantification of tax done
- ▶ Attachment of bank account set aside with following conditions:
 - ▶ Petitioners to maintain stock worth of Rs. 50 lacs at all times until completion of adjudication proceedings
 - ▶ Petitioners to file undertaking in the court



Search and Seizure: Section 67 (5)

- **What is allowed:** Making photocopies or taking extracts of seized documents
 - **Who can do:** the person from whose custody documents are seized
 - **Where and when made:** in the presence of authorised officer, at such place and time as he indicates
 - **Exceptions:** If doing so, in the opinion of PO prejudicially affects the investigation
- 



Whether assessee can make copies of seized documents?

- ***High Ground Enterprises Ltd. v. Union of India* - 2019 (8) TMI 1136 - Bombay High Court**
- Section 67 (5) confers right to receive copies of seized documents on the person from whom documents were seized – the person need not give any justification/reasons for the same
- Refusal to give copies must be reasonable, balanced and based on cogent reasons; opinion of PO must be on record, it cannot be mere ipse dixit of PO
- A mere statement that providing copies will prejudicially affect the investigation would only be chanting the language of the section and cannot be accepted

Search and Seizure: Section 67 (6)

➤ **Rule 140 (1): Bond/security for release-**

- Seized goods can be released on provisional basis
- Upon execution of a bond for value of goods in FORM GST INS-04 and
- Furnishing of bank guarantee equal to tax, interest, penalty

➤ **Rule 140 (2): Failure to produce released goods**

- If the person to whom goods were released provisionally fails to produce them at appointed date and place as set by PO, security can be encashed.



Release of seized goods – strict compliance with prescribed procedure

- ***State of Uttar Pradesh v. Kay Pan Fragrance Pvt. Ltd. - 2019 (12) TMI 95 – Supreme Court***
- Strict compliance with Section 67 (8) and Rule 141 in respect of release of seized goods necessary;
- Assessee should take recourse to the mechanism already provided for in the Act and the Rules for release (including provisional) of seized goods
- Allahabad High Court orders which are contrary to stated provisions not to be given effect to by the authorities; ordered processing of claims afresh by authorities



Search and Seizure: Section 67 (7)

- Return of Seized Goods -
- Where any goods are seized under Section 67(2), and no notice in that respect is given
 - Goods to be returned within 6 months of such seizure
 - Proper officer may extend by 6 months on sufficient cause being shown.



Disposal of Seized Goods: Section 67 (8)

- ▶ **Immediate Disposal of Seized Goods:** Government may by notification specify goods that may be immediately disposed after seizure having regard to the
 - ▶ Perishable or hazardous nature of goods
 - ▶ Depreciation in value with passage of time
 - ▶ Constraints of storage space
 - ▶ Or any other relevant considerations
- ▶ **Notification No.27/2018 – Central Tax dt. 13-06-2018** specifies disposable goods.



Perishable or Hazardous Goods: Notification No. 27/2018

- ▶ Salt and hygroscopic substances, raw hides and skins, news papers and periodicals, petroleum products, cells, batteries and rechargeable batteries, dangerous drugs and psychotropic substances, bulk drugs, pharmaceutical products, fireworks, sandalwood, etc.
- ▶ All taxable goods falling within Chapters 1 to 24 of the First Schedule to the Customs Tariff Act, 1975
- ▶ All unclaimed/abandoned goods which are liable to rapid depreciation in value on account of fast change in technology or new models etc.
- ▶ Seized goods provisionally released, but release not taken within 1 month from execution of bond for release



Perishable or Hazardous Goods – Release and Disposal – Rule 141

- **Release (INS-05)**- Taxable Person may pay the lower of
 - Market Value of goods of perishable and hazardous nature
 - Tax, Interest and Penalty
- In case of failure to pay above, Commissioner may dispose of and adjust dues



Applicable CrPC Provisions

➤ Section 67 (10)

- Provisions of CrPC relating to search and seizure to apply to search and seizure under Sec. 67 of the Act
- Subject to the modification that any reference to the word 'magistrate' will be read as 'commissioner'



Applicable CrPC Provisions

- **Section 93 of CrPC:** Search warrant may be issued:
 - If there is reason to believe that a person to whom summons is or is to be issued to produce documents or other things may not produce the said documents.
 - If the court thinks that it serves the purpose of inquiry, trial or any other proceedings.
 - If a document or thing is not known to be in possession of any person/place.



Applicable CrPC Provisions

- **Section 165 of CrPC:**

- Search must be necessary for investigation
- Reasonable grounds to believe that the thing will be found in the place searched must be present
- Grounds of belief must be recorded in writing
- Such thing cannot be obtained in any other way without undue delay



Applicable CrPC Provisions

➤ Section 100 of CrPC:

- Any resident or in-charge of a place to allow search
- Presence of 2 independent witnesses mandatory
- Officer to prepare list of things seized with places found



Power of the Police and Applicability of CrPC

- ***M/s. Sangtei Enterprise vs. State of Assam – 2019 (11) TMI 396 – Guwahati High Court***
- Whether police has power to investigate and seize for forgery of documents in connection with certain relatable transactions under taxation statutes?
- Whether procedural law in Code of Criminal Procedure is applicable to proceedings under Customs and CGST Act?



Power of the Police and Applicability of CrPC (contd.)

➤ Held:

- CGST Act is a self-contained Act under which forgery or producing false documents are offences.
- However, IPC provisions also applicable
- If any special procedure laid down under special laws, such procedure not affected by CrPC provisions
- CrPC provisions applicable subject to special procedure contained in the special law
- Police cannot investigate offences under tax laws



Seizure: Section 67 (11)

- **What can be searched/seized:**
 - Any goods or documents or books or things
 - Accounts or registers or documents of any person produced before PO, if he has reasons to believe there is escapement or attempt to escape tax.
- **Grant of receipt:** PO after effecting seizure, shall grant a receipt for the same



Search and Seizure: test of admissibility

- ***Pooran Mal vs. Director of Inspection (Investigation), Income Tax (1974) 93 ITR 505 (SC)***
 - test of admissibility of evidence lies in relevancy, unless there is an express prohibition in the Constitution or other law of evidence;
 - illegal search and seizure does not vitiate admissibility of evidence obtained therefrom;
 - seized material can be used against assessee.



Test Check: Section 67 (12)

- ▶ Commissioner or an officer authorised by him may:
 - ▶ Cause purchase of any goods or services
 - ▶ By any person authorized by him
 - ▶ From the business premises of a taxable person
 - ▶ To check the issuance of tax invoices or bills of supply by the taxable person
- ▶ After test-checking, the authorised officer shall return the goods purchased and the taxable person shall upon such return refund the invoice amount after cancellation of the same.



Provisional Attachment: Applicable Provisions


- Section 83 - Provisional attachment to protect revenue in certain cases
- Rule 159 - Provisional attachment of property



Provisional Attachment of Property u/s. 83

➤ When can Section 83 be invoked:

- During pendency of proceedings u/s. 62, 63, 64, 67, 73 or 74,
- Commissioner is of the opinion that to protect interest of the revenue, it is necessary to do so
- He can by an order in writing provisionally attach any property, including bank account of the taxable person,
- In the manner prescribed in Rule 159 of CGST Rules



Provisional Attachment of Property u/s. 83 (contd.)

- **What can be attached:**
 - Any property
 - whether movable or immovable
 - including bank account

- **Expiry of attachment:** 1 year from date of order



Provisional Attachment of Property u/s. 83 (contd.)

- **Provisional Attachment Order:** Commissioner shall pass order of provisional attachment in **FORM GST DRC – 22**
- **Perishable or Hazardous Property:**
 - In this case, If taxable person pays amount equal to market price of attached property, such property will be released.
 - If taxable person does not pay the aforesaid amount, Commissioner can dispose of such property and adjust proceeds towards dues.



Provisional Attachment of Property u/s. 83 (contd.)

- **Filing of Objections:** Any person whose property has been attached may-
 - file an objection within 7 days from such attachment
 - in **FORM GST DRC – 23**
 - Commissioner, if satisfied may release the attached property.



Scope and Exercise of Power under Section 83

- ***Valerius Industries vs. Union of India – 2019 (9) TMI 618***
 - Power for provisional attachment – drastic and far-reaching power.
 - Should be used sparingly and only on substantive weighty grounds
 - Should be exercised only if there is reasonable apprehension that the assessee may default the ultimate collection of the demand
 - Subjective satisfaction of Commissioner should be based on credible materials or information and should be supported by a supervening factor
 - Attachment of bank A/C and trading assets – last resort, not to be equated with attachment in recovery proceedings
 - Commissioner cannot delegate this power

Exercise of powers u/s. 83

- ▶ ***Kaish Impex Private Limited vs. Union of India - 2020-VIL-33-BOM – Bombay High Court***
- ▶ For allegedly fictitious transactions between M and B, and where there was one transaction between B and Petitioner, Petitioner was summoned and immediately his bank account was provisionally attached.
- ▶ Held:
- ▶ Provisional attachment power u/s. 83 being a drastic power, not an omnibus power cannot be used routinely, to be used only in limited circumstances




Exercise of powers u/s. 83

- ▶ Proceedings have to be initiated against a specific taxable person; opinion that provisional attachment is necessary to protect revenue's interest to be formed
- ▶ Form GST DRC-22 indicates nexus between the proceedings to be initiated against a taxable person and provisional attachment of bank account
- ▶ Power under Section 83 does not provide for automatic extension to any other taxable person from an inquiry specifically launched against a taxable person



Attachment sans pending proceedings

- ***Kushal Limited vs. Union of India – 2019 (12) TMI 1116 – Gujarat High Court***
- Sine qua non for exercise of powers u/s. 83 is that proceedings should be pending u/s. 62 or 63 or 64 or 67 or 73 or 74 of CGST Act
- In this case, as on date of order of provisional attachment, search proceedings were not pending – already completed earlier;
- Therefore, basic requirement of Section 83 not satisfied; court quashed the order of provisional attachment



Whether attachment not in revenue's interest can be done?

- ▶ ***Bindal Smelting Pvt. Ltd. v. DG of GST Intelligence - 2020 (1) TMI 569 - Punjab & Haryana High Court***
- ▶ In this case, Over Cash Credit account of petitioner having debit balance was attached – whether continuation of such attachment protects revenue's interest?
- ▶ Mandate of section 83 is to attach amount lying in an account in the form of FDR or saving and not an A/C having debit balance
- ▶ It merely ruins business of dealer, attachment of such OCC A/C amounts to closure of business, not securing interest of revenue
- ▶ Authority to ensure revenue's interest is protected, cannot exercise power according to his whims and caprices



Provisional Attachment – S.83

- ***DNC Infrastructure Pvt. Ltd. v. Union of India – W.P. No. 25999 of 2019 – Telangana High Court (Interim Order)***
- Provisional Attachment of Bank Account by ADG of the DGGST intelligence
 - Stay granted
 - ADG of the DGGST intelligence not the Designated Authority under Section 83 of the CGST Act
 - No delegation under Section 167 of the power conferred by the Commissioner to the ADG, DGGI.



Summons & Access - Applicable Provisions

- ▶ Section 70- Power to summon persons to give evidence and produce documents
- ▶ Section 71- Access to business premises
- ▶ Section 72- Officers to assist proper officers
- ▶ Section 122(3)- Penalty for certain offences
- ▶ Section 172 of IPC - Absconding to avoid service of summons or other proceeding
- ▶ Section 174 of IPC - Non- attendance in obedience to an order from public servant
- ▶ Section 175 of IPC – Omission to produce documents to public servant by person legally bound to produce it



Power to Summon: Section 70

- ▶ PO has power to summon any person whose
 - ▶ attendance he considers necessary
 - ▶ To give evidence or
 - ▶ To produce a document or any other thing in an inquiry
 - ▶ in the manner provided in case of a civil court under CPC, 1908



Power to Summon: Section 70 (cont.)

- Inquiry u/s. 70 deemed to be “**judicial proceedings**”:
 - Section 193 of IPC: Punishment for fabricating false evidence in a judicial proceeding: Upto 7 years imprisonment and fine
 - Section 228 of IPC: Intentional insult or interruption to a public servant in judicial proceeding: 6 months imprisonment or Rs. 1000 fine or both



Power to Summon: Section 70 (contd.)

- ▶ A person who is issued summons is:
 - ▶ legally bound to attend either in person or by an authorized representative
 - ▶ bound to state the truth before the officer who issued summons
 - ▶ on any point which is the subject matter of the examination and
 - ▶ to produce such documents and things as may be required



Issue of Summons: CBIC Guidelines

- Summons issued -
 - By Superintendents should be issued upon obtaining written permission from an officer not below Assistant Commissioner
 - If written permission not possible for operational reasons then oral/telephonic permission be obtained and reduced to writing at earliest possible opportunity
 - with the reasons for issuance recorded in writing
 - as a last resort where assesses are not co-operating



Issue of Summons: CBIC Guidelines

- ▶ Language not be harsh and legal causing unnecessary mental stress and embarrassment to the receiver
- ▶ not be issued to senior management officials such as CEO, CFO, General Managers at the first instance, unless investigations show they are involved in decision making process leading to loss of revenue.
- ▶ Officer issuing summons to submit a report on proceedings to the officer who authorized the issuance of summons



Consequences of Non-appearance to Summons

- **Absconding to avoid service of summons:** prosecution u/s. 172 of IPC. Punishment: up to 1-month imprisonment and Rs. 500 fine or both.
- **Non-appearance without reasonable justification:** prosecution u/s. 174 of IPC. Punishment: up to 1-month simple imprisonment or Rs. 500 fine or both.
- **Non-production of documents:** prosecution u/s. 175 of IPC. Punishment: up to 1-month simple imprisonment Rs. 500 fine or both.
- **Section 122(3) of CGST Act:** Non-appearance before PO if summons issued, penalty up to Rs. 25,000/-

Presence of lawyer during examination

- ▶ ***Sudhir Kumar Aggarwal vs. Directorate General of GST Intelligence – 2019 (11) TMI 661 - Delhi High Court***
- ▶ *Whether interrogation of petitioner by GST officers is to be done in the presence of his lawyer/attorney?*
 - ▶ GST officers not police officers
 - ▶ Therefore presence of lawyer not required
 - ▶ Benefit of constitutional provisions to be understood in right spirit
 - ▶ Cannot be extended to tax evaders at the cost of public exchequer.
 - ▶ Apprehension of physical assault or manhandling misplaced
 - ▶ Settled law that illegal means of extracting information cannot be used

Presence of lawyer during examination (contd.)

- ***Arvindkumar Jain Dhakad v. Union of India - 2019 (11) TMI 775***, (Bom HC)
- Apprehensions of physical assault
- Held, following *Vijay Sajnani v Union of India, 2017 (345) ELT 323 (SC)* in Customs case
 - Lawyer can be present in visible distance
 - Not in audible range



Access to Business Premises: Section 71

➤ Who can access:

- Any officer authorised by PO, not below Joint Commissioner
- Audit Party deputed by PO/Cost Accountant/CA nominated u/s. 66

➤ What can be accessed:

- books of account, documents, computers, computer programs, computer software whether installed in a computer or otherwise and such other things as may be required

➤ Purpose of access:

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


Access to Business Premises: Documents

- ▶ The person-in-charge of the place of business shall on demand make available to the authorised officer, the following documents:
 - ▶ Prescribed records as prepared or maintained by the registered person and declared to PO;
 - ▶ Trial balance or its equivalent;
 - ▶ Statements of annual financial accounts, audited, if required;
 - ▶ Cost Audit Report, if any, u/s. 148 of the Companies Act, 2013;
 - ▶ Income-tax audit report, if any, u/s. 44AB of IT Act, 1961; and
 - ▶ Any other relevant record.
- ▶ **Time-limit for producing documents:** within 15 days of demand, or such further period as may be allowed.



Officers to Assist Proper Officers: Section 72

- All the following officers are required to assist POs in implementation of the Act:
 - Police officers
 - Railways officers
 - Customs officers
 - Officers engaged in the collection of land revenue
 - Village officers
 - Officers of State and Union Territory tax



Inspection of Goods in Movement: Section 68 (1) & (2)

- ▶ S.68(1) - Government may require
 - ▶ person in charge of conveyances
 - ▶ carrying consignment of goods of value exceeding prescribed amount
 - ▶ to carry documents and devices as prescribed
- ▶ S.68(2) - Details of documents to be validated in manner prescribed



Interception of Goods in Movement: Section 68 (3)

- ▶ **Who can intercept:** Proper officer (whether police officer can?)
- ▶ **Where can he intercept:** at any place
- ▶ **What can be done:**
 - ▶ Require production of documents and devices under Rules 138 and 138A
 - ▶ Inspect the goods in movement
- ▶ **Consequences of failure to produce documents:**
 - ▶ Detention of goods under Section 129
 - ▶ Confiscation under Section 130
 - ▶ Penalty under Section 122

Rule 138: Generation of E-Way Bill

- ▶ **Who is liable to generate:** Every registered person causing movement of goods exceeding value of Rs. 50,000
 - ▶ In relation to supply,
 - ▶ For reasons other than supply
 - ▶ due to inward supply from an unregistered person
- ▶ Information relating to goods to be furnished in Part A of **FORM GST EWB-01** before commencement of movement.
- ▶ **Rule 138B – Interception and Verification:** Proper officer, authorised by Commissioner or empowered officer can intercept and verify the aforementioned documents



Rule 138C: Inspection and Verification

- **FORM GST EWB-03:** Inspection report to be prepared by PO within 3 days from inspection. If sufficient cause shown, additional 3 days allowed.
- **No Double Verification:** If verification of goods being transported done at a place within the state or in any other state, no further verification can be done, except where specific information about evasion comes to light
- **Rule 138D:** If vehicle intercepted and detained for more than 30 minutes, transporter to upload this information on the common portal.



Detention and Confiscation of Goods

- ▶ Applicable Provisions

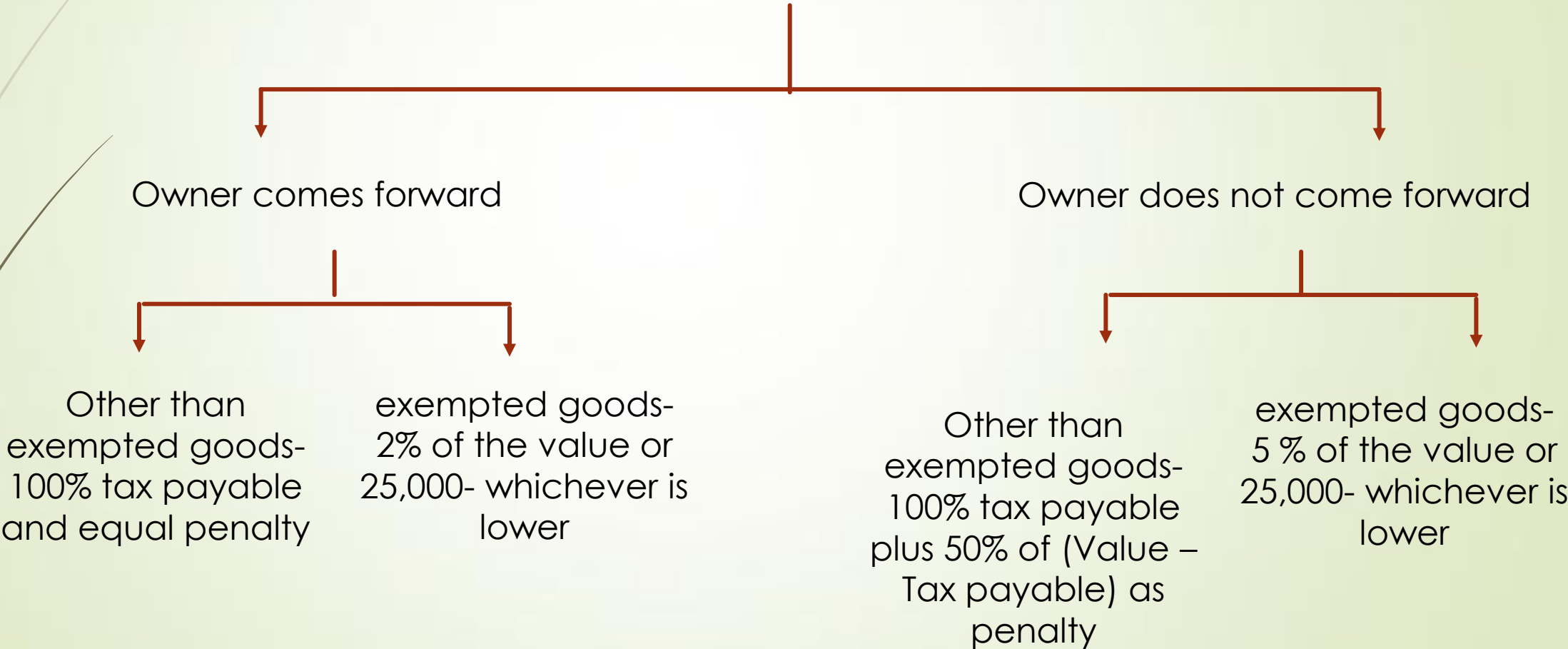
- ▶ Section 129- Detention, seizure and release of goods and conveyances in transit
- ▶ Section 130- Confiscation of goods or conveyances and levy of penalty
- ▶ Rule 140- Bond and security for release of seized goods

Detention and Confiscation of Goods (cont.)

- Detention- Section 129
 - Owner retains ownership
 - no access by way of legal notice
 - Prior to inspection and search
- Seizure- Section 129
 - removal of actual possession of goods
 - Takes place after inspection
- Confiscation- Section 130
 - Pursuant to final adjudication
 - Owner loses ownership and possession

Detention and Confiscation of Goods: Section 129

All goods transported and stored in contravention of the Act shall be detained or seized and released only as follows



Detention and Confiscation of Goods: Section 129 (cont.)

- ▶ Who is the 'owner of goods' under Section 129(1)
 - ▶ Circular No. 76/50/2018-GST dated 31.12.2018
 - ▶ If invoice or other specified document is available
 - ▶ Consigner ; or
 - ▶ Consignee
 - ▶ If invoice or other specified document is not available
 - ▶ Proper officer to determine the owner (Deputy or Assistant Commissioner of Central Tax)
 - ▶ Circular No. 3/3/2017 – GST



Detention and Confiscation of Goods: Section 129 (cont.)

- ▶ Section 129(2) – Section 67(6) r/w Rule 140 to apply for release of detained or seized goods – Rule 140
 - ▶ on provisional basis-
 - ▶ On execution of bond in INS-04 for value of goods; and
 - ▶ Furnishing of security – BG to cover tax, penalty and interest
 - ▶ If goods released provisionally are not produced at appointed date and time, security will be encashed



Detention and Confiscation of Goods: Section 129 (cont.)

- ▶ S.129(3) - Proper Officer to issue notice and order specifying tax and penalty payable under either S.129(1) (a), (b) or (c) -
 - ▶ Circular No. 3/3/2017 – GST
 - ▶ Deputy or Assistant Commissioner of Central Tax
 - ▶ In prescribed manner- Circular No. 41/15/2018-GST dated 13.4.2018
- ▶ S. 129(4) – Hearing to be given
- ▶ S.129(5) – On payment of amount under S.129(1) proceedings deemed to be concluded



Detention and Confiscation of Goods: Section 129 (cont.)

- ▶ To initiate proceedings under Section 130 when-
 - ▶ Person transporting goods or owner of goods fails to make payment
 - ▶ Payment to be made within 14 days
 - ▶ Period may be reduced for perishable/hazardous/highly depreciable goods
 - ▶ Circular No. 3/3/2017 – GST- proper officer
 - ▶ Additional or Joint Commissioner of Central Tax



Detention and Confiscation of Goods: Section 130

- ▶ Goods shall be liable for confiscation and penalty under section 122 in the following cases-
 - ▶ Supply or receipt of goods with an intent to evade tax
 - ▶ Goods subject to tax, but not accounted for
 - ▶ Supply of goods liable to tax without registration
 - ▶ Contravention of the provisions of the Act with intent to evade payment of tax
 - ▶ Use of conveyance as a means of transport of taxable goods in contravention to the Act, unless owner of conveyance proves no knowledge.




Detention and Confiscation of Goods: Section 130 (cont.)

- ▶ When goods are liable for confiscation and liable for penalty-
 - ▶ Penalty imposable under Section 122
 - ▶ Adjudging officer to give owner option to pay fine in lieu of confiscation
 - ▶ Fine not to exceed the market value of goods nor less than tax chargeable
 - ▶ Aggregate of fine and penalty not to be less than amount leviable under Section 129(1)
- ▶ Proper Officer under Section 130-
 - ▶ Circular No. 3/3/2017 – GST
 - ▶ Deputy or Assistant Commissioner of Central Tax




Procedure for inspection, detention, release and confiscation of goods in movement


- ▶ Circular No. 41/15/2018-GST dated 13.04.2018
 - ▶ Provides procedure for inspection, detention, release and confiscation of goods in movement
- ▶ Amended vide the following notifications-
 - ▶ Circular No. 49/23/2018-GST dated 21.06.2018
 - ▶ Circular No. 64/38/2018-GST dated 14.09. 2018




Para	Issue/ Form Number	Procedure
2(a)		Jurisdictional Commissioner to designate proper officers to conduct inspection of conveyances
2(b)	E-Way bill	<ul style="list-style-type: none">• Person in charge on conveyance to have proper documentation.• The e-way bill number may be:<ul style="list-style-type: none">• Available with the person in charge of the conveyance; or• in the form of a printout or SMS; or• written on an invoice.
2(c)	Circular No. 3/3/2017- GST-	'Proper Officer' for inspection of conveyance or goods
2(d)	GST Form MOV-1	Statement shall be recorded when- <ul style="list-style-type: none">• person in charge of the conveyance fails to produce the prescribed document• where the proper officer intends to undertake an inspection




Para	Issue/ Form Number	Procedure
	Form GST- MOV-02	Order for physical verification / inspection of conveyance at place specified in the order
	EWB -03- "PART-A"	Proper Officer to prepare report and upload on common portal within 24 hours of issuance of aforementioned Form



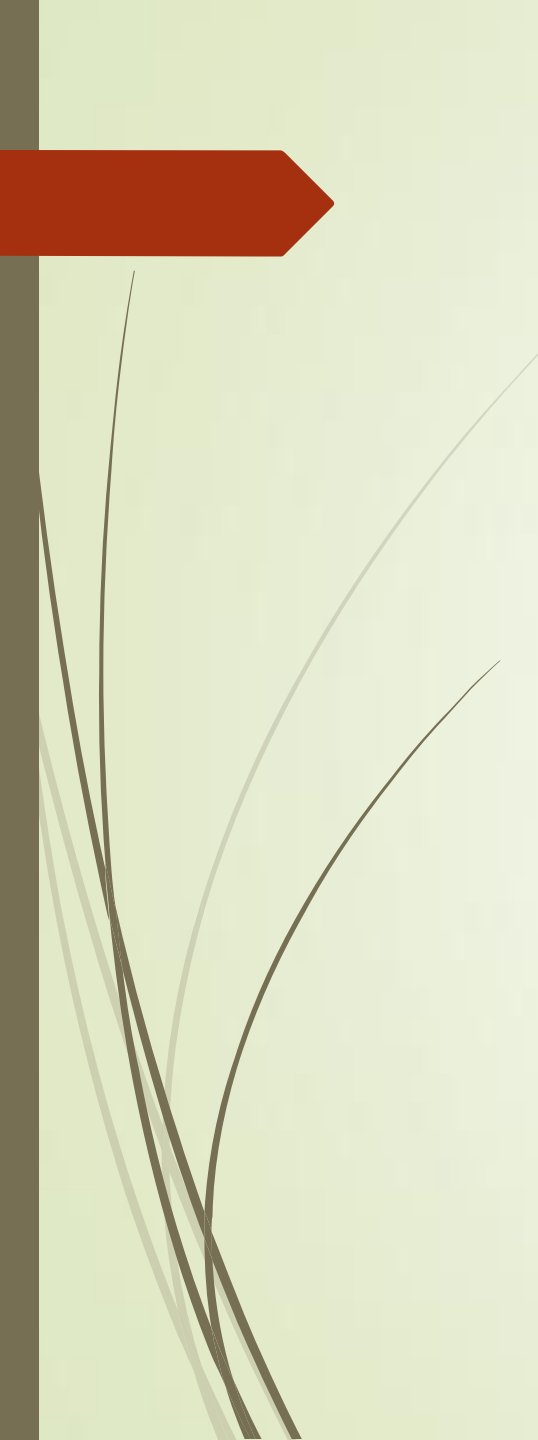
Para	Issue/ Form Number	Procedure
2(e)	Time limit to conclude inspection	Inspection to be completed within 3 days from the date of issue of the order in FORM GST MOV-02
	Form GST- MOV-03	<ul style="list-style-type: none">• Proper officer may obtain an extension upon written permission from the Commissioner.• Copy of the order of extension to be served on person in charge of conveyance





Para	Issue/ Form Number	Procedure
2(f)	Form GST- MOV- 04	<ul style="list-style-type: none">• Proper officer to prepare a report on findings of physical verification / inspection.• Copy of the same to be served on person in charge of conveyance.
	Form- GST- EWB -03- “PART-B “	<ul style="list-style-type: none">• Proper Officer to upload on the common portal the final report of inspection.• To be uploaded within 3 days of physical inspection



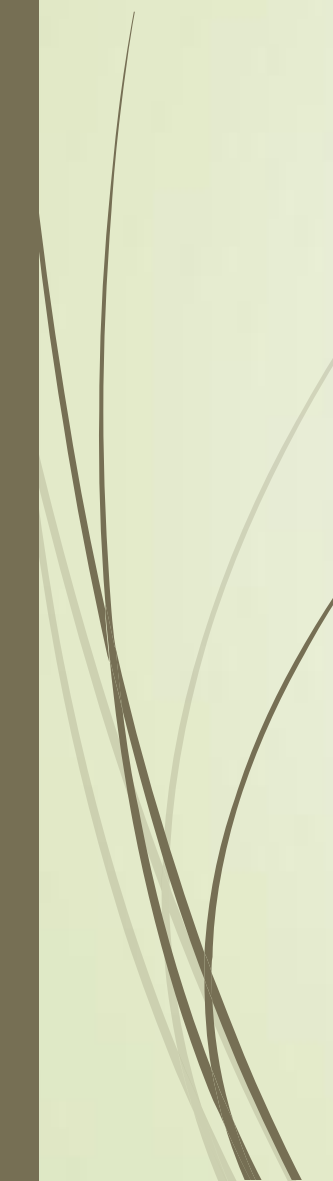

Para	Issue/ Form Number	Procedure
2(g)	Form GST- MOV- 05	In the event that, no discrepancies are found, proper officer to issue a release order and allow the conveyance to move further.
	Form GST- MOV-06	Proper officer may detain/ seize the goods upon issuance of order pursuant to Section 129 (1) (c)
	Form GST- MOV- 07	Notice under Section 129(3) specifying the tax and penalty payable to be served on the person in charge of the conveyance




Para	Issue/ Form Number	Procedure
2(h)	Form GST-MOV- 05	Proper officer to release goods vide order upon payment of tax and penalty as per the provisions of Section 129 (1) (a) or (b)
	Form GST- MOV-09	Order to be uploaded on common portal and- <ul style="list-style-type: none">• proceedings shall be added in the electronic liability register; and• the payment made shall be credited to such electronic liability register




Para	Issue/ Form Number	Procedure
2(i)	Form GST- MOV- 08	<p>Proper officer to release goods vide order in Form GST- MOV- 05 on obtaining a bond in form GST- MOV-08 and security from the-</p> <ul style="list-style-type: none">• 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. <p>Security in the form of bank guarantee to be equal to amount payable under Section 129 (1) (a) or (b)</p> <p>The security provided may be adjusted against the demand arising from such proceedings.</p>



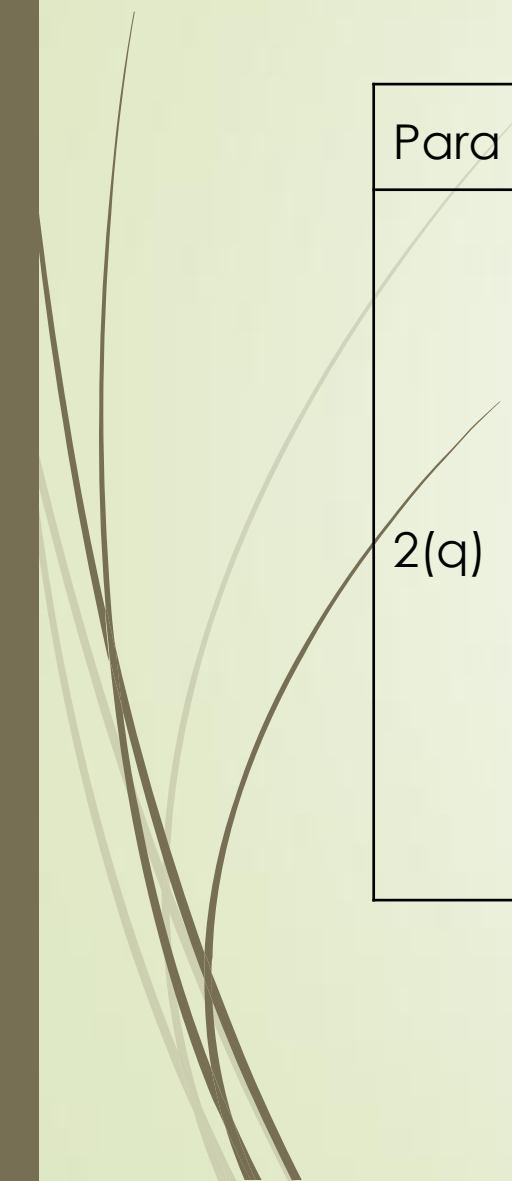

Para	Issue/ Form Number	Procedure
2(j)	Form GST- MOV- 09	<ul style="list-style-type: none"><li data-bbox="1225 304 2461 422">• Where the person has filed objections, the proper officer shall consider and pass a speaking order in MOV-09.<li data-bbox="1225 532 2461 722">• On payment of such tax and penalty, the goods and conveyance shall be released by an order in FORM GST MOV-05.<li data-bbox="1225 832 2461 1258">• 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.



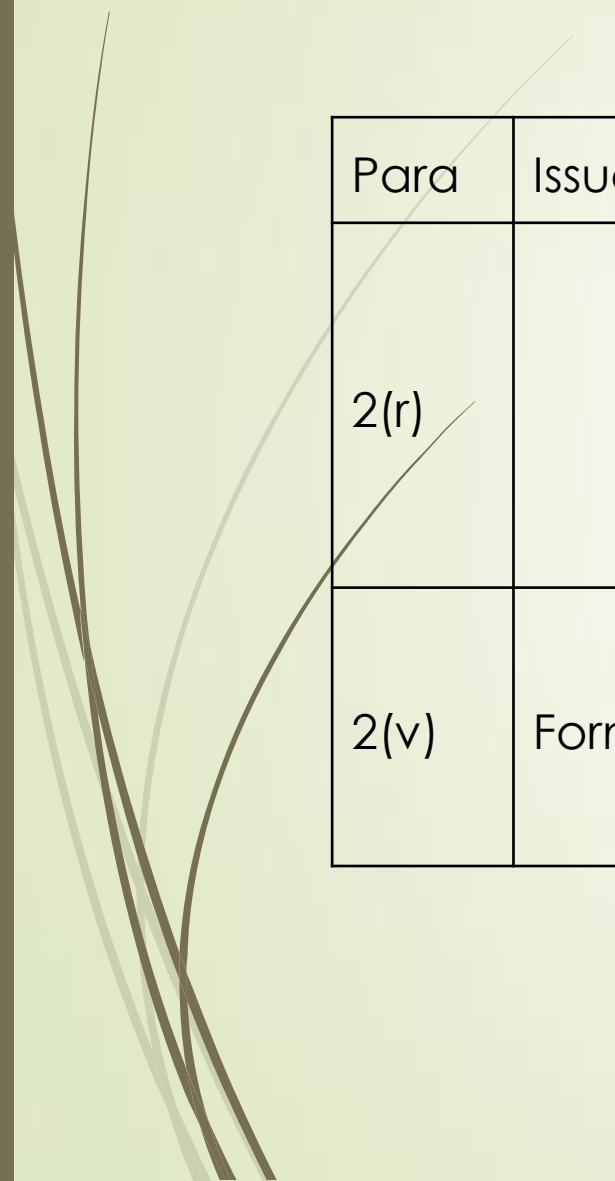

Para	Issue/ Form Number	Procedure
2(k) and 2(l)	Form GST- MOV- 10	<p>Notice under Form GST- Form- MOV-10 and action under Section 130 can be issued in the following cases-</p> <ul style="list-style-type: none">• proposed tax and penalty are not paid within 7 (now 14 days) from the date of the issue of the order of detention in FORM GST MOV-06• proper officer is of the opinion that movement of goods is being effected to evade payment of tax,• conveyance is used for the carriage of goods or passengers for hire.



Para	Issue/ Form Number	Procedure
2(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
2(n), 2(o) And 2(p)	Form GST- MOV-11	<p>Order of confiscation of goods or conveyance shall be passed after taking into consideration the objections filed by the person in charge of the goods.</p> <p>Goods shall be released on payment of tax, penalty and fine to be made within 3 months of issuance of order.</p> <p>Once an Order under Form GST MOV- 11 is passed, order under For GST MOV- 09 shall be withdrawn</p> <p>Common order may be passed for confiscation of goods and conveyance</p>



Para	Issue/ Form Number	Procedure
2(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



Para	Issue/ Form Number	Procedure
2(r)		Suitable modifications in the time allowed for the service of notice or order for auction or disposal in case of perishable and/or hazardous goods.
2(v)	Form GST- DRC-07	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



Interplay between S. 129 and 130?

- ▶ ***Synergy Fertichem Pvt. Ltd vs. State Of Gujarat- [2019 (12) TMI 1213 - Gujarat High Court]***
- ▶ Whether S. 129 and 130 are independent of each other?
- ▶ In case of goods in transit, can S.130 be resorted to only when S.129(6) is not complied with?
- ▶ After release of goods under S.129 can confiscation under S.130 be effected when goods are not available for confiscation?
- ▶ What is the scope for interference by a writ court in cases of detention/confiscation?



Interplay between S.129 and S.130?

- ▶ ***Synergy Fertichem Pvt. Ltd vs. State Of Gujarat- [2019 (12) TMI 1213 - Gujarat High Court]***
 - ▶ S.129 and S.130 are independent of each other; can be applied regardless of normal adjudication proceedings in S.73 and 74.
 - ▶ S.130 can be straightaway invoked if S.129(6) – payment not done within 14 days of detention order.
 - ▶ S.130 can be invoked at threshold only if on face of it, authorities convinced that contravention was with definite intent to evade payment of tax. Strong case to be made out. Reasons to be recorded in writing.



Interplay between S.129 and S.130?

- ▶ ***Synergy Fertichem Pvt. Ltd vs. State Of Gujarat- [2019 (12) TMI 1213 - Gujarat High Court]***
 - ▶ Goods need not be physically available for confiscation
 - ▶ Goods should not be detained on questions of eligibility to tax or rate of tax. Matter should be referred to assessing authority
 - ▶ Writ remedy to be exercised sparingly when injustice occurs for non-fulfilment of conditions for confiscation

Constitutional Validity of Sec 129

- ***ABB India Ltd. vs. Union Of India- [TS-19-HC-2020(GUJ)-NT]***
- Writ Petition filed before the Gujarat High Court, challenging the following-
 - Constitutional validity of Sec 129 on the ground that it gives unbridled and arbitrary power to detain goods,
 - Validity of Circular No. 41/15/2018-GST dated April 13, on the ground that the Circular amounts to legislation by the Board which is violative of the separation of power doctrine.
 - Interim order of release granted subject to payment of tax and BG for Penalty

Violation of procedure prescribed

- ▶ ***Shree Enterprises, M/S. Vicky Road Carrier vs. The Commercial Tax Officer- [2019 (4) TMI 147 - Karnataka High Court]***
- ▶ Whether goods can be detained in violation of the procedure prescribed under the circular?
 - ▶ When goods need to be detained under Sec 129, order of detention under Form GST MOV-06 and notice in form GST MOV-07 .
 - ▶ Upon considering objections, speaking order to be passed in Form GST MOV-09 quantifying the tax, interest and penalty.
 - ▶ It is well settled law that unless the tax and penalty are quantified, no confiscation order could be passed.

Violation of procedure prescribed

- ▶ ***Insha Trading Company vs. State of Gujarat- [(2019) 31 GSTL 24 (Guj.)]***
- ▶ Confiscation of goods without following procedure laid under Circular No. 41/15/2018- GST held to be illegal and arbitrary
 - ▶ Report in Form GST EWB-03 not uploaded within 24 hours
 - ▶ Physical Report in Form GST MOV-04 not prepared and served to assessee
 - ▶ Final Report of Inspection not prepared

Opportunity to be heard

- ▶ ***M.K. Enterprises vs. State of U.P-* [(2019) 91 taxmann.com 320 (Allahabad)]**
 - ▶ Where an assessee was not given an opportunity to show cause or give a reply to allegations raised, the seizure order is liable to be set aside.
- ▶ ***Sakeel vs. State Tax Officer-* [(2018) 96 taxmann.com 627 (Rajasthan)]**
 - ▶ Where the competent authority had seized goods of petitioner under transport and passed order under section 129(3) without considering his objections, and had further taken further proceedings under section 130, order passed under section 129(3) and further proceedings under section 130, were set aside and said authority was directed to pass fresh order after giving fair opportunity of hearing to petitioner.




Minor errors are insufficient to initiate proceedings under Section 129

- ▶ *M/S Diamond Metal vs State of U.P. and 2 others- [2018 (11) TMI 56 - Allahabad High Court]*
- ▶ Whether minor errors are sufficient to initiate proceedings under Section 129?
 - ▶ The Aluminum scrap of the petitioner transported from Kanpur to Jaunpur has been intercepted and, only for the reason that the vehicle number does not tally with the vehicle number mentioned on the E-way bill.
 - ▶ Circular No. 64/38/2018-GST dated 14.09. 2018
 - ▶ minor discrepancies in the details mentioned in the E-way bill would not be sufficient for initiation of any proceedings under the Act.



Arrest- Applicable Provisions


- Section 69- Power to arrest
 - Section 132- Punishment for certain offences
- 

Arrest: Section 69

- ▶ Commissioner of CGST/TGST can-
 - ▶ authorize a CGST/TGST officer to arrest a person
 - ▶ He has “**reason to believe**”
 - ▶ Concerned person has committed an offence under
 - ▶ Section 132 (1) (a, b, c, d) and is punishable under clause (i) or (ii) of S.132 (1) or S.132(2).

Arrest: Offences

- ▶ Following are Cognizable and Non- Bailable offences if the amount involved is more than 5 Cr .
 - ▶ **[132(1)(a)]**- Supply of any goods or services or both without issue of invoice;
 - ▶ **[132(1)(b)]**- Issue of any invoice or bill without supply of goods or services or both
 - ▶ **[132(1)(c)]**- Availing of ITC using such invoice or bill mentioned above
 - ▶ **[132(1)(d)]**- Tax collected but not paid beyond 3 months
- ▶ All other offences are non-cognizable and bailable
 - ▶ Arrest here only where offence is under S.132(1) (a) to (d) involving amount more than 2 Cr but less than 5 Cr, or repeat offence punishable under S.132(2)



Arrest: Procedure under Section 69 (cont.)

- ▶ Procedure in case of non- cognizable andailable offences-
 - ▶ Accused shall be admitted to bail
 - ▶ In case of default, accused shall be forwarded to the custody of the Magistrate
- ▶ Procedure in case of cognizable and non-ailable offences-
 - ▶ Accused to be informed of grounds of arrest
 - ▶ Accused to be produced before magistrate within 24 hours of arrest





Constitutional Rights of Arrested Person

- ▶ Article 22 of the Indian Constitution
 - ▶ Right to be informed, as soon as may be, of the grounds for such arrest;
 - ▶ Right to consult and to be defended by a legal practitioner of his choice;
 - ▶ Right to be produced before the nearest Magistrate within twenty-four hours of his arrest excluding the time necessary for the journey from the place of arrest to court of Magistrate;
 - ▶ Right to not be detained in police custody beyond the period of twenty-four hours without the authority of the Magistrate.


Supreme Court's directions on arrest

SC in *D.K. Basu v State of West Bengal* [1996 (12) TMI 350 - SUPREME COURT] has laid down 11 specific requirements and procedures that the police and other agencies have to follow-

- (1) Police arresting and interrogating suspects should wear “accurate, visible and clear” identification and name tags, and details of interrogating police officers should be recorded in a register.



- 
- 
- (2) **A memo of arrest** must be prepared at the time of arrest. This should:
 - (a) have the time and date of arrest.
 - (b) be attested by at least one witness who may either be a family member of the person arrested or a respectable person of the locality where the arrest was made.
 - (c) be counter-signed by the person arrested.


 - (3) The person arrested, detained or being interrogated has **a right to have a relative, friend or well wisher informed** as soon as practicable, of the arrest and the place of detention or custody. If the person to be informed has signed the arrest memo as a witness, this is not required.

- 
- (4) Where the friend or relative of the person arrested lives outside the district, the time and place of arrest and venue of custody must be notified by police within 8 to 12 hours after arrest. This should be done by a telegram through the District Legal Aid Authority and the concerned police station.

 - (5) The person arrested should be told of the right to have someone informed of the arrest, as soon as the arrest or detention is made.

 - (6) An entry must be made in the diary at the place of detention about the arrest, the name of the person informed and the name and particulars of the police officers in whose custody the person arrested is.

- 
- 
- (7) The person **being arrested can request a physical examination at the time of arrest.** Minor and major injuries if any should be recorded. The “Inspection Memo” should be signed by the person arrested as well as the arresting police officer. A copy of this memo must be given to the person arrested.
 - (8) The person arrested must have a **medical examination by a qualified doctor every 48 hours during detention.** This should be done by a doctor who is on the panel, which must be constituted by the Director of Health Services of every State.
 - (9) Copies of all documents including the **arrest memo have to be sent to the area Magistrate** for his record.

- 
- ▶ (10) The person arrested has a right to meet a lawyer during the interrogation, although not for the whole time.
 - ▶ (11) There should be a police control room in every district and state headquarters where information regarding the arrest and the place of custody of the person arrested must be sent by the arresting officer. This must be done within 12 hours of the arrest.

Interim protection against arrest

- ▶ ***P.V. Ramana Reddy vs. UOI [2019 (4) TMI 1320]***
- ▶ Whether Article 226 can be used as a substitute to Section 438 of CrC?
 - ▶ Since no FIR is registered under Section 69(1), Sec. 438 of CrPC cannot be invoked and therefore alternative is available only under Article 226 of the Constitution.
 - ▶ In light of the Supreme Court's judgment in *Km. Hema Mishra vs. State of UP*, it was concluded that the power under Article 226 should be exercised sparingly in appropriate cases and
 - ▶ The claim for pre-arrest protection under Article 226 is neither a statutory right nor a right guaranteed under the Articles 14,19 and 21.
 - ▶ Safeguards of S.41 and 41A of CrPC available to accused



Interim protection against arrest (cont.)

- ***P.V. Ramana Reddy vs. UOI [2019 (4) TMI 1320]***
- Whether assessment is a pre-requisite for arrest
 - Held, no as there is no embargo in Section 69 read with S.132
 - Offences mentioned in S.132 are not in their nature, requiring an assessment for determination

Interim protection against arrest (cont.)

- ▶ ***M/S. Jayachandran Alloys (P) Ltd. versus The Superintendent Of GST and Central Excise- 2019 (5) TMI 895 - Madras High Court***
 - ▶ Whether the department can withhold documents and records seized?
 - ▶ Section 67(3) of the CGST Act- return of documents
 - ▶ Only for reasons that the documents are sensitive or such production would prejudice its interests, can the same be withheld.
 - ▶ Held in favour of petitioner

Interim protection against arrest (cont.)

- ▶ *M/S. Jayachandran Alloys (P) Ltd. versus The Superintendent Of GST and Central Excise- 2019 (5) TMI 895 - Madras High Court*
- ▶ Whether the petitioner can be granted interim protection against arrest under Section 69?
 - ▶ Officials cannot act in excess of statutory authority
 - ▶ Punishment only if offence "committed". Arrest for such offences.
 - ▶ Arrest has to necessarily be post-determination of the demand due from an assessee, that itself has to necessarily follow the process of an assessment
 - ▶ Exception only for habitual offenders
 - ▶ decided in favor of petitioner.

Interim protection against arrest (cont.)

- ▶ In the following cases as well interim relief pursuant to invocation of Sec 132 without assessment was granted-
 - ▶ *Sapna Jain vs. Union Of India & Ors.- 2019 (5) TMI 1610 - Bombay High Court*
 - ▶ *C. Pradeep vs. Commissioner of GST and Central Excise Selam & Anr.- [TS-599-SC-2019-NT]*
 - ▶ *Vimal Yashwantgiri Goswami vs. State of Gujarat- [TS-618-HC-2019(GUJ)-NT]*



Power of arrest to be used sparingly

- ▶ ***Akhil Krishan Maggu and Anr. Vs. Deputy Director, Directorate General Of GST Intelligence and Ors.- 2019 (11) TMI 942 - Punjab And Haryana High Court.***
- ▶ Validity of arrest of advocate advising assessee
- ▶ Held that- Power of arrest cannot be exercised in excess and must be exercised in exceptional circumstances, such as-
 - ▶ *a person is involved in evasion of huge amount of tax and is having no permanent place of business,*




Power of arrest to be used sparingly (cont.)

- ▶ *a person is not appearing in spite of repeated summons and is involved in huge amount of evasion of tax.*
- ▶ *a person is a habitual offender and he has been prosecuted or convicted on earlier occasion,*
- ▶ *a person is likely to flee from country,*
- ▶ *a person is originator of fake invoices i.e. invoices without payment of tax,*
- ▶ *when direct documentary or otherwise concrete evidence is available on file/record of active involvement of a person in tax evasion.*

Power of arrest to be used sparingly (cont.)

- ▶ Persons should not be arrested prior to tax/penalty determination where they are
 - ▶ *having established manufacturing units; and*
 - ▶ *paying good amount of direct and indirect taxes*
 - ▶ *against whom there is no direct or concrete evidence to establish direct involvement in evasion of huge amounts of tax*
- ▶ *CAs or Advocates – not beneficiaries or part of fraud should not be arrested on mere statement without corroborative evidence*



FIR can be lodged under CrPC for GST offences

- ▶ ***Govind Enterprises vs. State Of U.P. and 4 Others- 2019 (6) TMI 55 - Allahabad High Court***
- ▶ UPGST Act does not overrides or expressly or impliedly repeal the provisions of the Penal Code
- ▶ FIR under CrPC may be filed for GST offences punishable under IPC
- ▶ UP GST Act itself provides that confiscation/penalty under GST laws prevents punishment under other laws

Powers of DG GST Intelligence officers to search, seize & arrest

- ▶ ***Lalit Kumar vs. Union of India and Ors.- [TS-1090-HC-2019(MP)-NT]***
- ▶ MP High Court had issued notice to department in writ challenging DGGST Intelligence Officers power to conduct search, seizure & arrest
- ▶ Does Government have power under S.3 to invest officers of DGGST Intelligence with functions? – Notification 14/2017 – CT
 - ▶ Power to delegate functions only available to Commissioner in the Board under S.5(3) read with S.168(2) of CGST Act
- ▶ ***M/s. DNC Infrastructure Pvt. Ltd. Vs. Union of India- WP No. 25999 of 2019 (Tel HC)***



Document Identification Number

- **Circular No. 122/41/2019 – GST dated 05-11-2019**
 - No search authorization, summons, arrest memo, inspection notices and letters (including emails) subject to a few exceptions
 - Issued on or after 08th November 2019
 - in the course of any enquiry
 - shall be without a computer-generated DIN quoted prominently in such communication.
 - DIN Verifiable on CBIC website



Document Identification Number (cont.)

- **Circular No. 128/47/2019 – GST dated 23-12-2019**
 - Mandates use of standardised formats for documents mentioned in Circular dated 5.11.2019
 - DIN requirement extended to all documents
 - Standardised documents bear a pre-populated DIN
 - Any specified communication not having DIN shall be invalid and deemed to have never been issued.



Document Identification Number: Exceptions

- **Exceptions** to mandatory generation of DIN:
 - When there are technical difficulties in generating DIN, or
 - When communication is to be issued at short notice or in urgent situations and authorized officer is outside the office.
- In the aforementioned cases, reasons therefor are to be recorded in writing. Such communication shall expressly state that it has been issued without a DIN.
- **Regularisation:** Any communication issued without a DIN shall be regularised within 15 days of its issuance



THANK YOU

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Issues in export of services

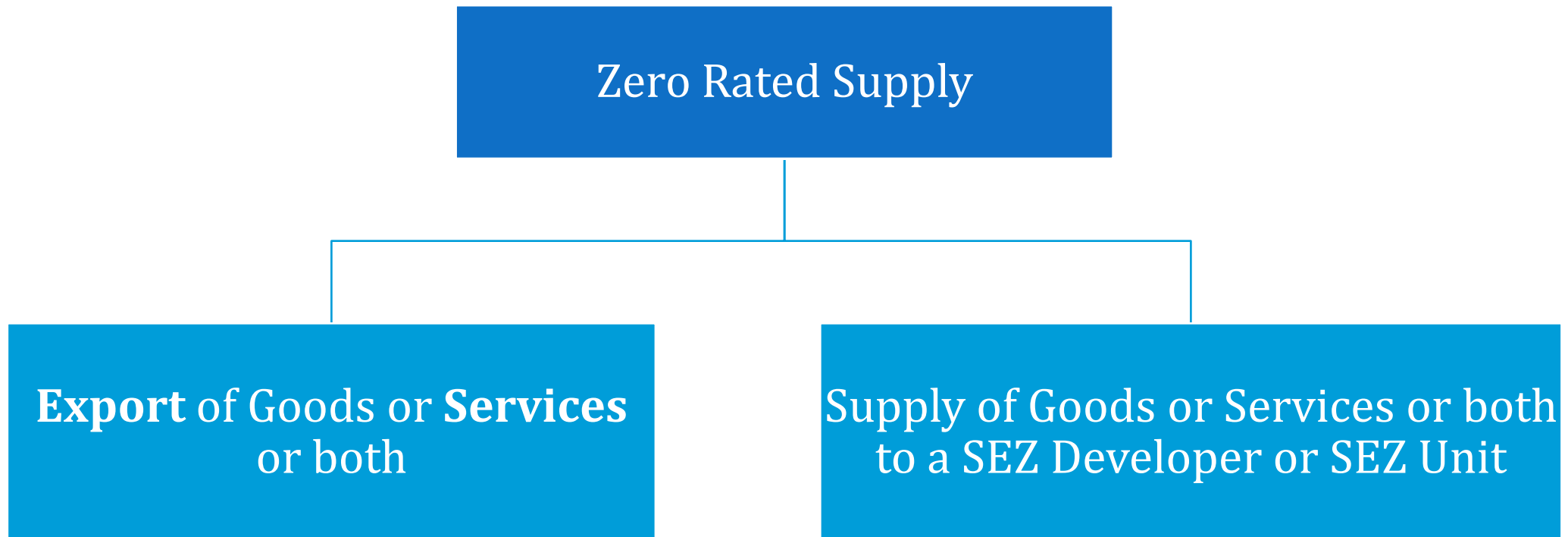
CA Venkat Prasad. P



Today Coverage

- Exports – background
- Conditions of Exports
- Issues in POS
- Issues in CFE
- Issues with Refund
- General

Exports as a Supply under GST



Exports – background

- GST is destination based consumption tax
- No tax on exports
- Taxes cannot be exported
- Taxes paid if any will be refunded
- To maintain high competitive prices in the international market
- To earn precious foreign currency

Exports – Privileges

- No GST on Exports
- Full ITC subject to section 17(5) restrictions
 - No change from pre-GST law for exports
 - Small change from pre-GST law for SEZ units
- Full ITC even if exempted supplies – rule 42/43 inapplicable

Export of Services- section 2(6) of the IGST Act,2017


- Supplier of Service located in India
- Recipient of Service O/s India
- Place of Supply **Outside** India
- Payments in Convertible Foreign Exchange (CFE)
- Supplier & Recipients are not merely establishment of distinct person (Not Branch and HO)

Explanation: An establishment of a person in India and any of his other establishment outside India shall be treated as establishments of distinct persons

- What if any conditions not satisfied?
- Difference from ST Law?

Location of recipient of Service -2(14) of the IGST Act


Where a supply is received at a place of business for which registration has been obtained, the location of such place of business



Where a supply is received at a place other than the place of business (a fixed establishment elsewhere) - the location of such fixed establishment



Where a supply is received at more than one establishment - establishment most directly concerned



In absence of such places, the location of the usual place of residence of the recipient

Location of Supplier of Service -2(15) of the IGST Act

Where a supply is made from a place of business for which registration has been obtained, the location of such place of business



Where a supply is made from a place other than the place of business , (a fixed establishment elsewhere) - the location of such fixed establishment



Where a supply is made from more than one establishment - establishment most directly concerned



In absence of such places, the location of the usual place of residence of the supplier

Place of Supply (POS)

- **Sec -13 of IGST Act, 2017** – Either Location of Supplier or Receiver is **outside India**
- **In General** – POS is Location of **Receiver of Service**
- **In Special cases** are provided for which POS to be determined on case to case basis
 - Performance based
 - Immovable property
 - Training/coaching etc.,

POS – specials cases

S. No.	Nature of Supply	Place of Supply
1	Performance based	The location where the goods are situated
2	Services supplied to an individual and requiring the physical presence of the receiver	The location where the services are actually performed
3	Immovable property-related services, including hotel accommodation	B2B: Location of such Registered Person B2C: Location where the services are actually performed
4	Organisation of an event	The place where the event is actually held.
5	If the said three services are supplied at more than one locations. i.e., (i) Goods & individual related (ii) Immovable property-related (iii) Event related	If one or more located in the taxable territory – POS = location in the taxable territory where the greatest proportion of the service is provided In more than one State Its place of supply shall be each such State in proportion to the value of services provided in each State

POS – specials cases

S. No.	Nature of Supply	Place of Supply
6	Banking, financial institutions, NBFC Intermediary services, hiring of vehicles' services etc.,	Location of the supplier of service
7	Transportation of goods	The place of destination of the goods
8	Passenger transportation	Place where the passenger embarks on the conveyance for a continuous journey
9	Services on-board a conveyance	The first scheduled point of departure of that conveyance for the journey
10	Online information and database access or retrieval services	The location of recipient of service

Determination of PoS –Performance based services

Section 13(3)(a)—Goods are to be physically made available to Supplier to provide service -Location where the services are performed

✓ Exceptions:

- Service provided by electronic means is an exception
- Goods temporarily imported and re-exported after the service

Section 13(3)(b)—Require the presence of individual to perform service

Issues in Performance-based services

- R & D services provided to a foreign entity, POS performance based?
 - Principal Commr vs. Advinus Therapeutics Ltd, 2017 (51) STR 298(Tri-Mumbai)
 - CCE Vs. Sai Life Sciences Ltd, 2016(42)STR882(Tri-Mumbai)
 - Notification 4/2019- I.Tax dated 30.09.2019, the POS is location of recipient
- Software design & testing to electronic semi-conductors?
 - Circular 118/37/2019-GST - Do not apply separately for determining the place of supply for ancillary supply
- Cutting & polishing of unpolished diamonds temporarily imported into India?
 - Circular 103/22/2019-GST, dated 28-6-2019 – not covered under performance based

Issues in 'Performance-based services'

Example 1: Suzuki Ltd of Japan has sent the goods to Maruti Ltd of India for carrying out manufacturing process in India & return back the final product to Suzuki of Japan. What is POS of consideration charged by Maruti for this Job work ?

POS – India till 31.01.2019 – Since no repairs involved

POS – Japan since Job work is included in Treatment or process.

After 01.02.2019 it will be considered as export of service subject to fulfilment section 2(6) of the IGST Act.

Issues in 'Performance-based services'

Example 2: "X" (India) Ltd located in Mumbai provides a 'technical testing of goods' to an overseas firm ABC (England) for a consolidated price of Rs 1 lakhs. Testing is carried out in Maharashtra (20%), Kerala (25%), and an international location ,Colombo (55%).

- What would be the PoS?

This is performance-based service & it is provided in more than 1 location, section 13(6) will be applicable.

Under PPSR it was provided that "the greatest proportion of service is provide" Under POS-GST such words missing. If the contract is split in 3 transaction, then no tax on testing services performed at Colombo.

POS- Intermediary

- Section 13(8) – In the following PoS would be location of the supplier
 - Banking services to account holders
 - Intermediary services
 - Hiring of means of transport (other than aircraft and vessels) up to 1 month

Definition under Section 2(13) of IT Act,2017:

"intermediary" means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account"

Issues – Intermediary services

- Marketing, Promotion etc., done for the foreign Principal?
- Post sale support services provided to customer of foreign company?
 - Beaumanoir India Pvt. Ltd v. CCE 2019 (25) G.S.T.L. 274 (Tri. - Chan.)
 - CST vs Lamhas Satellite Services Ltd, 2019 (28) GSTL 31(Tri-Mumbai)
 - Sunrise Immigration Consultants Pvt Ltd Vs CCE, Chandigarh 2018-TIOL-1849-CESTAT-CHD
 - BPO/Back office support - Vservglobal Pvt Ltd 2019 (26) G.S.T.L. 127 (App. A.A.R. - GST)
- Freight Margin - Global Transportation Services Pvt Ltd, 2016 (45) STR 574(AAR) v.
- Impact of
 - All India Federation of Tax Practitioners vs UOI [2007 (007) STR 0625 S.C]
 - Indian Association of Tour Operators Vs UOI 2017 (5) G.S.T.L. 4 (Del.) [Para 47 & 48]

Issues – Intermediary services

- Circular No. 107/26/2019 GST dated 18.07.2019 issued on ITES services - but rescinded vide circular No. 127/46/2019 GST dated 04.12.2019
- Intermediary when location of both supplier & recipients of goods are outside the taxable territory is exempt – w.e.f. 01.10.2019
 - Prior to 01.10.2019
 - What about services?

Issues 'Realisation of foreign currency'

- Section 2(6) of the IGST Act, 2017 allows realization of export proceeds of services in INR, wherever allowed by the RBI - w.e.f. 01.02.2019
- Export proceeds **realized in rupees through a 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 – yes clarified by Circular 88/07/2019-GST dated 01.02.2019
- Outsourcing to the foreign sub-contractor & adjustment of his expenses & bills
 - Export of services for total contract value
 - RCM liable on payments adjusted by foreign contractor

Circular No. 78/52/2018-GST, dated 31-12-2018

Issues in 'Realisation of foreign currency'

- Intra adjustment of the payments from/to with the foreign party?
- Whether **receipt of converted currency** directly into banks accounts of Consultant would be considered as a receipt of foreign currency? [Sun Area Real Estate Pvt. Ltd Vs Commissioner of Service Tax, Mumbai-1[2018-TIOL-956-CESTAT-MUM]

Issues in 'Establishments of distinct persons'

- Services to **Group companies** outside India – whether treated as establishments of distinct persons??- NES Global Specialist Engineering Services Pvt. Ltd.--- 2019 (22) G.S.T.L. 541 (A.A.R.-GST)
- Services to **Branches** outside India- Exempted

Exports with IGST payment is barred?

Old	Amended	Impact
<p>Rule 96(10) refund of integrated tax on exports of goods or services</p>	<p>Rule 96(10) Debars option of exports with IGST payment: During the period <u>23.10.2017 to 08.10.2018</u> - If Domestic Procurements made from suppliers- who had claimed specified benefits <u>w.e.f. 09.10.18</u> onwards Domestic Procurements from suppliers who had claimed specified benefits (except for EPCG scheme) + Imports under AA.</p>	<p>Such exporters left with single option of exports under LUT</p>

- Legal validity of the above restriction? – what if already done?
- Capital goods imported under EPCG ?
- Only direct procurements or entire chain is restricted?
- The restriction applies for LUT route?

General Issues

- Capital goods ITC
- LUT not furnished or belatedly furnished
- Export conditions are violated?
- Compensation Cess refund
 - Outward liable for Cess
 - Outward not liable for Cess
- ITC not reflected in GSTR-2A
- Drawback claimed

THANK YOU

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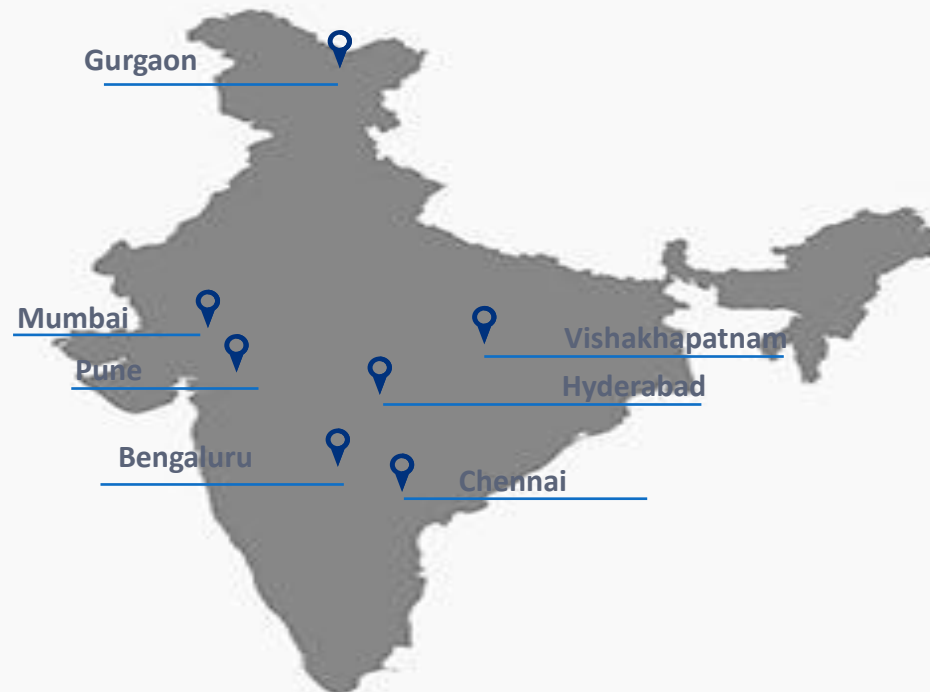
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Exports & imports under GST

CA Venkata Prasad P

Importance of exports

- Growth of the economy is directly related to exports
- Lower exports means low foreign exchange and which in turn results in small purchasing capacity in global market.
- Export instability stimulates inflation
- Market expansion + global market
- Employment growth

Exports-Zero Rated

Exports-Zero Rated

- GST is destination based consumption tax
- No tax on exports
- Taxes cannot be exported
- Taxes paid if any will be refunded
- To maintain high competitive prices in the international market
- To earn precious foreign currency

Zero-Rated supplies

- Following supplies are zero-rated:
 - Export of goods or services
 - Supplies to SEZ unit or SEZ developer
- Full ITC subject to section 17(5) restrictions
 - No change from pre-GST law for exports
 - Small change from pre-GST law for SEZ units
- Full ITC even if exempted supplies – rule 42/43 inapplicable

Export of Goods- GST

Export of Goods- GST

- 2(5) of IGST Act - Export of Goods means taking goods out of India to a **place outside India**.
- Receipt of Foreign currency is not criteria for export of goods.
- India defined in the CGST Law – territory, territorial water, seabed, subsoil etc.

Bill to foreign party and ship to India, whether export?

Export of Service –GST (Sec 2 (6) of IGST)

- Supplier of Service located in India
- Recipient of Service O/s India
- Place of Supply Outside India
- Payment for such service received in convertible foreign exchange
- Supplier & Recipient of service are not merely establishment of distinct person (Not Branch and HO)

Export of Service

- Explanation: An establishment of a person in India and any of his other establishment outside India shall be treated as establishments of distinct persons.
- What if any conditions not satisfied? Difference from ST Law?

Are Export supplies taxed in GST

- Section 2(23) – Zero rated supply – meaning assigned in section 16
 - (a) Export of goods or services or both; or
 - (b) Supply of goods or services or both to a SEZ developer or SEZ Unit
 - Zero rated supply to be made w/o payment of tax but ITC eligible
 - What if exempt supply exported?? ITC available?

Zero-Rated supplies

Two options of export under GST Regime:

1. Export under Bond or LUT, without payment of IGST and claim refund of unutilized ITC

OR

2. Export on payment of IGST and claim refund of such tax paid on such exports.

Export without payment of Tax

Exports under LUT

- Required where export is made without payment of tax
- Submit in FORM RFD-11 online
- No Bond or BG required for exports
- Assessee prosecuted of offence beyond 250 lacs in GST or Erstwhile CE/ST/VAT required to obtain bond.

Exports under LUT

- Goods shall be exported within 3 months from date of export invoice
- In case of services, the amount shall be received in CFC < 1 yr
- If the above condition is not satisfied, exporter have to pay IGST within 15 days
- Otherwise Bond/LUT executed will be cancelled
- After that goods/services can be exported after payment of tax-Section 96A
- Any chance for extending of the timelines?

Refund in case of export under LUT w/o payment of IGST

- Unutilized ITC to be allowed as refund – 54 (3)
- May be claimed at the end of each tax period
- Provided.
 - Returns furnished
 - Tax, interest, penalty dues not stayed by courts...

Continued....

- Refund to be allowed as per following formula:
- $\text{Refund} = \text{T/O of Zero rated supply (goods/service)} * \text{Net ITC} / \text{Adjusted total T/O}$
 - Refund: Maximum refundable amount
 - Net ITC: ITC availed on input/input service during relevant period (CG??)
 - T/O of zero rated supply of goods – export w/o PMT of tax
 - T/O of zero rated service:
 - PMT received for supply made+ supply made in period for which advance received earlier – advance received but supply not completed
 - Adjusted T/O = T/O in State excluding exempted supplies incl. zero rated supply
 - Relevant Period: for which claim filed

Sec 2(112) Turnover in state

- Value of taxable supplies
- Exempt supplies
- Export of goods &/or Services made within a State by a taxable person
- Inter state supplies of goods and/ or services made from the State by a taxable person
- (-) Taxes, if any charged under the CGST Act, SGST Act & IGST Act

Time limit

- Refund to be filed within 2 years from
 - Goods
 - Export by Sea/air – date of leaving from India
 - Land – date of passing the customs frontier
 - Post – date of dispatch by post office
 - Services
 - Receipt of CFE – if services completed earlier
 - Issue of invoice – if payment received in advance

Procedure

- File electronic application in Form RFD-01
- Acknowledgment of filing of claim – GST RFD 2
- Communication of deficiency – GST RFD 3
- Sanction of provisional refund within 7 days – GST RFD 4.
- Payment advice in GST RFD 5
- Final refund sanction in Form GST RFD – 6 mentioning provisional refund already sanctioned, amount adjusted against dues and net amount paid

Procedure

- Complete adjustment of amount –GST RFD 7
- Issue of Notice for refund rejection –GST RFD 8
- Furnish reply within 15 days – GST RFD 9
- On rejection of refund claim – amount to be recredited to electronics credit ledger through GST PMT 3

Exports under LUT - issues

- Output related
- Whether furnishing of LUT is mandatory?
 - No refunds will be claimed
 - Export of exempted or non-GST goods
- Delay in furnishing LUT?
- Export conditions are violated?
- Wrong disclosure in returns?
 - GSTR 3B v. GSTR -1
 - Errors committed after April 2018
- Exports with IGST payment is allowed when LUT is executed & in force?

Exports under LUT

- Input related
- Old credits transferred to GST , whether refund eligible?
- Capital goods ITC
- Periodicity of the refund claims?
- Accumulated ITC refund in a month where exports are nil
- Drawback claimed
- Refund rejected due to claiming of transitional credit
- What could be the implication when refund applied under earlier law was rejected - No transitional credit claimed

Exports with IGST payment

Exports with IGST payment

- Services with IGST
 - Procedure for claiming refund is same as ITC refund except few changes in the documents + additional advantages
 - Goods with IGST
 - Different procedure & mechanism

Goods Exports with IGST payment

The shipping bill filled at the time of export shall be deemed to be application for refund provided

- EGM has been filed
- Exporter should have filed valid GSTR-3B.
- Details of export invoices submitted in GSTR-1 will be transmitted to ICEGATE

Rule 96(10)

Present	Amended	Impact
<p>Rule 96(10) refund of integrated tax on exports of goods or services</p>	<p>Rule 96(10) Debars option of exports with IGST payment:</p> <p>During the period 23.10.2017 to 08.10.2018 -</p> <p>If Domestic Procurements made from suppliers- who had claimed specified benefits w.e.f. 09.10.18 onwards</p> <p>Domestic Procurements from suppliers who had claimed specified benefits (except for EPCG scheme) + Imports under AA.</p> <p>Hiregange & Associates</p>	<p>Such exporters left with single option of exports under LUT</p>

Exports with payment of IGST

- Capital goods imported under EPCG ?
- Only direct procurements or entire chain is restricted?
- The above restriction applies for LUT route?

Exports with payment of IGST

- Mis match b/w. Shipping bill v. GST invoice value
- Invoice raised in one month + Shipping bill/exports in different month? – how to claim refund?
- ITC of CG can be used?
- On what value IGST need to be paid ?
 - FOB or invoice value

Refund-Common Errors & Rectification

ERROR CODE	MEANING	RECTIFICATION MEASURES
SB000	Successfully Validated	Records found matching without errors
SB001	Invalid SB details	Amending Table 6A of GSTR-1 using Table 9A of GSTR-1
SB002	EGM not filed	Exporter to approach shipping line to ensure electronic filing
SB003	GSTIN Mismatch (Guide Released by Directorate Systems)	Amending Table 6A. Declaration from other entity of same PAN that no refund is claimed against the SB.
SB004	Record already received and validated	Duplicate Record can be eliminated in GSTR-1
SB005	Invalid Invoice Number (Circular 5/2018-Cus dt 23.02.2018)	Clerical Error (Amend GSTR-1). Two sets maintained (Concordance Table)
SB006	Gateway EGM not available Circular 8/2018-Cus dt 23.03.2018	Requesting shipping line to file supplementary EGMs electronically for the period July'17 to October'18. Has decided to allow officer interface by DG (sys) to rectify this error

Refund Common Errors & Rectification

- Difference in export TO disclosed in GSTR 1 and 3B
- Customs policy wing should prepare a list of such exporters and share it to GSTN
- GSTN shall share the details to exporters through emails.

Which option is better?

LUT

OR

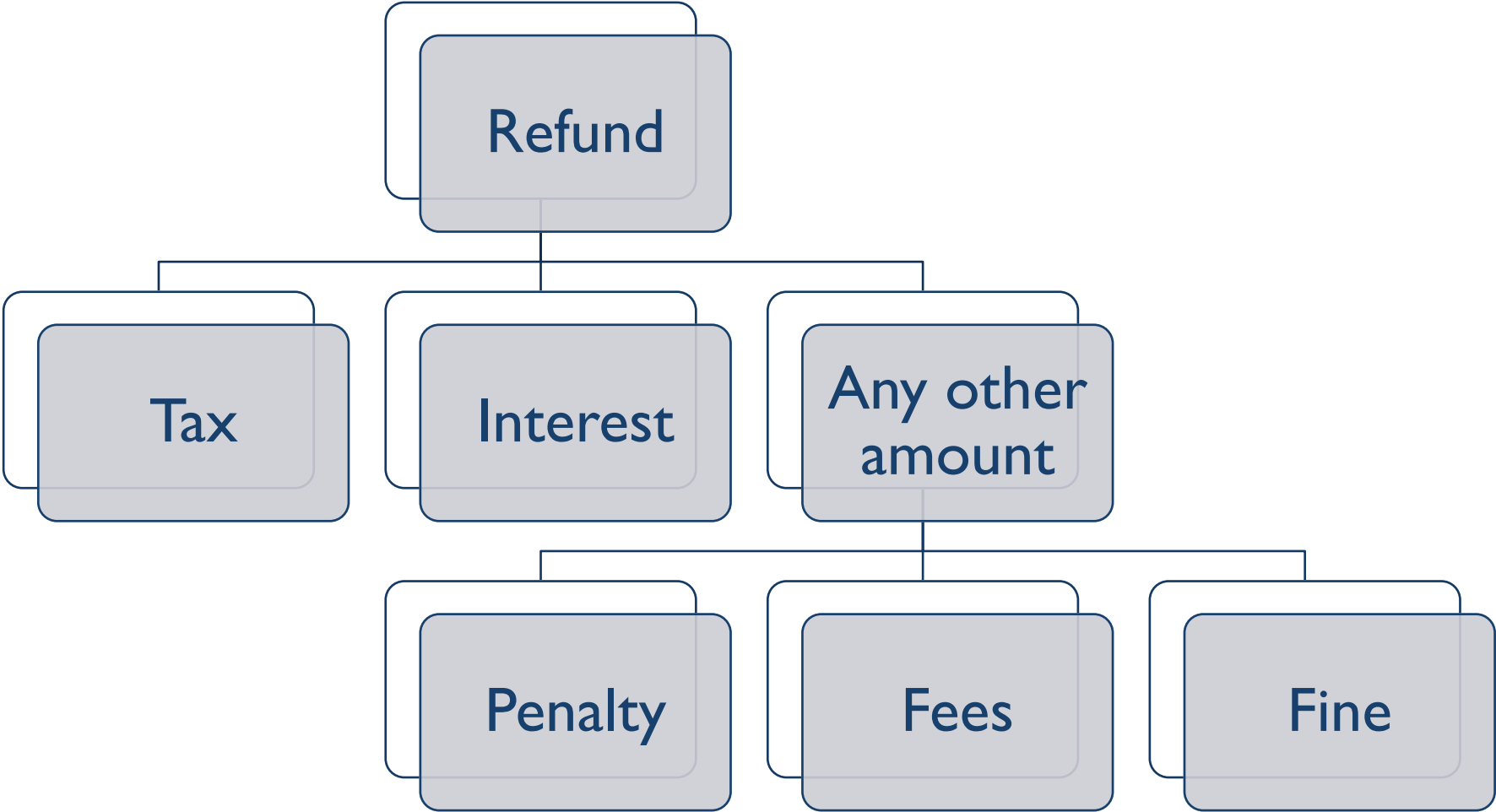
With payment of IGST

Other points

- Compensation cess refund
 - Outward liable for cess
 - Outward not liable for cess
- Submission of input invoices
- ITC not reflected in GSTR-2A
- Re-credit of the refund rejected
 - Due to ineligible
 - Other reasons
- Delay in disbursement after sanction eg. CGST given but SGST pending

Other Refunds

Refund



Inverted duty structure refund

- Eligibility as per section 54(3)(ii)
- Tax charged on inputs being higher than tax on output supplies.
- Except notified in Notification No. 5/2017- CT (Rate) dated 28.06.2017
 - Real estate
 - Railways
 - Textiles (removed w.e.f. 26.07.2018 with blockage of unutilised credit upto 31.07.2018)
- Blockage being contrary, ultra vires Gujarat HC **Shabnam Petrofiles Pvt. Ltd. Vs UOI**

Inverted duty structure refund

- **Maximum Refund Amount =**
- $\{(\text{Turnover of inverted rated supply of goods and services}) \times \text{Net ITC} \div \text{Adjusted Total Turnover}\}$ - tax payable on such inverted rated supply of goods and services

Where, “Net ITC” shall mean input tax credit availed on inputs during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both

Deemed Exports refunds

- **Following categories would be considered as deemed exports**
 - Supplies to AA/EPCG holder
 - Supplies to EOU
- Either supplier or recipient can go for refund.
- Need to follow the procedure prescribed under Circular No 14/2017
 - Prior intimation in Form A (as approved by the Development Commissioner) to be filed for each supply by
 - Supplier
 - Jurisdiction Officer
 - Supplier Jurisdiction Officer
 - Details to be maintained in Form-B (having audit trail) and copy of the same needs to be submitted every month to the Jurisdictional Officer by 10th of the month.

Other refunds

- Excess balance in cash ledger
- Tax on intra-state subsequently held as inter-state and vice versa
- Excess payment of tax
- Any other refund.

Relevant Date

- **Refund of tax paid on goods exported -**
 - Date when the ship or the aircraft leaves India or goods pass the customs frontier or dispatched by concerned Post Office to a place outside India
- **Refund on Inverted Duty Structure**
 - Supplier- due date u/s 39 for which refund claim arises
 - Recipient- date of receipt of goods
- **Deemed exports supply of goods**
 - the date on which the return relating to such deemed exports is furnished.
- **Refund of tax paid on such services exported itself or tax paid on inputs/input service**
 - Date of receipt of payment in convertible foreign exchange (If received in Advance - date of issue of invoice).
- Others- date of payment of tax.

THANK YOU



For any clarification

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**LEGAL REMEDIES AVAILABLE TO
CREDITORS FOR RECOVERY OF DUES
UNDER IBC AND OTHERS STATUES**

10.01.2020

Hyderabad Branch of SIRC of ICAI

RECOVERY OF DEBTS LEGAL FRAMEWORK IN INDIA

- Debt Recovery Tribunals
- Civil Suit
- Arbitration proceedings if arbitration agreement exists.
- Insolvency Resolution Process for Personal Guarantors to Corporate Debtors
- Initiation of CIRP Under IBC
- Application to MSE Facilitation Council (MSEFC)
- Cheque Bounce Case

DRT

TYPES OF APPLICATION

- Original Applications to be filed by Banks and Financial Institutions before Debt Recovery Tribunal for debt not less than Rs. 10 lakhs, under Recovery of Bank Due to Banks & Financial Institutions Act, 1993 (DRT Act).
- Action under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 (Securitisatation Act).

AMOUNT TO BE RECOVERED	PROCEDURE
Does not exceed Rs. 10,00,000/-	<ul style="list-style-type: none"> i. Filing simple suit for recovery before Civil Court. ii. Filing suit for foreclosure of mortgage. iii. Arbitration proceedings if arbitration agreement exists.
Exceeds Rs. 1,00,000/-	<p>In case the "Security Interest" has been created in specific movable / immovable property provisions of the Securitization Act may be invoked to repossess the mortgaged property, without intervention of the court, and sell the same, provided the account has been classified as NPA.</p>
Exceeds Rs. 10,00,000/-	<p>Application is to be filed before the DRT for recovery of dues. Bank can simultaneously initiate proceedings under Securitization Act as well. Civil court / Arbitrator will not have jurisdiction to entertain such claim.</p>

ARBITRATION PROCEEDINGS UNDER ARBITRATION & CONCILIATION ACT 1996

- Arbitration proceedings under Arbitration & Conciliation Act 1996, for recovery of outstanding amount as under Arbitration Agreement / clause in the loan documents, in cases where the Recovery of Debts due to Banks and Financial Institutions Act, 1993 is not applicable.

DEBT RECOVERY TRIBUNALS & PROCESS OF RECOVERY

- Debts Recovery Tribunals (DRT) and Debts Recovery Appellate Tribunals (DRAT) have been constituted under the provisions of the DRT Act for establishment of Tribunals for expeditious adjudication and recovery of debts due to Banks and Financial Institutions and for matters connected therewith.
- DRT has also been given the power to adjudicate the applications filed by the Borrower/Mortgagor against the action of the Secured Creditor initiated under the Securitization Act

APPLICATIONS TO BE MADE TO DRT UNDER DRT ACT

- Only Banks and Financial Institutions defined under the DRT Act, can file an application before the DRT. Normal fees, based on amount claimed in O.A., has been fixed as court fee which does not exceed Rs. 1.50 lakhs.
- Summary procedure is adopted by the DRTs for adjudication of dispute. Evidence is taken on affidavit and cross examination is not permitted except in few deserving cases.
- The defendants can file counter claim or claim of set off against the claimed amount.
- The final order is passed by the Tribunal directing the borrowers to pay the amount. In case, the borrower does not pay the ordered amount, recovery certificate is ordered to be issued against the borrower which is then executed by Recovery Officer of the DRT.

APPLICATIONS TO BE MADE TO DRT UNDER SAID SECURITISATION ACT

- Any person, aggrieved by any of the measures referred to in subsection (4) of section 13 taken by the secured creditor may make an application under section 17 of the Act to the Debts Recovery Tribunal, within forty-five days from the date on which such measures had been taken.

DRT.GOV.IN

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DEBTS RECOVERY APPELLATE TRIBUNALS (DRATS) DEBTS RECOVERY TRIBUNALS (DRTS)



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- Case Details +
- Cause List +
- Order +
- List of CPIOs
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WELCOME TO

Welcome to the website

- The Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (RDDBFI Act) provides speedy redressal to lenders and borrowers through filing of Original Applications (OAs) in Debts Recovery Tribunals (DRTs) and appeals in Debts Recovery Appellate Tribunals (DRATs).
- The Securitisation and Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002 (SARFAESI Act) provides access to banks and financial institutions covered under the Act for recovery of secured debts from the borrowers without the intervention of the Courts at the first stage. Securitisation Appeals (SAs) can be filed with the DRTs by those aggrieved against action taken by secured creditors under the SARFAESI Act.

[READ MORE >](#)



Smt Nirmala Sitharaman

Honorable Finance Minister



**SHRI ANURAG SINGH
THAKUR**

Honorable Minister of State

PART III OF THE IBC

- Part III of The IBC - 'Insolvency Resolution and Bankruptcy for Individuals and Partnership Firms' was not into effect until now.
- Government *vide* a notification dated November 15, 2019, has notified the rules in this regard, having effect from 1st of December, 2019.
- It provides that where an application for insolvency resolution or liquidation proceeding of a corporate debtor is pending before the Adjudicating NCLT, an application related to **insolvency resolution or bankruptcy** of a personal guarantor can also be filed before the same Authority.

APPLICATION TO ADJUDICATING AUTHORITY PERSONAL GUARANTOR RULES

- The Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 (hereinafter referred to as 'IRP Rules') and
- The Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019 (hereinafter referred to as 'Bankruptcy Rules')
- seek to stipulate, the insolvency resolution process of a personal guarantor.

PERSONAL GUARANTOR

- Under those rules, the insolvency proceedings against the personal guarantors of a corporate debtor can run in parallel with the insolvency proceedings of a corporate debtor.
- Further, the insolvency proceedings against such personal guarantors can be instituted at the same authority (*i.e.*, NCLT) which institutes the proceedings against a corporate debtor.

PERSONAL GUARANTOR REGULATIONS

- To execute those rules, certain regulations are also introduced by the Insolvency and Bankruptcy Board of India on 20th November, 2019,
- The Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 and
- The Insolvency and Bankruptcy Board of India (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulations, 2019

APPLICATION TO AA

- creditors can now directly file an application for initiation of the insolvency proceedings against personal guarantors as given under rule 6 of the IRP Rules.
- Filing of an application for initiation of bankruptcy proceedings in the event the application for the insolvency process is rejected or the repayment plan is rejected by the AA.
- Further, such application can be filed by the guarantor himself or by one or more creditors of the guarantors.

INITIATION OF CIRP UNDER IBC

The logo for CIRP (Corporate Insolvency Resolution Process) is displayed in a bold, lowercase, sans-serif font. The letters 'c', 'i', 'r', and 'p' are black, while the letter 'i' has a red dot above it. The logo is centered within a white rectangular area, which is itself set against a light gray background with a subtle drop shadow.

cirp

UNDERSTANDING IBC

Corporate Person

- Insolvency Resolution
- Liquidation

Individuals & Partnership

- Fresh Start
- Insolvency Resolution
- Bankruptcy

Authorities

- Adjudicating Authorities
- IBBI
- Insolvency Agencies
- Insolvency Professionals
- Information Utilities

WHO CAN INVOKE

When – upon payment default of a minimum of Rs 1 Lakh or a Central Government prescribed amount upto Rs 1 Crore

Financial Creditor

From whom company has taken financial debt

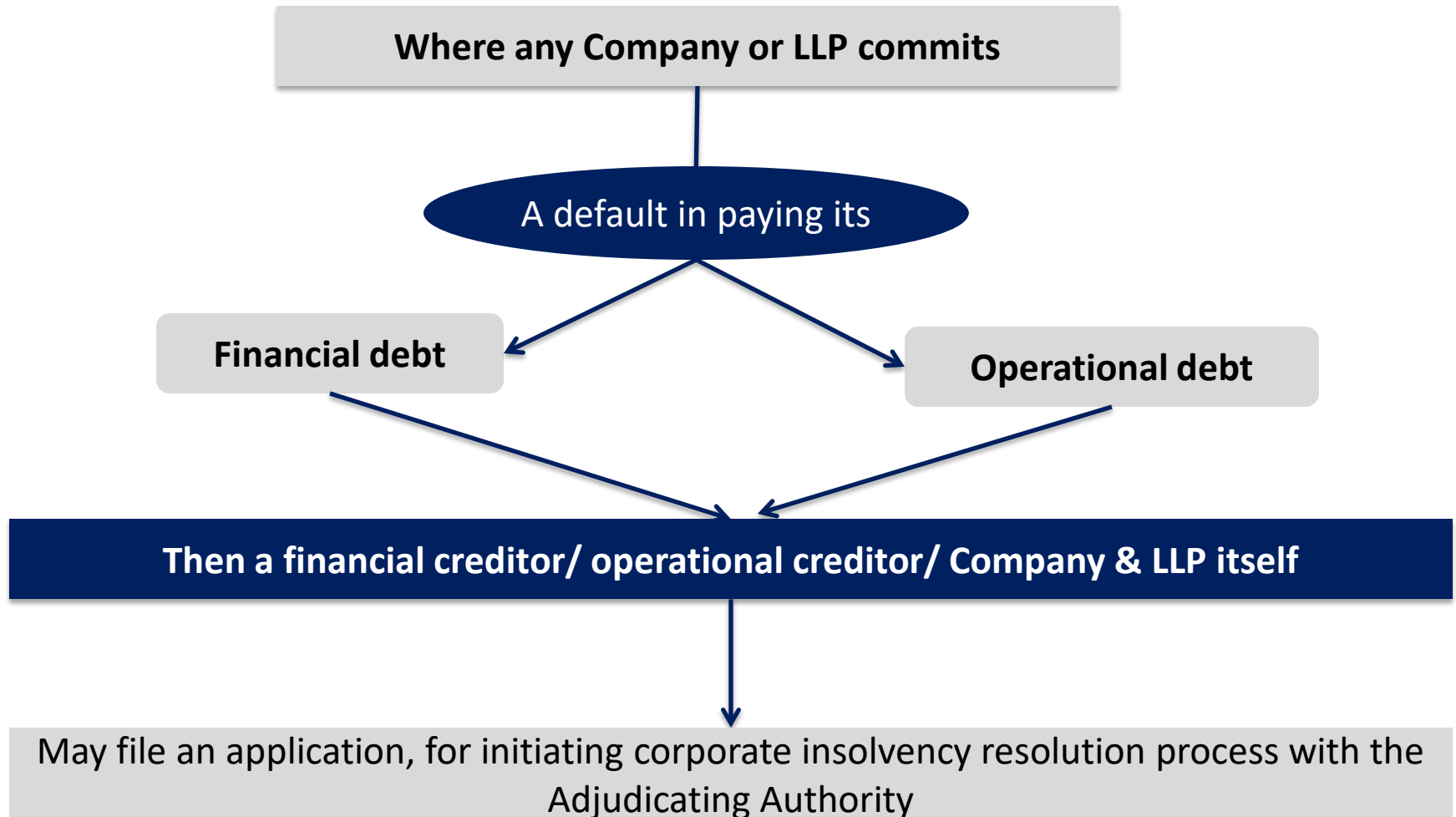
Operational Creditor

Other than financial creditors like suppliers of goods & services, employees

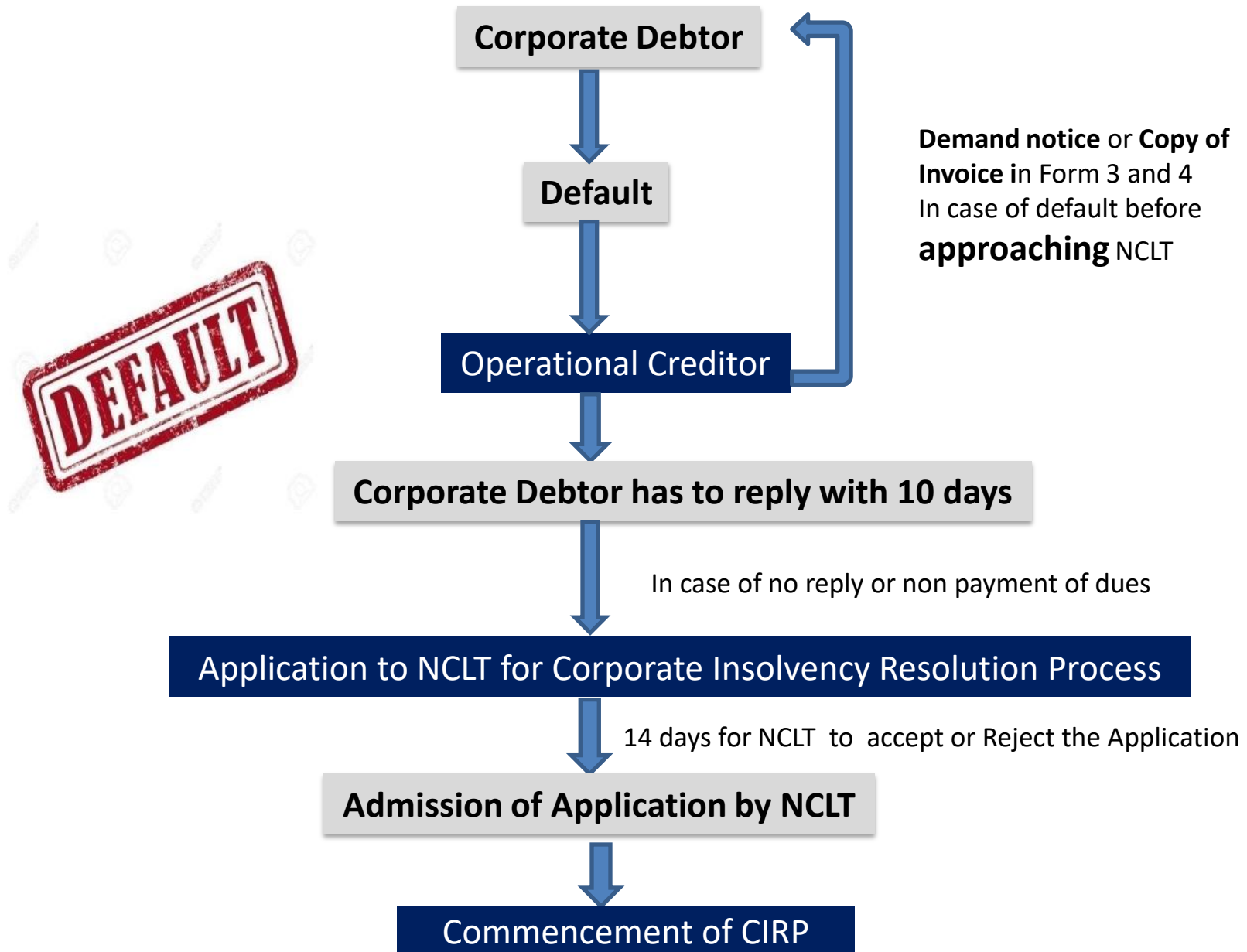
Corporate Applicant

Company shareholders, partner, management personnel etc

WHEN AND HOW APPLICATION TO BE FILED



INITIATION OF CIRP BY OPERATIONAL CREDITOR



CIRP PROCESS

Admission of Application by NCLT,

Declaration of Moratorium + Public Announcement

Appointment of Interim Resolution Professional

IRP holds office **for 30 days** only;
Takes **control of debtors assets** and company operation and
collect Financial info.

Submission of proof of claims by Creditors to Interim Resolution Professional

All creditors **except those related** with corporate debtors

Constitution of Committee of Creditors

Creditors committee with **66% votes** will decide

Appointment of Resolution Professional

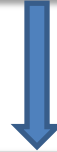
During 180 days, NCLT will **hear proposal for resolution;**

CIRP PROCESS

Preparation of Information memorandum and Resolution Plan



Approval by Committee of Creditors



If Rejected, Resolution Applicant may appeal to NCLAT

Approval of resolution plan by NCLT



If No Resolution Plan is approved or
180 (+90) days are expired, then

Liquidation

2 years timeline for liquidation





**Demand notice served by
an operational creditor**

DEMAND NOTICE

- **Section 8. Insolvency resolution by operational creditor. –**
- An operational creditor **may**,
- on the **occurrence of a default**,
- **deliver a demand notice** of
- unpaid operational debtor
- copy of an invoice demanding payment of the amount involved in the default to the corporate debtor in such form and manner as may be prescribed.

DEMAND NOTICE

- Explanation. – For the purposes of this section,
- a “**demand notice**” means
- a notice **served**
- by an operational creditor
- to the corporate debtor
- **demanding payment** of the **operational debt**
- in respect of which the default has occurred.

(12) “default” means non-payment of debt when whole or any part or instalment of the amount of debt has become due and payable and is not 1[paid] by the debtor or the corporate debtor, as the case may be;

-

DEMAND NOTICE

Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

- **Demand notice by operational creditor.—**(1) An operational creditor **shall deliver** to the corporate debtor, the following documents, namely.-
 - (a) a demand notice in Form 3; or
 - (b) a **copy of an invoice** attached with a **notice in Form 4.**

FORM 3

(See clause (a) of sub-rule (1) of rule 5)

FORM OF DEMAND NOTICE / INVOICE DEMANDING PAYMENT UNDER THE INSOLVENCY AND BANKRUPTCY CODE, 2016

(Under rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

[Date]

To,
[Name and address of the registered office of the corporate debtor]

From,
[Name and address of the registered office of the operational creditor]

Subject: Demand notice/invoice demanding payment in respect of unpaid operational debt due from [corporate debtor] under the Code.

Madam/Sir,

1. This letter is a demand notice/invoice demanding payment of an unpaid operational debt due from [name of corporate debtor].
2. Please find particulars of the unpaid operational debt below:

PARTICULARS OF OPERATIONAL DEBT		
1.	TOTAL AMOUNT OF DEBT, DETAILS OF TRANSACTIONS ON ACCOUNT OF WHICH DEBT FELL DUE, AND THE DATE FROM WHICH SUCH DEBT FELL DUE	
2.	AMOUNT CLAIMED TO BE IN DEFAULT AND THE DATE ON WHICH THE DEFAULT OCCURRED (ATTACH THE WORKINGS FOR COMPUTATION OF DEFAULT IN TABULAR FORM)	
3.	PARTICULARS OF SECURITY HELD, IF ANY, THE DATE OF ITS CREATION, ITS ESTIMATED VALUE AS PER THE CREDITOR. ATTACH A COPY OF A CERTIFICATE OF REGISTRATION OF CHARGE ISSUED BY THE REGISTRAR OF COMPANIES (IF THE CORPORATE DEBTOR IS A COMPANY)	
4.	DETAILS OF RETENTION OF TITLE ARRANGEMENTS (IF ANY) IN RESPECT OF GOODS TO WHICH THE OPERATIONAL DEBT REFERS	

5.	RECORD OF DEFAULT WITH THE INFORMATION UTILITY (IF ANY)	
6.	PROVISION OF LAW, CONTRACT OR OTHER DOCUMENT UNDER WHICH DEBT HAS BECOME DUE	
7.	LIST OF DOCUMENTS ATTACHED TO THIS APPLICATION IN ORDER TO PROVE THE EXISTENCE OF OPERATIONAL DEBT AND THE AMOUNT IN DEFAULT	

3. If you dispute the existence or amount of unpaid operational debt (in default) please provide the undersigned, within ten days of the receipt of this letter, of the pendency of the suit or arbitration proceedings in relation to such dispute filed before the receipt of this letter/notice.
4. If you believe that the debt has been repaid before the receipt of this letter, please demonstrate such repayment by sending to us, within ten days of receipt of this letter, the following:
 - (a) an attested copy of the record of electronic transfer of the unpaid amount from the bank account of the corporate debtor; or
 - (b) an attested copy of any record that [*name of the operational creditor*] has received the payment.
5. The undersigned, hereby, attaches a certificate from an information utility confirming that no record of a dispute raised in relation to the relevant operational debt has been filed by any person at any information utility. (if applicable)
6. The undersigned request you to unconditionally repay the unpaid operational debt (in default) in full within ten days from the receipt of this letter failing which we shall initiate a corporate insolvency resolution process in respect of [*name of corporate debtor*].

Yours sincerely,

Signature of person authorised to act on behalf of the operational creditor
Name in block letters
Position with or in relation to the operational creditor
Address of person signing

Instructions

1. Please serve a copy of this form on the corporate debtor, ten days in advance of filing an application under section 9 of the Code.
2. Please append a copy of such served notice to the application made by the operational creditor to the Adjudicating Authority.

PARTICULARS OF OPERATIONAL DEBT

1.	TOTAL AMOUNT OF DEBT, DETAILS OF TRANSACTIONS ON ACCOUNT OF WHICH DEBT FELL DUE, AND THE DATE FROM WHICH SUCH DEBT FELL DUE	Rs ____ Principal _____ Interest
2.	AMOUNT CLAIMED TO BE IN DEFAULT AND THE DATE ON WHICH THE DEFAULT OCCURRED (ATTACH THE WORKINGS FOR COMPUTATION OF DEFAULT IN TABULAR FORM)	Table with Columns Invoice No, Date, Amount, Duedate, Interest, No of Days from Duedate
3.	PARTICULARS OF SECURITY HELD, IF ANY , THE DATE OF ITS CREATION, ITS ESTIMATED VALUE AS PER THE CREDITOR. ATTACH A COPY OF A CERTIFICATE OF REGISTRATION OF CHARGE ISSUED BY THE REGISTRAR OF COMPANIES (IF THE CORPORATE DEBTOR IS A COMPANY)	Eg: Security Deposit Etc
4.	DETAILS OF RETENTION OF TITLE ARRANGEMENTS (IF ANY) IN RESPECT OF GOODS TO WHICH THE OPERATIONAL DEBT REFERS	
5.	RECORD OF DEFAULT WITH THE INFORMATION UTILITY (IF ANY)	
6.	PROVISION OF LAW, CONTRACT OR OTHER DOCUMENT UNDER WHICH DEBT HAS BECOME DUE	Sale of Goods Act 1930, Indian Contract Act, 1872
7.	LIST OF DOCUMENTS ATTACHED TO THIS APPLICATION IN ORDER TO PROVE THE EXISTENCE OF OPERATIONAL DEBT AND THE AMOUNT IN DEFAULT	Copies of Invoices, Delivery Challan, Reminder, Mails, Communications, Part Payment Cheques, Cheque Return with Bank Memo, Ledger

Form 4

(See clause (b) of sub-rule(1) of rule 5)

FORM OF NOTICE WITH WHICH INVOICE DEMANDING PAYMENT IS TO BE ATTACHED

(Under Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

[Date]

To,
[Name and address of registered office of the corporate debtor]

From,
[Name and address of the operational creditor]

Subject: Notice attached to invoice demanding payment

Madam/Sir,

[Name of operational creditor], hereby provides notice for repayment of the unpaid amount of INR [insert amount] that is in default as reflected in the invoice attached to this notice.

In the event you do not repay the debt due to us within ten days of receipt of this notice, we may file an application before the Adjudicating Authority for initiating a corporate insolvency resolution process under section 9 of the Code.

Yours sincerely,

Signature of person authorised to act on behalf of the operational creditor
Name in block letters
Position with or in relation to the operational creditor
Address of person signing

MODE OF DELIVERY OF DEMAND NOTICE

Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

- Rule 5 (2) The demand notice or the copy of the invoice demanding payment referred to in section 8 (2) of the Code, may be delivered to the corporate debtor,
 - (a) **at the registered office** by
 - hand,
 - registered post or
 - speed post
 - with acknowledgement due; or
 - (b) by **electronic mail service** to a **whole time director** or designated partner or key managerial personnel, if any, of the corporate debtor.
- (3) A copy of **demand notice** or invoice demanding payment served under this rule by an operational creditor shall also be filed with an information utility, if any.

DISPUTE

- Section 5 (6) of IBC

dispute includes a suit or arbitration proceedings relating to–

(a) the existence or the amount of debt;

(b) the quality of goods or service; or

(c) the breach of a representation or warranty;

CONSEQUENCE IF THE DEMAND IS DISPUTED

- **What will be the consequence if the demand is disputed?**
- If the demand is disputed and if such disputed has been raised before the receipt of the notice,
- application shall not be admitted as the Adjudicating Authority is not empowered to go into the dispute.
- Thus, application can be admitted only if demand of the debt is undisputed.

BEST PRACTISES

- The Supply should be as per Purchase Order.
- Call for Revised purchase order mentioning the revise terms.
- Confirmation on Delivery, Quality, Quantity and Time of Delivery.

This is the reason, why most of the cases are not getting admitted.

**ABOUT NCLT AND
KEY POINTS FOR FILING PETITION/APPLICATION
BEFORE THE NCLT**

IMPORTANT DEFINITIONS

National Company Law Tribunal Rules, 2016.

- (a). **“Applicant”** means a petitioner or an appellant or any other person or entity capable of making an application including an interlocutory application or a petition or an appeal under the Act;
- (b). **“filer”** means an authorised representative of that person or any party to the proceedings who files any document with the Tribunal in relation to a case filed under the Act, or any rules thereunder;
- (c). **“Petition”** means a petition or an application or an appeal or a complaint in pursuance of which any proceeding is commenced before the Tribunal;
- (d). **“Pleadings”** means and includes application including interlocutory application, petition, appeal, revision, reply, rejoinder, statement, counter claim, additional statement supplementing the original application and reply statement under these rules and as may be permitted by the Tribunal;

IMPORTANT DEFINITIONS

National Company Law Tribunal Rules, 2016.

- (e) **“Central Registry”** means the registry in which all the applications or petitions and documents are received by the Registrar for allocation to the concerned Bench of the Tribunal for disposal;
- (f) **“interlocutory application”** means an application in any appeal or original petition on proceeding already instituted in the Tribunal, but not being a proceeding for execution of the order or direction of Tribunal;

INSTITUTION OF PROCEEDINGS, PETITION, APPEALS ETC (RULE 20 OF NCLT RULES)

- The petition or appeal or application to be filed before the NCLT shall be in English and in case it is in any other language it shall be accompanied with a copy in English;
- It shall be on the legal pages, written fairly and should be in legible form;
- It shall be lithographed or printed in **double spacing on one side of standard petition paper**;
- The inner margin shall be about 4 cm, width on top and with a right margin of 2.5. cm, and left margin of 5 cm, duly paginated, indexed and stitched together in **paper book form**;
- An Appeal or petition or application shall be divided into paragraphs and shall be numbered consecutively and each paragraph shall contain as nearly as may be, a separate fact or allegation or point;

INSTITUTION OF PROCEEDINGS, PETITION, APPEALS ETC

- Rule 20 (2)

The cause title shall state

“Before the National Company Law Tribunal” and shall specify the Bench to which it is presented and also set out the proceedings or order of the authority against which it is preferred.

- Rule 20(9) Every proceeding shall state immediately after the cause title the provision of law under which it is preferred.

BEFORE THE HONOURABLE NATIONAL COMPANY LAW TRIBUNAL

HYDERABAD BENCH: AT HYDERABAD

CP(IB).NO. /2018

BETWEEN:

.....Petitioner/Operational Creditor

AND

.....Respondent/Corporate Debtor

**Company Petition/Application under section 9 of Insolvency and
Bankruptcy code,2016 Read with Rule 6 of Insolvency and
Bankruptcy**

(Application to Adjudicating Authority Rules 2016)

Filed on: _____

Filed by: _____

(ADVOCATE / CHARTERED ACCOUNTANT)

Address _____

(COUNSEL FOR PETITIONER/OPERATIONAL CREDITOR)

NCLT.GOV.IN

- Glace through NCLT website for Cause List and Order Copies

- CP – COMPANY PETITION
 - When there is a dispute etc are there it is petition
- CA- COMPANY APPLICATION
 - Application is when we need a direction from AA
 - Eg: Strike of Name
- IA – INTERLOCATORY APPLICATION
 - If Any application is filed wrt CP/CA
- MEMO – MEMORANDUM
 - Information submitted to AA, seeking permission or information

RIGHT TO LEGAL REPRESENTATION.

Right to legal representation.

Section 432 of Companies Act, 2013

- A party to any proceeding or appeal before the Tribunal or the Appellate Tribunal, as the case may be,
 - may either appear in person or
 - authorise one or more chartered accountants or
 - company secretaries or
 - cost accountants or
 - legal practitioners or
 - any other person to present his case before the Tribunal or the Appellate Tribunal, as the case may be.

RIGHT TO LEGAL REPRESENTATION.

Rights of a party to appear before the Tribunal.-

Rule 45 of NCLT Rules.

- **(1) Every party may appear before a Tribunal in**
 - person or through an
 - authorised representative, duly authorised in writing in this behalf.
- **(2) The authorised representative shall make an appearance through the filing of Vakalatnama or Memorandum of Appearance in Form No. NCLT. 12 representing the respective parties to the proceedings.**

it shall be notarised on a stamp paper of 50/- rupees;

FORM NO. NCLT. 12

(see rule 45)

Memorandum of appearance

To

The Registrar,

National Company Law Tribunal, Bench,

In the matter of Petitioner.

V.

.....Respondent

(C.P. NO.of 20.....)

Sir,

Please take notice that I, AB, Company Secretary in practice/ practising Chartered Accountant/ practising Cost Accountant, duly authorised to enter appearance, and do hereby enter appearance, on behalf of petitioner/ opposite party/ Registrar/ Regional Director/ Government of In the above-mentioned petition.

*A copy of the resolution passed by the Board of Directors authorising me to enter appearance and to act for every purpose connected with the proceedings for the said party is enclosed, duly signed by me for identification.

Yours sincerely,

Dated day of Address:

Enclosure: as aforesaid Tele No.:

FEES PAYABLE

SCHEDULE

[See sub-rule (3) of rule 10]

S. No. Applicant Fee payable (in `)

- | | |
|--|---------------|
| 1. Application by financial creditor (whether solely or jointly) - | 25000 |
| 2. Application by operational creditor | - 2000 |
| 3. Application by corporate debtor | -25000 |

Form 5

(See sub-rule (1) of rule 6)

APPLICATION BY OPERATIONAL CREDITOR TO INITIATE CORPORATE INSOLVENCY RESOLUTION PROCESS UNDER THE CODE.

(Under rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

[Date]

To,

The National Company Law Tribunal

[Address]

From,

[Name and address for correspondence of the operational creditor]

In the matter of [name of the corporate debtor]

Subject: Application to initiate corporate insolvency resolution process in respect of [name of the corporate debtor] under the Insolvency and Bankruptcy Code, 2016.

Madam/Sir,

[Name of the operational creditor], hereby submits this application to initiate a corporate insolvency resolution process in the case of [name of corporate debtor]. The details for the purpose of this application are set out below:

Part - I

PARTICULARS OF APPLICANT		
1.	NAME OF OPERATIONAL CREDITOR	
2.	IDENTIFICATION NUMBER OF OPERATIONAL CREDITOR (IF ANY)	
3.	ADDRESS FOR CORRESPONDENCE OF THE OPERATIONAL CREDITOR	

Form 5

(See sub-rule (1) of rule 6)

APPLICATION BY OPERATIONAL CREDITOR TO INITIATE CORPORATE INSOLVENCY RESOLUTION PROCESS UNDER THE CODE.

(Under rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority)
Rules, 2016)

[Date]

To,
The National Company Law Tribunal
[Address]

From,
[Name and address for correspondence of the operational creditor]
In the matter of [name of the corporate debtor]

Subject: Application to initiate corporate insolvency resolution process in respect of
[name of the corporate debtor] under the Insolvency and Bankruptcy Code, 2016.

Madam/Sir,
[Name of the operational creditor], hereby submits this application to initiate a
corporate insolvency resolution process in the case of [name of corporate debtor].
The details for the purpose of this application are set out below:

Part - I

PARTICULARS OF APPLICANT

1.	NAME OF OPERATIONAL CREDITOR	
2.	IDENTIFICATION NUMBER OF OPERATIONAL CREDITOR (IF ANY)	CIN NO /GSTN /PAN
3.	ADDRESS FOR CORRESPONDENCE OF THE OPERATIONAL CREDITOR	

Part - II

PARTICULARS OF CORPORATE DEBTOR

1.	NAME OF THE CORPORATE DEBTOR	
2.	IDENTIFICATION NUMBER OF CORPORATE DEBTOR	CIN NO
3.	DATE OF INCORPORATION OF CORPORATE DEBTOR	
4.	NOMINAL SHARE CAPITAL AND THE PAID-UP SHARE CAPITAL OF THE CORPORATE DEBTOR AND/OR DETAILS OF GUARANTEE CLAUSE AS PER MEMORANDUM OF ASSOCIATION (AS APPLICABLE)	
5.	ADDRESS OF THE REGISTERED OFFICE OF THE CORPORATE DEBTOR	
6.	NAME, ADDRESS AND AUTHORITY OF PERSON SUBMITTING APPLICATION ON BEHALF OF OPERATIONAL CREDITOR (ENCLOSE AUTHORISATION)	
7.	NAME AND ADDRESS OF PERSON RESIDENT IN INDIA AUTHORISED TO ACCEPT THE SERVICE OF PROCESS ON ITS BEHALF (ENCLOSE AUTHORISATION)	

Part-III

PARTICULARS OF THE PROPOSED INTERIM RESOLUTION PROFESSIONAL [IF PROPOSED]		
1.	NAME, ADDRESS, EMAIL ADDRESS AND THE REGISTRATION NUMBER OF THE PROPOSED INSOLVENCY PROFESSIONAL	

Part-IV

PARTICULARS OF OPERATIONAL DEBT		
1.	TOTAL AMOUNT OF DEBT, DETAILS OF TRANSACTIONS ON ACCOUNT OF WHICH DEBT FELL DUE, AND THE DATE FROM WHICH SUCH DEBT FELL DUE	
2.	AMOUNT CLAIMED TO BE IN DEFAULT AND THE DATE ON WHICH THE DEFAULT OCCURRED (ATTACH THE WORKINGS FOR COMPUTATION OF AMOUNT AND DATES OF DEFAULT IN TABULAR FORM)	

Part-V

PARTICULARS OF OPERATIONAL DEBT [DOCUMENTS, RECORDS AND EVIDENCE OF DEFAULT]

1.	PARTICULARS OF SECURITY HELD, IF ANY, THE DATE OF ITS CREATION, ITS ESTIMATED VALUE AS PER THE CREDITOR. ATTACH A COPY OF A CERTIFICATE OF REGISTRATION OF CHARGE ISSUED BY THE REGISTRAR OF COMPANIES (IF THE CORPORATE DEBTOR IS A COMPANY)	
2.	DETAILS OF RESERVATION / RETENTION OF TITLE ARRANGEMENTS (IF ANY) IN RESPECT OF GOODS TO WHICH THE OPERATIONAL DEBT REFERS	
3.	PARTICULARS OF AN ORDER OF A COURT, TRIBUNAL OR ARBITRAL PANEL ADJUDICATING ON THE DEFAULT, IF ANY (ATTACH A COPY OF THE ORDER)	
4.	RECORD OF DEFAULT WITH THE INFORMATION UTILITY, IF ANY (ATTACH A COPY OF SUCH RECORD)	
5.	DETAILS OF SUCCESSION CERTIFICATE, OR PROBATE OF A WILL, OR LETTER OF ADMINISTRATION, OR COURT DECREE (AS MAY BE APPLICABLE), UNDER THE INDIAN SUCCESSION ACT, 1925 (10 OF 1925) (ATTACH A COPY)	
6.	PROVISION OF LAW, CONTRACT OR OTHER DOCUMENT UNDER WHICH OPERATIONAL DEBT HAS BECOME DUE	
7.	A STATEMENT OF BANK ACCOUNT WHERE DEPOSITS ARE MADE OR CREDITS RECEIVED NORMALLY BY THE OPERATIONAL CREDITOR IN RESPECT OF THE DEBT OF THE CORPORATE DEBTOR (ATTACH A COPY)	
8.	LIST OF OTHER DOCUMENTS ATTACHED TO THIS APPLICATION IN ORDER TO PROVE THE EXISTENCE OF OPERATIONAL DEBT AND THE AMOUNT IN DEFAULT	

- I, [Name of the operational creditor / person authorized to act on behalf of the operational creditor] hereby certify that, to the best of my knowledge, [name of proposed insolvency professional], is fully qualified and permitted to act as an insolvency professional in accordance with the Code and the rules and regulations made thereunder. [WHERE APPLICABLE]
- [Name of the operational creditor] has paid the requisite fee for this application through [state means of payment] on
- [date].
- Yours sincerely

Signature of person authorized to act on behalf of the operational creditor

Name in block letters

Position with or in relation to the operational creditor

Address of person signing

APPLICATION TO MSE FACILITATION COUNCIL (MSEFC) BY MSME

msme.gov.in/know-about-msme

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GOVERNMENT OF INDIA सूक्ष्म, लघु और मध्यम उद्यम मंत्रालय
MINISTRY OF MICRO, SMALL & MEDIUM ENTERPRISES, GOI

SKIP TO MAIN CONTENT Language



सूक्ष्म, लघु और मध्यम उद्यम मंत्रालय
MINISTRY OF
MICRO, SMALL & MEDIUM ENTERPRISES



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What's MSME

What are Micro, Small & Medium Enterprises ?

Definitions of Micro, Small & Medium Enterprises In accordance with the provision of Micro, Small & Medium Enterprises Development (MSMED) Act, 2006 the Micro, Small and Medium Enterprises (MSME) are classified in two Classes:

DEFINITION OF MSME UNDER MICRO, SMALL AND MEDIUM ENTERPRISES DEVELOPMENT (MSMED) ACT, 2006

Classification	Manufacturing Enterprises*. (Investment limit in Plant & Machinery)	Service Enterprises** (Investment limit in equipment)
Micro	Rs. 25 lakh	Rs. 10 lakh
Small	Rs. 5 crore	Rs 2 crore
Medium	Rs 10 crore	Rs 5 crore

DEFINITION OF MSME UNDER MICRO, SMALL AND MEDIUM ENTERPRISES DEVELOPMENT (MSMED) ACT, 2006

- Enterprises engaged in the manufacture or production, processing or preservation of goods as specified below:
 - **A micro enterprise** is an enterprise where investment in plant and machinery does not exceed Rs. 25 lakh;
 - **A small enterprise** is an enterprise where the investment in plant and machinery is more than Rs. 25 lakh but does not exceed Rs. 5 crore;
 - **A medium enterprise** is an enterprise where the investment in plant and machinery is more than Rs.5 crore but does not exceed Rs.10 crore.

In case of the above enterprises, investment in plant and machinery is the original cost excluding land and building and the items specified by the Ministry of Small Scale Industries vide its notification [No.S.O.1722\(E\) dated October 5, 2006](#) .

DEFINITION OF MSME UNDER MICRO, SMALL AND MEDIUM ENTERPRISES DEVELOPMENT (MSMED) ACT, 2006

- **Enterprises engaged in providing or rendering of services** and whose investment in equipment (original cost excluding land and building and furniture, fittings and other items not directly related to the service rendered or as may be notified under the MSMED Act, 2006 are specified below.
 - **A micro enterprise** is an enterprise where the investment in equipment does not exceed Rs. 10 lakh;
 - **A small enterprise** is an enterprise where the investment in equipment is more than Rs.10 lakh but does not exceed Rs. 2 crore;
 - **A medium enterprise** is an enterprise where the investment in equipment is more than Rs. 2 crore but does not exceed Rs. 5 crore.

SECTION 15 IN THE MICRO, SMALL AND MEDIUM ENTERPRISES DEVELOPMENT ACT, 2006

Liability of buyer to make payment.

- Where any supplier, supplies any goods or renders any services to any buyer,
- the buyer shall make payment therefor
 - on or before the date agreed upon between him and the supplier in writing or,
 - where there is no agreement in this behalf, before the appointed day:
- Provided that in **no case** the period agreed upon between the supplier and the buyer in writing shall exceed **forty-five days** from the day of acceptance or the day of deemed acceptance.

SECTION 16 IN THE MICRO, SMALL AND MEDIUM ENTERPRISES DEVELOPMENT ACT, 2006

Date from which and rate at which interest is payable.—

- Where any buyer fails to make payment of the amount to the supplier, as required under section 15,
- the buyer shall, notwithstanding anything contained in any agreement between the buyer and the supplier or in any law for the time being in force,
- be liable to pay compound interest with monthly rests to the supplier on that amount from the **appointed day or**, as the case may be, from the date immediately following the date agreed upon,
- at three times of the bank rate notified by the Reserve Bank.

DAY OF ACCEPTANCE MEANS

- The day of the actual delivery of goods or the rendering of services; or
- Where any objection is made in writing by the buyer regarding acceptance of goods or services within fifteen days from the day of the delivery of goods or the rendering of services, the day on which such objection is removed by the supplier.

SAMADHAAN.MSME.GOV.IN

- MSME SAMADHAAN online portal is developed by Ministry of MSME to facilitate MSEs filing of their applications regarding delayed payments online.
- The application once filed is forwarded automatically online to the concerned **Micro and Small Enterprise Facilitation Council (MSEFC)** established by the State/UTs as per the provisions of MSME-Act 2006. Action on the applications regarding delayed payment is taken by the concerned MSEFC only.
- **Udyog Aadhaar Memorandum (UAM) is Mandatory**
- Registration for Udyog Aadhaar can be done online at https://udyogaadhaar.gov.in/UA/UAM_Registration.aspx

SHRI NARENDRA MODI TALKING ABOUT MSME SAMADHAN PORTAL

SAMADHAAN.MSME.GOV.IN

**Ministry of Micro Small and Medium Enterprises**
(Government of India)
MSME SAMADHAAN- Delayed Payment Monitoring System

**स्वच्छ भारत**
एक कदम स्वच्छता की ओर

- English ▾
- Case Filing for Entrepreneur/MSE Units
- Check Case Status
- Factsheets ▾
- Officer Login 



**Ministry of Micro, Small and Medium Enterprises**
Government of India
सत्यमेव जयते

MSME SAMADHAAN



SAMADHAAN.MSME.GOV.IN

samadhaan.msme.gov.in/MyMsme/MSEFC/COM_MSEFC_EntLogin.aspx

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Ministry of Micro Small and Medium Enterprises (Government of India) MSME SAMADHAAN- Delayed Payment Monitoring System



English

Case Filing for Entrepreneur/MSE Units

Check Case Status

Factsheets

Officer Login

Entrepreneur Validation

* 1. Udyog Aadhaar Number

Udyog Aadhaar Number

* 2. Mobile Number as in Udyog Aadhaar

Mobile number should be of 10 digits must start with 9, 8 or 7

* Verification Code

Fill the verification code given below

FASESW

[Verification code is case sensitive]

Validate Udyog Aadhaar

Reset

If you have Udyog Aadhaar Number, kindly validate your Udyog Aadhaar Number with Aadhaar and file application. Otherwise Register in UAM by [Clicking Here](#) and come back to MSME Samadhaan portal.

Instructions for Entrepreneur Validation:

A. Important Note : Before you proceed to file application of delayed payment, please see following.

- 1.You should be ready with the scanned PDF documents of work orders of Respondent and invoices generated by you against those work orders.
- 2.Each file size should not be more than 1MB.
- 3.Maximum three work orders and three invoices can be uploaded.

B. Please follow the process below to File application

1. Enter Your Udyog Aadhaar Number
2. Enter Your Aadhaar Number or Mobile Number as in Udyog Aadhaar(Only For Assisted filing cases)
3. Enter verification code as displayed
4. Click on Validate Udyog Aadhaar button to receive your OTP on email registered

MSE FACILITATION COUNCIL (MSEFC) ADDRESS

MSME SAMADHAAN - Delayed F x Draft rules of MSEFC.pdf x +

samadhaan.msme.gov.in/MyMsme/MSEFC/COM_MSEFC_EntLogin.aspx

Apps Bookmarks Chrome Web Store... Evernote Web e-Filing Home Page... Google News Gmail Orders Case Wise |... PDF Cause List | NCLT Gmail WhatsApp Web

* 2. Mobile Number as in Udyog Aadhaar

Mobile number should be of 10 digits must start with 9, 8 or 7

* Verification Code

Fill the verification code given below

FASESW

[Verification code is case sensitive]

Validate Udyog Aadhaar

Reset

A. Important Note : Before you proceed to file application of delayed payment, please see following.

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3. Enter verification code as displayed
4. Click on Validate Udyog Aadhaar button to receive your OTP on email registered during udyog aadhaar registration.

[Home](#) [Officer's Login](#) [The MSME Act, 2006 \(Dealing with Delay Payment\)](#) [FAQ](#) [MSEFC Council Address](#) [Contact Us](#)



MSE FACILITATION COUNCIL (MSEFC) ADDRESS

samadhaan.msme.gov.in/MyMsme/MSEFC/CouncilAddress.aspx



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MSEFC-Rangareddy

Address:- DIC,4th floor, Spoorthy Bhavan, Collectorate,Lakdikapool, Hyderabad, Telangana

State:- TELANGANA

PinCode:- 500004

Email Id:- msefcrangareddyregion@gmail.com

Phone No:- 29551242



MSEFC-Medchal

Address:- O/o the General Manager, District Industries Centre, 3rd Floor, A-Block, Collectorate Complex, Medchal - Malkajgiri District, Near ORR, Keesara (V&M), Medchal - Malkajgiri District

State:- TELANGANA

PinCode:- 501301

Email Id:- gmdicmedchal@gmail.com

Phone No:- 0

UDYOGAADHAAR.GOV.IN

No Representative appointed for Udyog Aadhaar Registration (Click to Know More..)

1. Aadhaar Number/ आधार संख्या

Your Aadhaar No

2. Name of Entrepreneur / उद्यमी का नाम

Name as per Aadhaar

I, the holder of Aadhaar, hereby give my consent to Ministry of MSME, Government of India for using my Aadhaar number with UIDAI for Udyog Aadhaar Registration. NIC / Ministry of MSME, Government of India have informed me that my aadhaar data will not be stored/shared. / मैं, आधार धारक, इस प्रकार उद्योग आधार पंजीकरण के लिए यूआईडीएआई के साथ अपने आधार संख्या का उपयोग करने के लिए सू०ल०म०उ० मंत्रालय, भारत सरकार को अपनी सहमति देता हूँ। एनआईसी / सू०ल०म०उ० मंत्रालय, भारत सरकार ने मुझे सूचित किया है कि मेरा आधार डेटा संग्रहीत / साझा नहीं किया जाएगा।

Validate & Generate OTP

Reset

Option for Registration Without Aadhaar.

An applicant or the authorised signatory who is not yet enrolled for Aadhaar shall have to apply for Aadhaar enrolment and in case he or she is entitled to obtain Aadhaar as per section 3 of the Aadhaar Act such individual may visit any Aadhaar enrolment centre to get enrolled for Aadhaar.

Provided that till the time Aadhaar is assigned to the individual, UAM registration shall be filed by the concerned DIC or MSME-DI on behalf of such enterprise, subject to the production of the following documents as alternative and viable means of identification.

(a) (i) If he has enrolled, his Aadhaar Enrolment ID slip; or

(ii) A copy of his request made for Aadhaar enrolment,

(b) Any of the following documents, namely:-

Bank photo passbook; or voter ID Card; or passport; or driving license; or PAN card; or employee photo identity card issued by the Government.

Guidelines for Filing the Online Udyog Aadhaar Form :-

Note:

A. EM-I has been abolished. Need not file through Udyog Aadhaar.

B. Udyog Aadhaar (UA) is for running units. No need to apply for upcoming units.

C. New Feature Added for Search Facility of NIC Code to Avoid 3 Step Selection of NIC Activities.

D. OTP on Mobile (linked with Aadhaar) at the time of registration has been implemented.

1. **Aadhaar Number** - 12 digit Aadhaar number issued to the applicant should be filled in the appropriate field.

2. **Name of Owner**- The applicant should fill his/her name strictly as mentioned on the Aadhaar Card issued by UIDAI. E.g. if Raj Pal Singh has his name as Raj P. Singh, the same should accordingly be entered if the name does not match with the Aadhaar Number, the applicant will not be able to fill the form further.

To Validate Aadhar:-

1. **Validate Aadhar**- The applicant must click on Validate Aadhaar button for verification of Aadhaar, after that only user can fill the form further.

2. **Reset**- The applicant can click on reset button to clear the field of Aadhaar No and Name of the owner for different Aadhaar.

OTP will be sent to your mobile number registered with UIDAI. If your mobile number is not registered with UIDAI, please follow instructions given on Pop up window.

3. **Social Category**- The Applicant may select the Social Category (General, Scheduled Caste, Scheduled Tribe or Other Backward Castes (OBC). The proof of belonging to SC, ST or OBC may be asked by appropriate authority, if and when required.

4. **Gender**- The Applicant can select gender of Entrepreneur

5. **Physically Handicapped**- The Applicant can select Physically Handicapped status of

- **MSME-1 FORM is required to file two times in the month of May, 2019 :**
- **Initial Return for the amount outstanding as on 22nd January, 2019**
- **Half Yearly Return for the amount outstanding as on 31st March, 2019.**

COMPLIANCE OF FILING MSME – 1 FORM COMPANIES

- Furnishing return with ROC in respect of outstanding payments to Micro or Small Enterprises
- MCA wide order dated 22nd January, 2019 directed all companies, who get supplies of goods or services from micro and small enterprises and whose payments to **micro and small enterprise suppliers** exceed forty five days from the date of acceptance or the date of deemed acceptance of the goods or services as per the provisions of section 9 of the **Micro, Small and Medium Enterprises Development Act,2006** (27 of 2006) (hereafter referred to as “Specified Companies”), shall submit a half yearly return to the Ministry of Corporate Affairs stating the following:
 - (a) the amount of payment due; and
 - (b) the reasons of the delay;

FORM MSME-1

CONSEQUENCES FOR NON- FILING

- If any company fails to file MSME-1 within 30 days or knowingly furnishes any information or statistics which is incorrect or incomplete in any material respect,
- the company shall be punishable with fine which may extend to **twenty-five thousand rupees** and every officer of the company who is in default,
- shall be punishable with imprisonment for a term which may **extend to six months** or with fine which shall not be less than **twenty-five thousand rupees but which may extend to three lakh rupees**, or with both.



DISHONOUR OF CHEQUE

**SECTION 138 OF THE NEGOTIABLE
INSTRUMENTS ACT, 1881.**

REASONS FOR DISHONOUR OF CHEQUE

- A cheque may be returned by the drawee bank because of any of the following reasons.
- Insufficient Funds
- Non-Applicability of Funds
- Irregular Signature
- Alterations in the Cheque
- Post-dated Cheque
- Stale Cheque
- Frozen Account
- Account Closed

CHEQUE BOUNCE

- If a cheque is dishonoured: If a cheque is dishonoured then the drawee bank issues a 'cheque return memo' to the payee mentioning the reason for return.
- After which the payee may resubmit the cheque to the bank within three months if he thinks that it will be honoured a second time.
- If the cheque is dishonoured again, then the payee has the right to prosecute the drawer legally.

LEGAL RECOURSE U/S 138 OF NEGOTIABLE INSTRUMENTS ACT, 1988

- Under this section the payee must send a notice in writing to the drawer to repay the sum immediately. The requisites of this section are as follows:
- The notice must be sent within 30 days of receiving the 'cheque return memo.'
- The Drawer must be given a period of 15 days to repay the sum.
- The notice must mention the cheque and the amount to be paid.

SECTION 138 OF THE NEGOTIABLE INSTRUMENTS ACT, 1881.

- Cheque Bounce is a criminal bounce under Section 138 of the Negotiable Instruments Act, 1881.
- The punishment prescribed for the same is imprisonment which may extend up to 2 years, with or without a fine which may be of value as much as twice the value of the cheque drawn.

COMPLAINT SHOULD BE REGISTERED IN A MAGISTRATE'S COURT

- The complaint should be registered in a magistrate's court within a month of the expiry of the notice period.
- On receiving the complaint, along with an affidavit and relevant paper trail, the court will issue summons and hear the matter.
- If found guilty, the defaulter can be punished with monetary penalty which may be twice the amount of the cheque or imprisonment for a term which may be extended to two years or both. The bank also has the right to stop the cheque book facility and close the account for repeat offences of bounced cheques.

DOCUMENTS TO BE SUBMITTED

Documents Necessary while filing suit under 138 of NIA:

- The Original Cheque
- The Return Memo
- Statutory Demand Notice
- Postal receipt of the notice issued
- Original copy of power of attorney, authorizing the attorney to present the complaint Punishment & Penalty

THANK YOU

CA. Ritesh Mittal

Chartered Accountant and Insolvency Professional

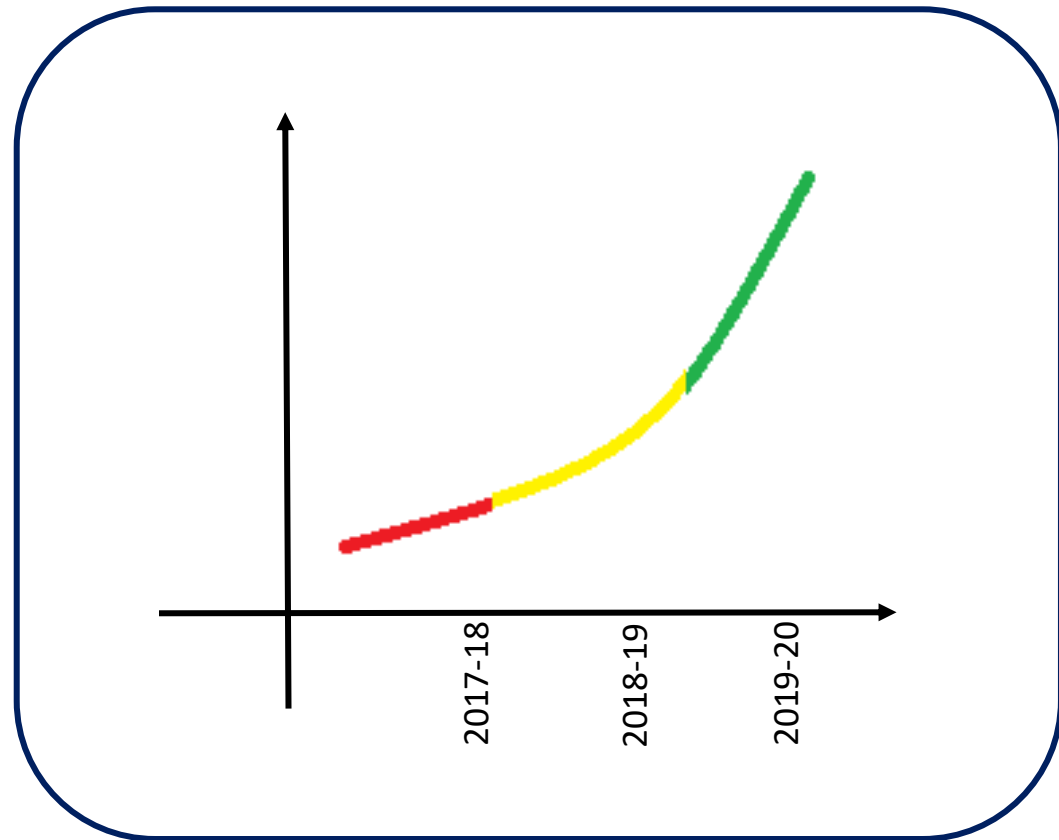
Mr. Rajiv Ratna

Advocate

Finalization of Accounts - GST Perspective

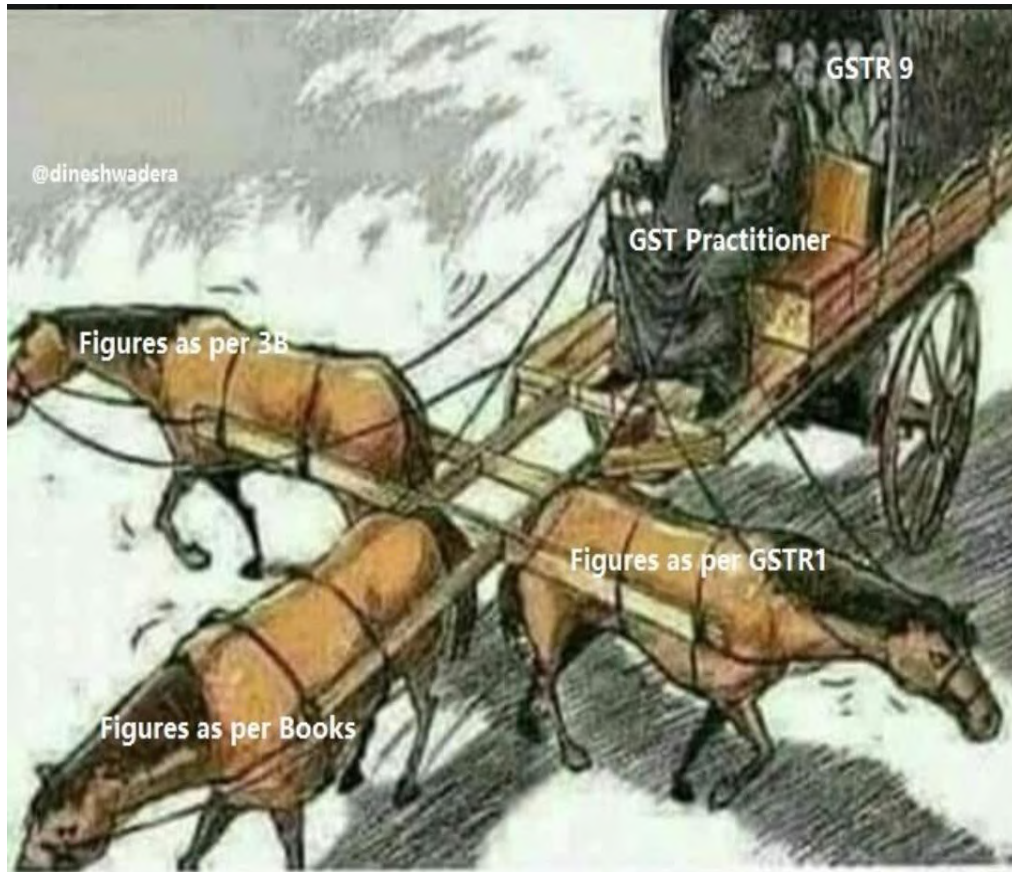
CA Raghavender Kuncharapu | Partner | **GPHK & Associates** |
9533253514

2.5 Years of GST

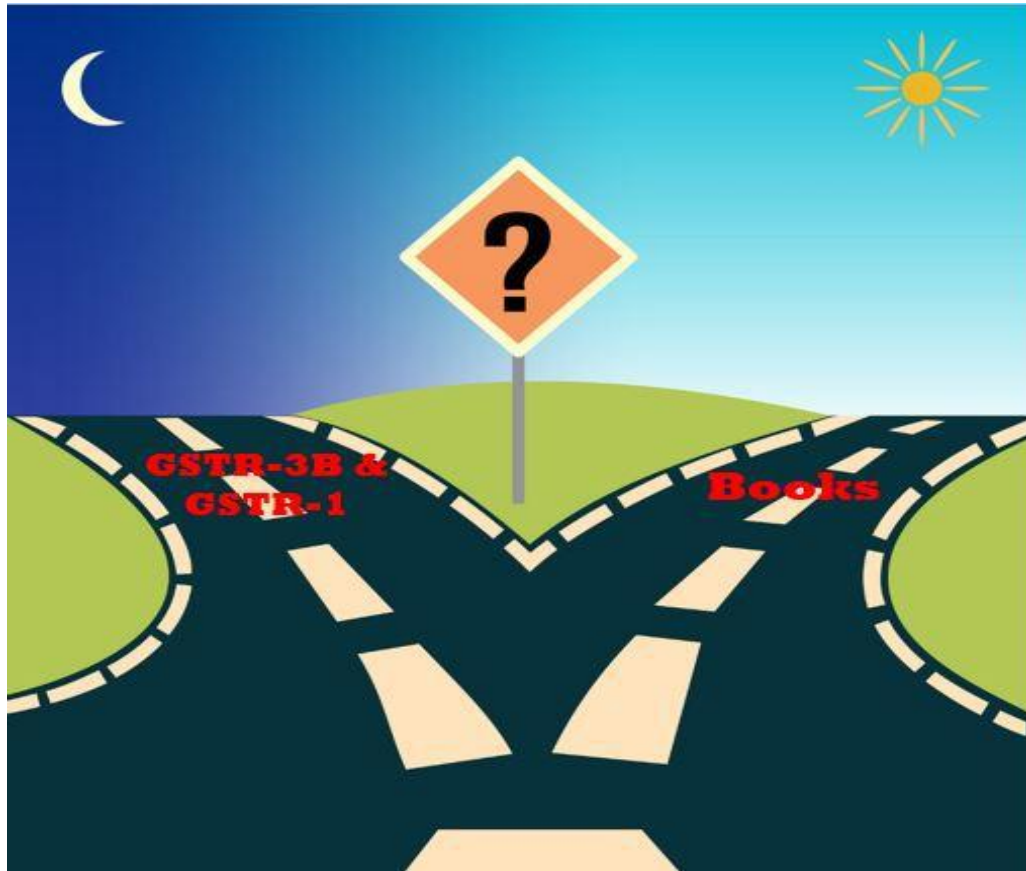


➤ Better understanding of GST Act/GSTN

2017-18-->Tragedy



Books \neq GSTR-3B \neq GSTR-1



Books \neq GSTR-3B $=$ GSTR-1

Books $=$ GSTR-1 \neq GSTR-3B

Books $=$ GSTR-3B \neq GSTR-1



- ✓ Review of books of accounts
- ✓ Review of GST returns
- ✓ Reco of Books & GST
- ✓ Closing entries
- ✓ Other laws (ITR/TAR/AR)

Agenda

Factors for Finalization

Steps in Finalization

Trial Balance Approach

Closing Entries

Summary/Conclusion

Factors for Finalization

Companies Act

Income Tax Act

GAAP

GST

Steps in Finalization

Comparison

Reconciliation

Summarization

Rectification

Comparison

Books v/s Portal

Books v/s Returns

GSTR-3B v/s GSTR-1

Books v/s GSTR-2A

Books v/s Portal

- GST Ledger balances [Books = Portal]

GST Extract in Financials:

Particulars	Amount	Amount
<i>Other Current Assets:</i>		
• Input Tax Credit	xxx	xxx
• Input to be Claimed	xxx	xxx
<i>Other Current Liabilities:</i>		
• Output Tax Payable	xxx	xxx

GST Credit Ledger Extract:

Date	Tax Period if any	Description	Balance Available				Total
			Integrated Tax	Central Tax	State Tax	CESS	
20-04-2020	Mar-20	ITC accrued through - Inputs	xxx	xxx	xxx	xxx	xxx
20-04-2020	Mar-20	Other than reverse charge	xxx	xxx	xxx	xxx	xxx
		Closing Balance	xxx	xxx	xxx	xxx	xxx

Books v/s Returns

- A comparison between GST Returns and financials should be prepared.

Sample Reconciliation:

Particulars	As Per GSTR-3B				As per Books of accounts				Differences (3B-books)			
	Value	IGST	CGST	SGST	Value	IGST	CGST	SGST	Value	IGST	CGST	SGST
Outward supplies & RCM												
Outward taxable supplies (<i>other than zero rated, nil rated and exempted</i>)	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	-	-	-	-
Outward taxable supplies (<i>zero rated</i>)	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	-	-	-	-
Other outward supplies (<i>Nil rated, exempted</i>)	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	-	-	-	-
Inward supplies (<i>liable to reverse charge</i>)	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	-	-	-	-
Non-GST outward supplies	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	-	-	-	-
Out of 3.1 above, Inter-State supplies made to												
Unregistered Persons	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	-	-	-	-
Composition Taxable Persons	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	-	-	-	-
UIN holders	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	-	-	-	-
Details of ITC												
Eligible ITC												
- Import of goods	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	-	-	-	-
- Import of Services	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	-	-	-	-
- Reverse charges other than above	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	-	-	-	-
- Inward supplies from ISD	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	-	-	-	-
- Other ITC	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	-	-	-	-

GSTR-3B v/s GSTR-1

Month wise turnover & tax liability declared in GST-3B

Month wise turnover and tax liability declared in GSTR-1

Compare the above two statements

Eliminate the differences

GSTR-3B Summary:

Sl.no	Particulars	Total			
		Value	IGST	CGST	SGST
3.1	Outward supplies & RCM				
a	Outward taxable supplies (other than zero rated, nil rated and exempted)	-	-	-	-
b	Outward taxable supplies (zero rated)	-	-	-	-
c	Other outward supplies (Nil rated, exempted)	-	-	-	-
d	Inward supplies (liable to reverse charge)	-	-	-	-
e	Non-GST outward supplies	-			
3.2	Out of 3.1 above, Inter-State supplies made to				
	Unregistered Persons	-	-	-	-
	Composition Taxable Persons	-	-	-	-
	UIN holders	-	-	-	-
4	Details of ITC				
A	Eligible ITC				
	- Import of goods	-	-	-	-
	- Import of Services	-	-	-	-
	- Reverse charges other than above 2	-	-	-	-
	- Inward supplies from ISD	-	-	-	-
	- Other ITC	-	-	-	-
B	ITC reversed				
	- As per rule 42 & 43	-	-	-	-
	- Others	-	-	-	-
C	Net ITC available	-	-	-	-
D	Ineligible ITC				
	- As per section 17(5)	-	-	-	-
	- Others	-	-	-	-
End	End	End	End	End	End

GSTR-1 Summary:

Sl.no	Particulars	Total				
		Invoice value	Taxable value	IGST	CGST	SGST
4	B2B Invoices	-	-	-	-	-
5	B2C Large Invoices	-	-	-	-	-
9B	Credit/Debit note (registered)	-	-	-	-	-
9B	Credit/Debit note (unregistered)	-	-	-	-	-
6A	Exports Invoices	-	-	-	-	-
7	B2C (Others)	-	-	-	-	-
8	Other outward supplies					
	- Nil rated	-	-	-	-	-
	- Exempted	-	-	-	-	-
	- Non GST	-	-	-	-	-
11(A)	Tax liability (Advances received)	-	-	-	-	-
11(B)	Adjustment of advances	-	-	-	-	-
12	HSN wise summar of outward supplies	-	-	-	-	-
End	End	End	End	End	End	End

Books v/s GSTR-2A

- Invoice level reconciliation of GSTR-2A and books is to be prepared
- Mere comparison of the invoice with GSTR-2A is not sufficient
- There should be a reconciliation between inputs as per [GSTR-2A | Books | Returns]

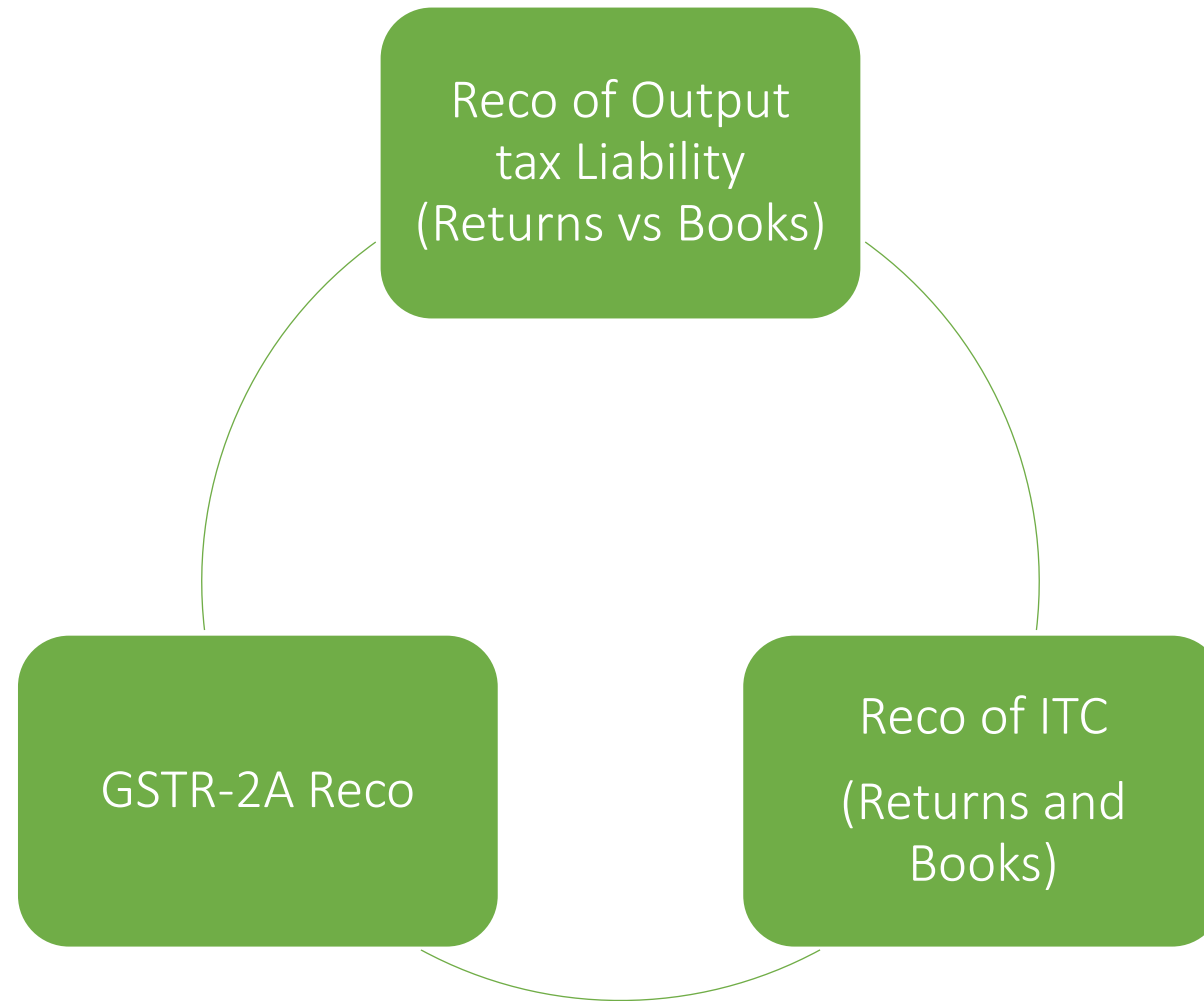
Inputs claimed in books:

Invoice Date	Supplier Name	GSTIN/UIN	Invoice No	Taxable Value	Integrated Tax	Central Tax	State Tax	Cess	Total Value	Reflected in 2A
20-05-2019	Abc Pvt Ltd.	xxxxxxxxxxxxxxxx	Inv/01	xxxx	xxx			xxx	xxx	Yes
13-06-2019	XYZ Enterprises	xxxxxxxxxxxxxxxx	XY/GST-01	xxxx		xxx	xxx		xxx	No

Inputs reflected in GSTR-2A :

Invoice Date	Supplier Name	GSTIN/UIN	Invoice No	Taxable Value	Integrated Tax	Central Tax	State Tax	Cess	Total Value	Claimed in GST Returns
20-05-2019	Abc Pvt Ltd.	xxxxxxxxxxxxxxxx	Inv/01	xxxx	xxx			xxx	xxx	Yes
17-10-2019	PMR & Co	xxxxxxxxxxxxxxxx	Sale/020	xxxx		xxx	xxx		xxx	No

Reconciliation



Output Reco-Books v/s Returns

Sample Reconciliation:

Particulars	IGST	CGST	SGST
Output Tax as per Books	xxx	xxx	xxx
Output Tax adjustment of previous years	xxx	xxx	xxx
Adjustment of advances of previous years	(xxx)	(xxx)	(xxx)
Expected Output as per Returns	xxx	xxx	xxx
Output as per Returns	xxx	xxx	xxx
Difference	-	-	-

Input Reco-Books v/s Returns

Sample Reconciliation:

Particulars	IGST	CGST	SGST
Input as per Books	xxx	xxx	xxx
Input of previous years	xxx	xxx	xxx
Input not claimed in returns-unavailed credit	(xxx)	(xxx)	(xxx)
Input reversals of previous Years	(xxx)	(xxx)	(xxx)
Expected Input as per Returns	xxx	xxx	xxx
Input as per Returns	xxx	xxx	xxx
Difference	-	-	-

GSTR-2A Reco

- Prepare a reconciliation between the input reflected in GSTR-2A and the input claimed in GST returns

Sample Reconciliation:

Particulars	IGST	CGST	SGST
Balance as per GSTR2A (B2B sheet)	xxx	xxx	xxx
Debit notes	xxx	xxx	xxx
Credit notes	(xxx)	(xxx)	(xxx)
POS in different state	(xxx)	(xxx)	(xxx)
Invoice with RCM flag as "Y"	(xxx)	(xxx)	(xxx)
Invoices not yet filed	(xxx)	(xxx)	(xxx)
ITC available as per GSTR2A-->	xxx	xxx	xxx
<u>Reconciliation items</u>			
Invoices not appearing in GSTR2A	xxx	xxx	xxx
Additional invoices appearing in GSTR2A (belonging to us)	(xxx)	(xxx)	(xxx)
Intra state uploaded as inter state	(xxx)	xxx	xxx
Inter state uploaded as intra state	xxx	(xxx)	(xxx)
Excess credit taken by us	xxx	xxx	xxx
Short credit taken by us	(xxx)	(xxx)	(xxx)
Expected ITC as per GSTR3B-->	xxx	xxx	xxx
Actual ITC as per GSTR3B-->	xxx	xxx	xxx
Difference-->	-	-	-


Summarization

- Summarize the changes to be made
- Either in books or returns

Sample Reconciliation:

Particulars	IGST	CGST	SGST
Input as per Books	xxx	xxx	xxx
Input of previous years	xxx	xxx	xxx
Input not claimed in returns- unavailed credit	(xxx)	(xxx)	(xxx)
Input reversals of previous Years	(xxx)	(xxx)	(xxx)
Expected Input as per Returns	xxx	xxx	xxx
Input as per Returns	xxx	xxx	xxx
Difference	-	-	-

Input to be claimed in further returns



Rectification

GSTR 1

Not reported – Report in the original table

Wrongly reported – Correction in Amendment table

GSTR 3B

Not filed, file reconciled amounts

If Filed, adjust in next Return

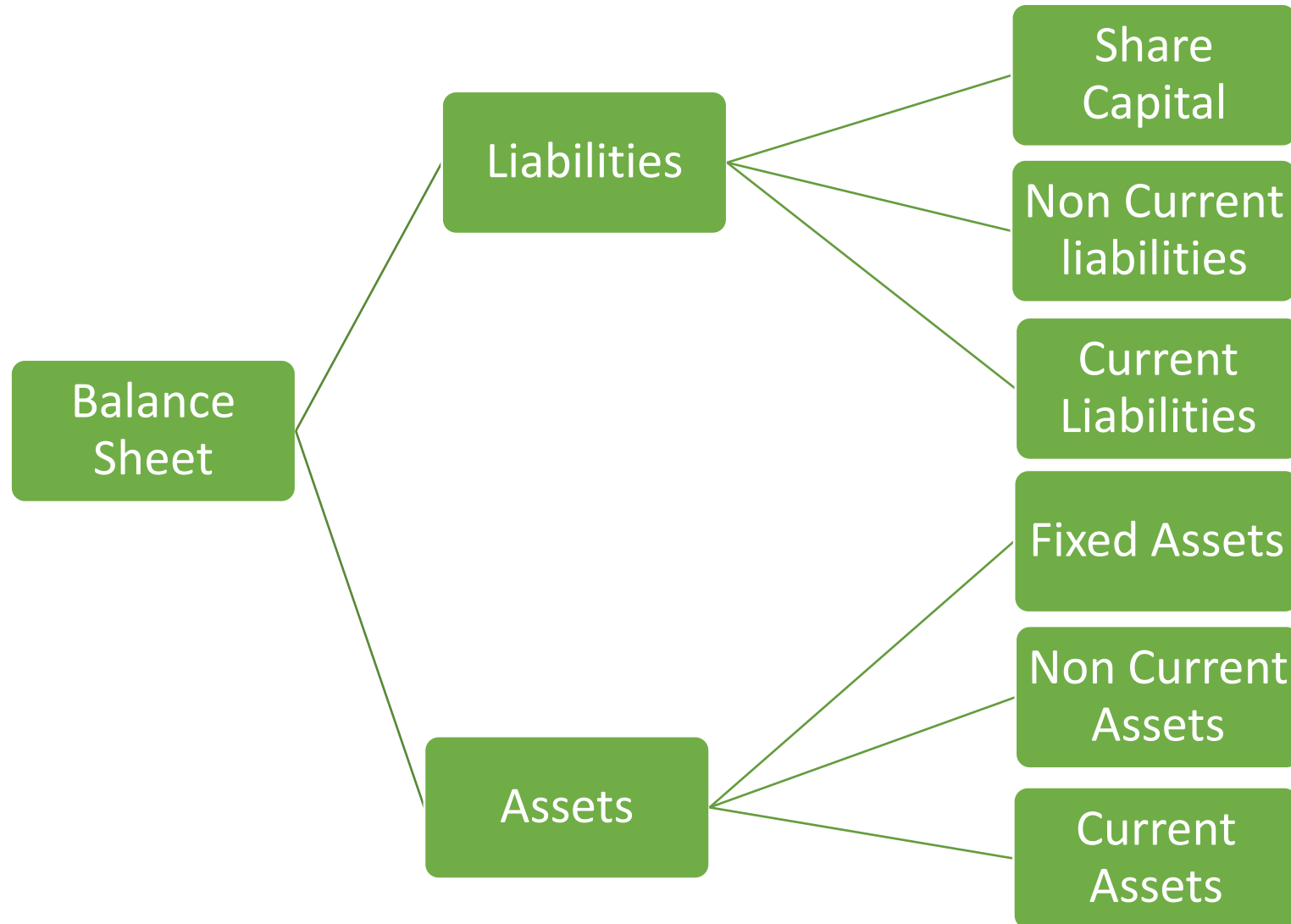
Trial Balance Approach

Balance Sheet Items

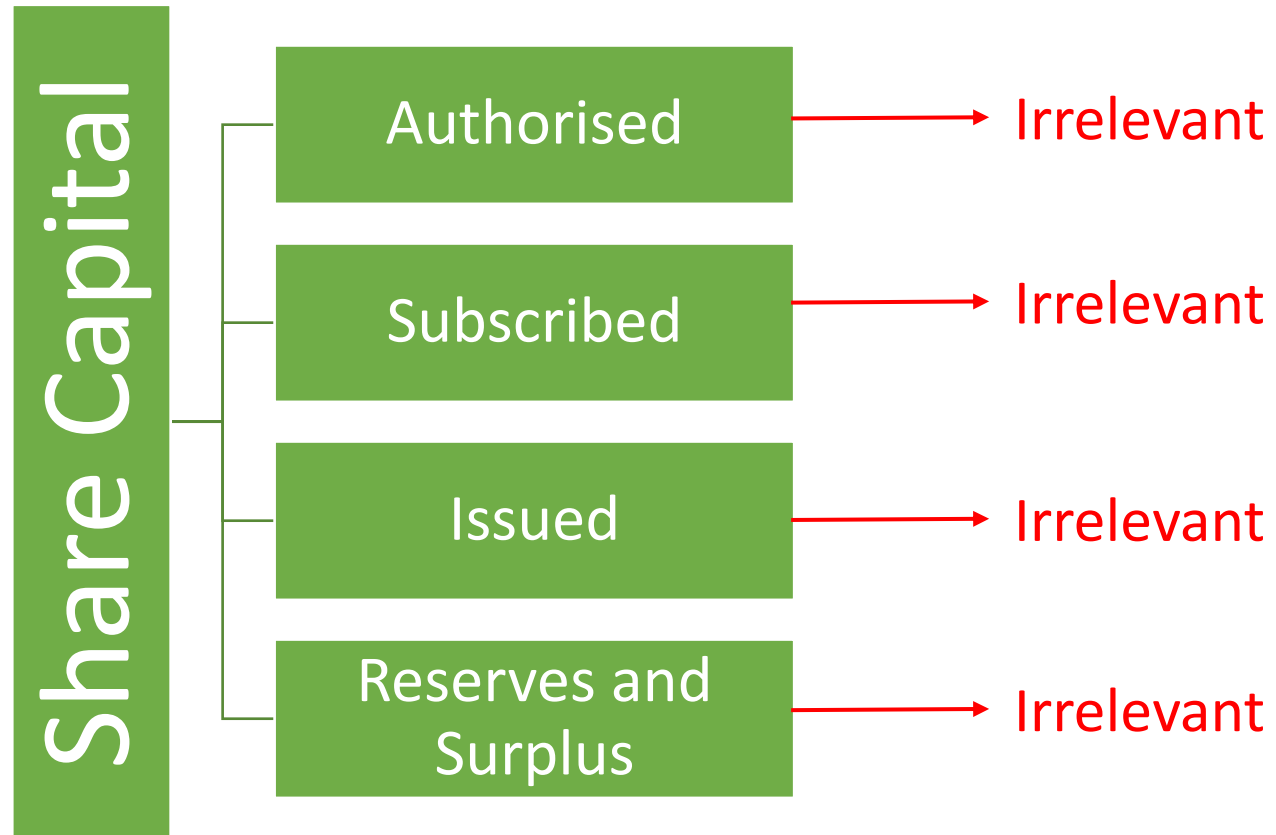
Statement of Profit and Loss Items

Particulars	Debit	Credit	Relevant
A's Capital a/c		xxx	No
B's Capital a/c		xxx	No
Loan a/c		xxx	No
Deposit a/c		xxx	No
Rent Payable a/c		xxx	Yes
Creditors a/c		xxx	Yes
Fixed Asset a/c	xxx		Yes
Debtors a/c	xxx		Yes
Cash a/c	xxx		No
Sales a/c		xxx	Yes
Purchases a/c	xxx		Yes

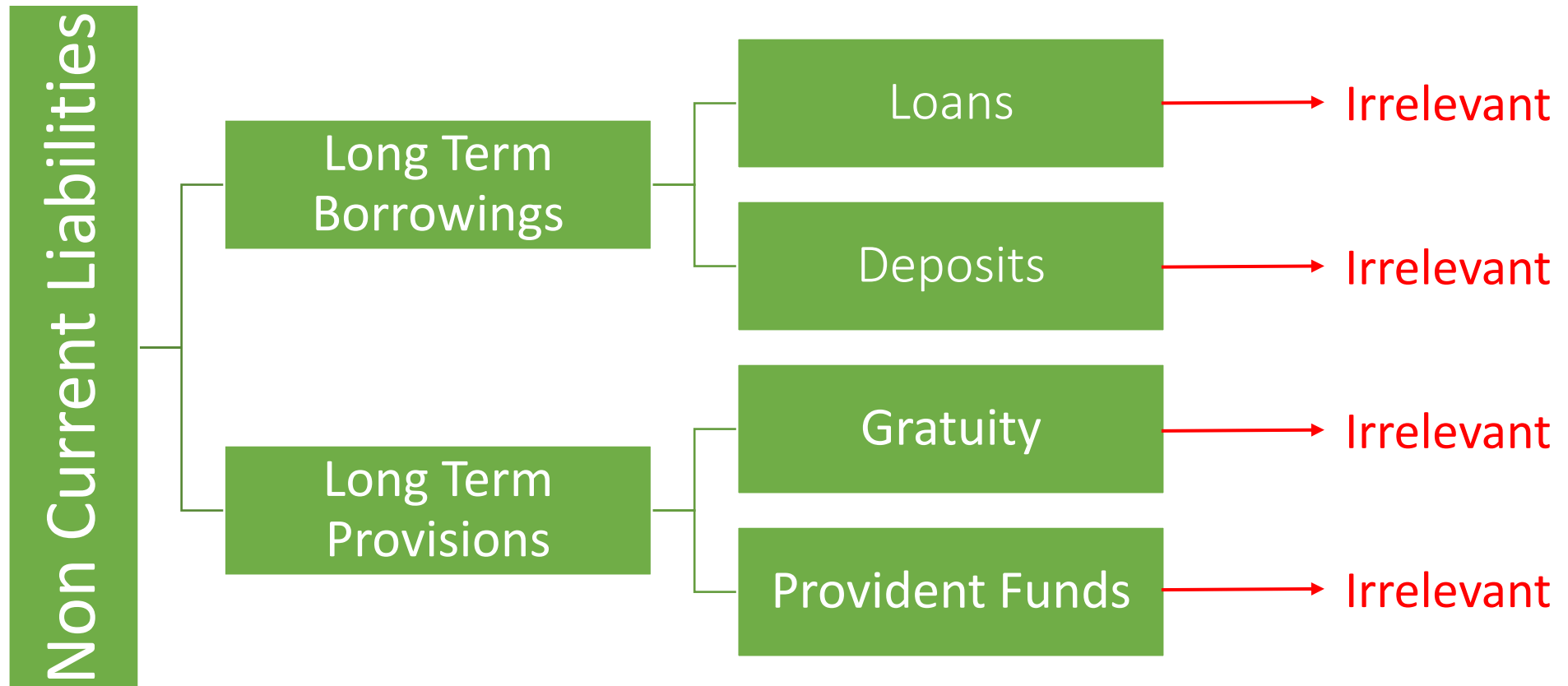
Balance Sheet



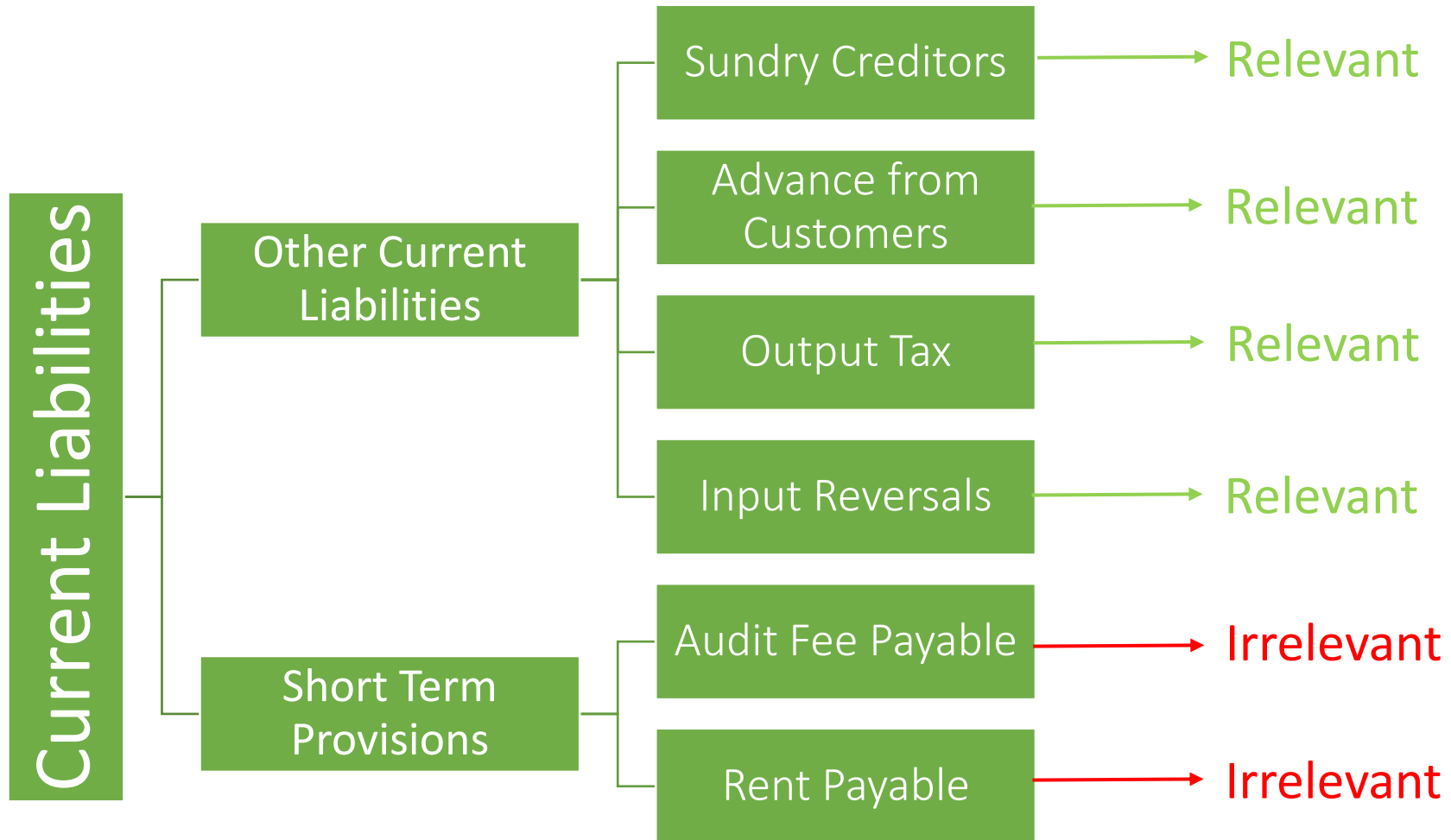
Share Capital



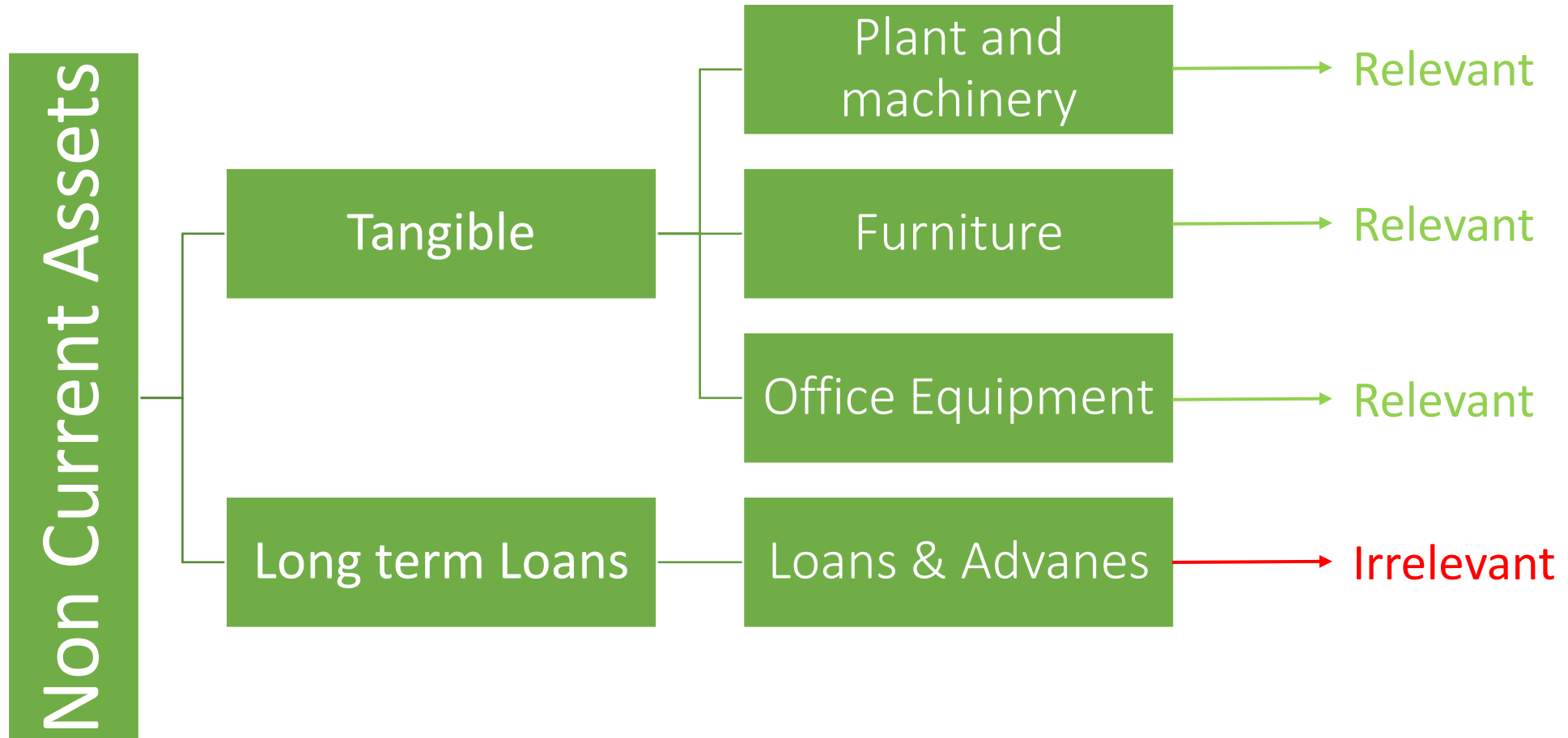
Non Current Liabilities



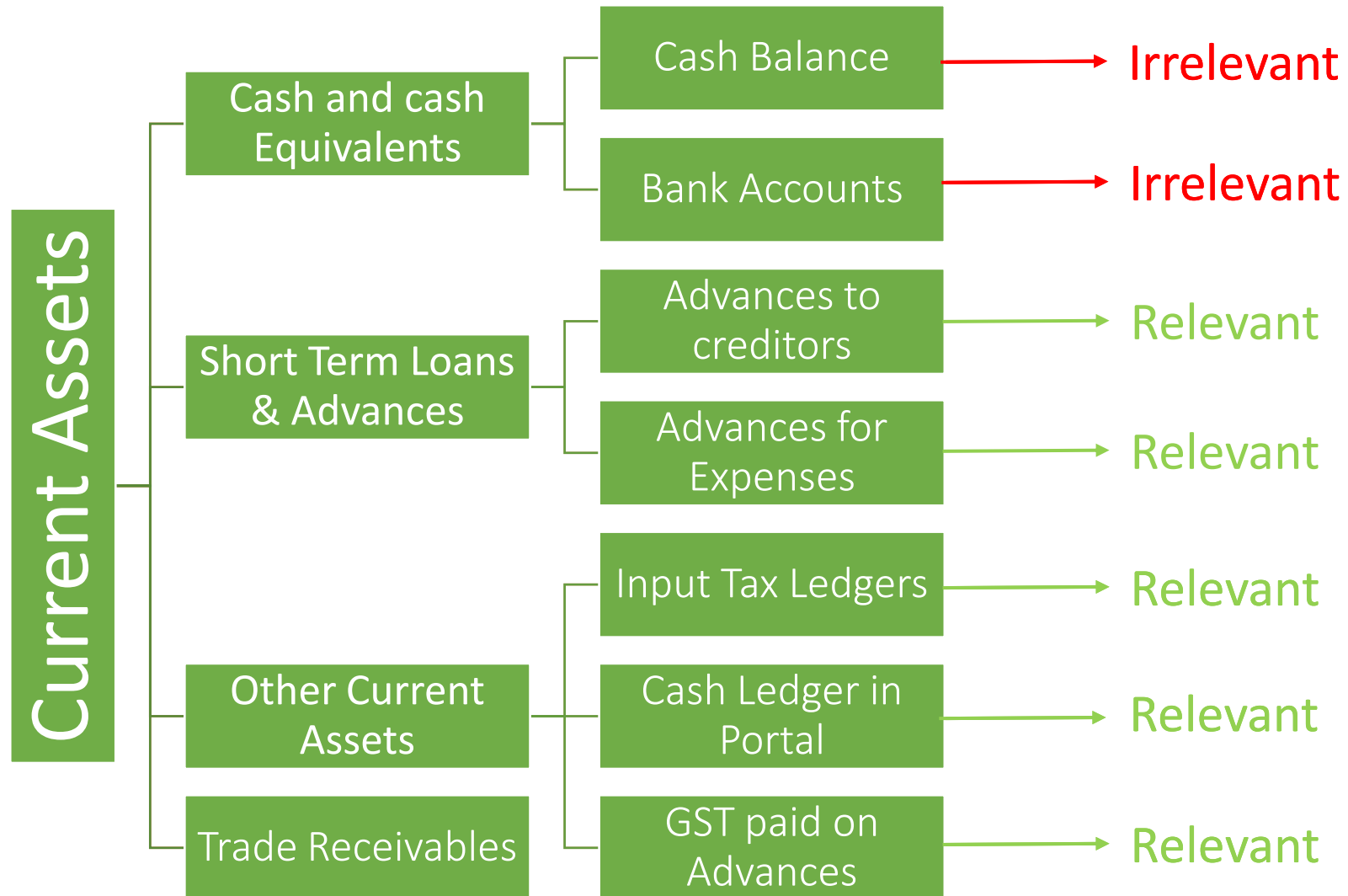
Current Liabilities



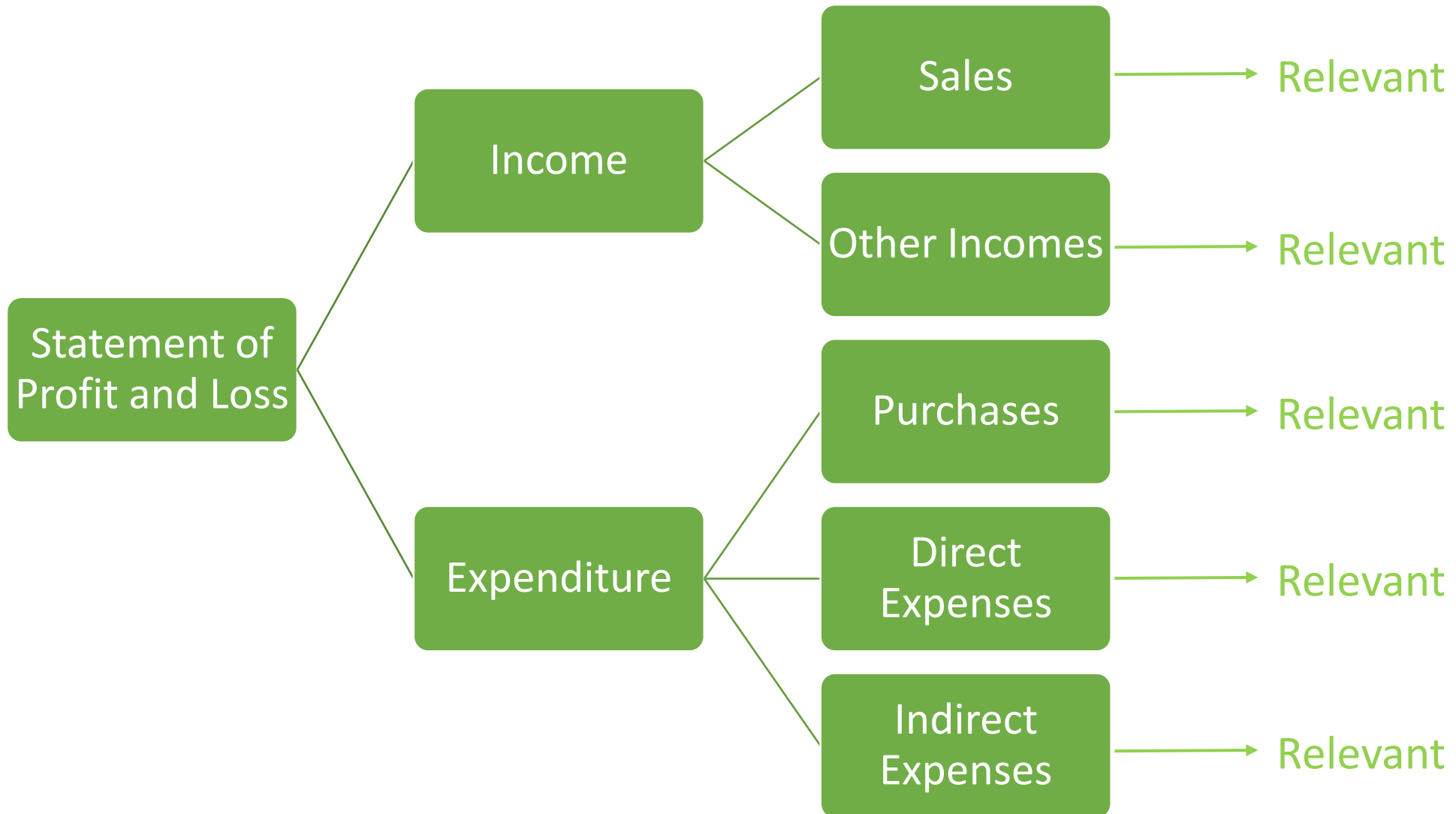
Non Current Assets



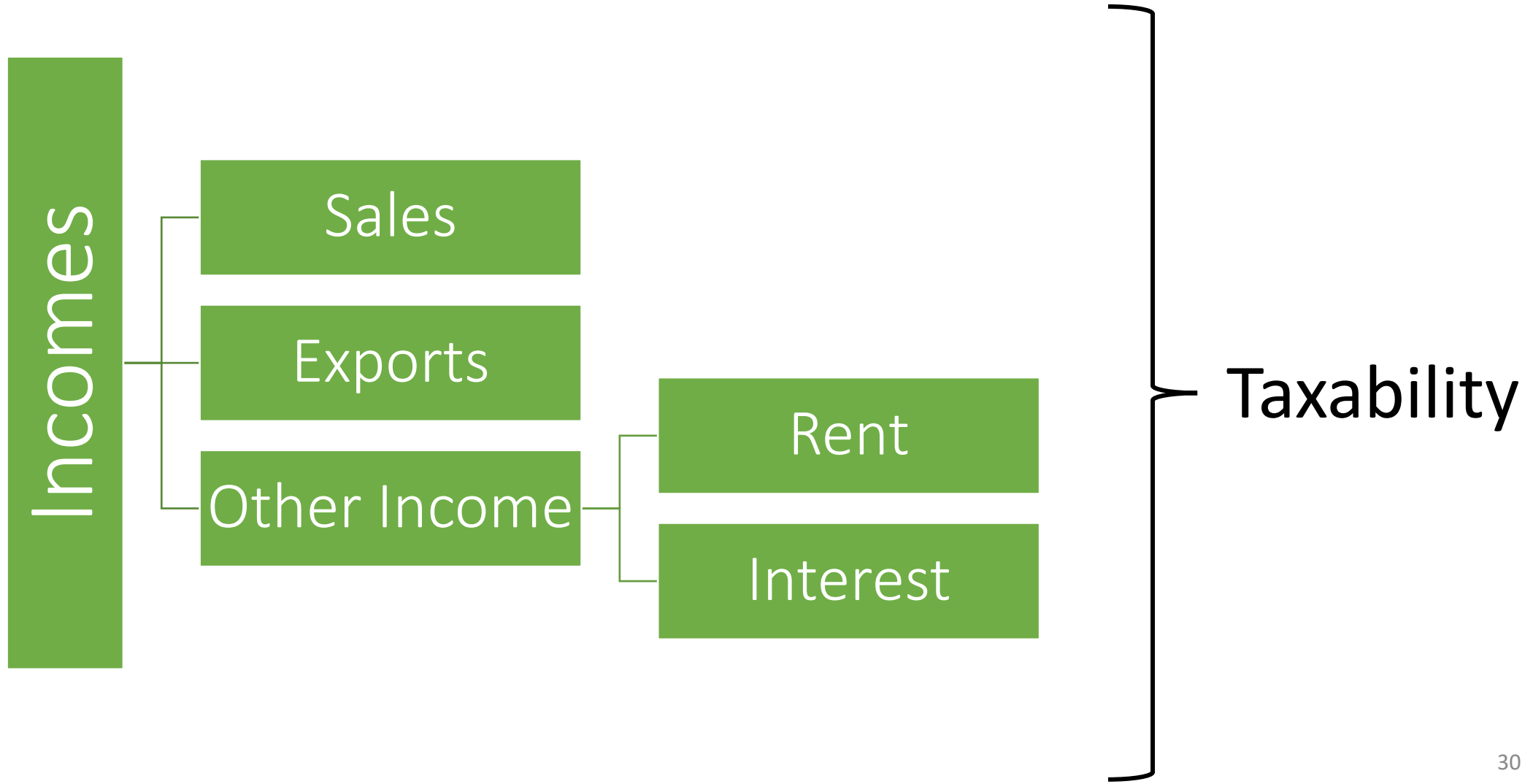
Current Assets



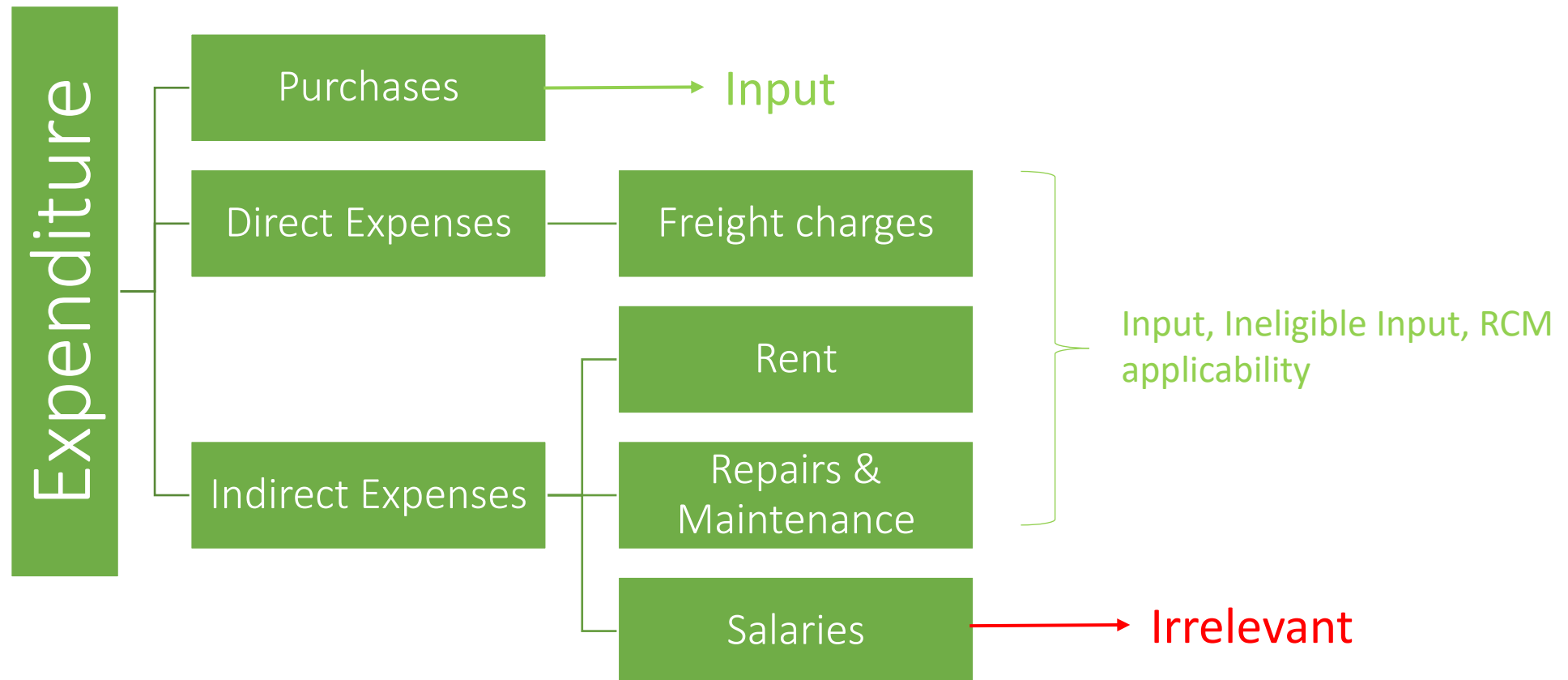
Statement of Profit and Loss



Incomes



Expenditure



Closing Entries

Ineligible Entry

- Ineligible Input is to be expensed off to the respectable head of expense

Particulars	Debit	Credit
<u>Input Entry:</u>		
Expense Ledger Dr	xxx	
Input IGST Ledger Dr	xxx	
To Creditor		xxx
<u>Ineligible Input Entry:</u>		
Expense Ledger Dr	xxx	
To Input IGST Ledger		xxx

Input Reversal Entry

- Reversal of input u/r 37 and reclaim of the same are to be recorded separately
- Reversal of input u/r 42 and 43 should be expensed off to the respectable head of expense

Particulars	Debit	Credit
<u>Input Entry:</u>		
Expense Ledger Dr	xxx	
Input IGST Ledger Dr	xxx	
To Creditor		xxx
<u>Input Reversal Entry:</u>		
Input reversal/Expense Ledger Dr	xxx	
To Input IGST Ledger		xxx
<u>Input reclaim Entry:</u>		
Input IGST Ledger Dr	xxx	
To Input reversal Ledger		xxx

RCM Entries

- Advisable to record RCM Liability and RCM input separately
- To have a record of compliance of RCM provisions

RCM Payable

RCM payable should be recorded separately.

Since RCM is paid in cash the payment entries are also to be recorded to set off the liability created.

RCM Input

Input claimed under RCM should be recorded separately.

The input should be added to Input Tax Credit claimed in books and used to set off output tax liability.

Set off Entries

- Input credit used to set off the output tax liability

Particulars		Debit	Credit
Output IGST Ledger	Dr	xxx	
Output CGST Ledger	Dr	xxx	
Output SGST Ledger	Dr	xxx	
To Input IGST Ledger	Cr		xxx
To Input CGST Ledger	Cr		xxx
To Input SGST Ledger	Cr		xxx
To GST Payable (to be paid in cash, if any)	Cr		xxx

Tax Payment Entries

- Tax payments made to be recorded in books
- Which will set off the recorded liability

Particulars	Debit	Credit
GST Payable Dr	xxx	
To Bank Cr		xxx

Other Payment Entries

- Other payments i.e, interest, late fees and penalties
- To be recorded in books as expense

Particulars	Debit	Credit
Interest paid under GST Dr	xxx	
Late fee paid under GST Dr	xxx	
Penalty paid under GST Dr	xxx	
To Bank Cr		xxx

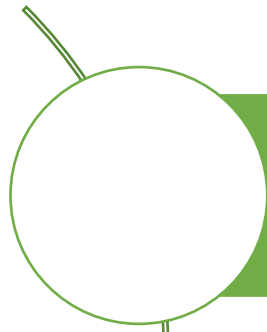
Entries for GSTR-9 and GSTR-9C of FY 2017-18 and FY 2018-19

Adjustments relating to GSTR-9 and GSTR-9C of previous FY are to be recorded in current year books, i.e, date of filing of the return.

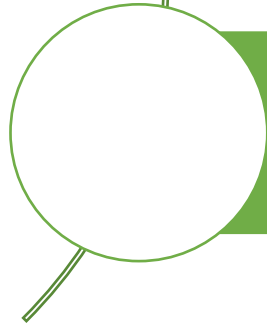
Output Payables, Input reversed and other adjustments are to be accounted for accordingly.

Interest payables on the account of above adjustments are also to be recorded separately.

Extract of GST in other Reports



Income Tax Return



Tax Audit Report

Tax Audit Report

GSTIN

- The GSTINs of the entity are to be quoted in the Tax Audit Report.

Input Tax Credit

- In Tax Audit Report a break up for input tax credit is required
 - Opening balance
 - Credit availed
 - Credit utilized
 - Closing balance

Input Tax Credit Extract in Form 3CD:

27 (a) Amount of Central Value Added Tax Credits/ Input Tax Credit(ITC) availed of or utilised during the previous year and its treatment in profit and loss account and treatment of outstanding Central Value Added Tax Credits/Input Tax Credit(ITC) in accounts.

Select 

CENVAT/ITC	Amount	Treatment in Profit & Loss/Accounts
Opening Balance	<input type="text"/>	<input type="text"/>
Credit Availed	<input type="text"/>	<input type="text"/>
Credit Utilized	<input type="text"/>	<input type="text"/>
Closing /outstanding Balance	<input type="text"/>	<input type="text"/>

Income Tax Return

GSTIN wise Total turnover (GSTR3B/GSTR1)

Therefore, one should be aware as what are the differences, if any between the GST turnover and turnover declared in ITR

GST Extract in ITR-6-Schedule GST :

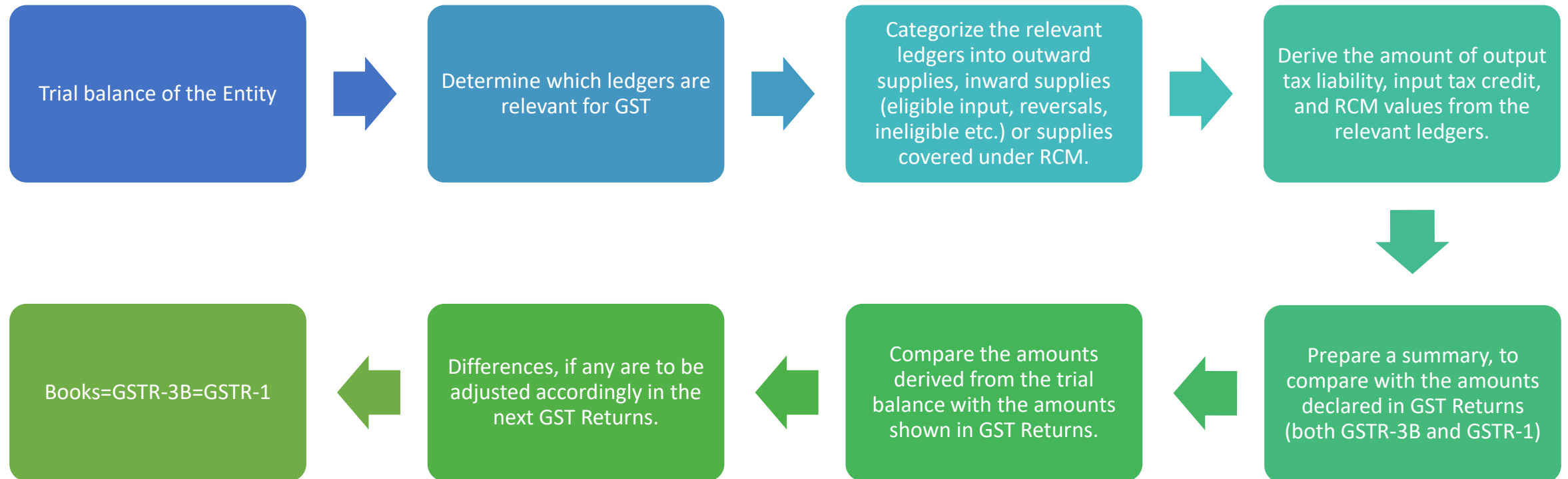
Software navigation bar for ITR-6 2019-20. The bar includes buttons for New, Open, Save, Save Draft, Pre-fill, Re-Calculate, Submit, and Preview. Below these are tabs for various schedules: Schedule MAT, Schedule MATC, Schedule DDT, Schedule BBS, Schedule FSI, Schedule TR, Schedule FA, Schedule SH-1, Schedule SH-2, Schedule AL-1, Schedule AL-2, Schedule GST (selected), Schedule FD, Part B - TI, Part B - TTI, and IT.

Schedule GST - INFORMATION REGARDING TURNOVER/GROSS RECEIPT REPORTED FOR GST

S No.		GSTIN No(s). *	Annual value of outward supplies as per the GST return(s) filed *
1	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>

Note: Please furnish the information above for each GSTIN No. separately

Summary



Thank You

CA Raghavender Kuncharapu | Partner | **GPHK & Associates** |
9533253514

GST – Constitutional Provisions and Features of Constitution (101st Amendment) Act, 2016

Article 246 - Power of Union and State to make laws

- Article 265 – No tax shall be levied or collected except by the authority of law
- Article 246 - distributes legislative powers including taxation, between the Parliament of India and the State Legislatures;
- Schedule VII enumerates the subject matters on which the Parliament and State Legislature have the powers to make laws in three lists:
 - List I (Union List);
 - List II (State List); and
 - List III (Concurrent list)

Schedule VII

List – I (Union List)
List of subjects on which only the Parliament has the exclusive powers to make laws

List – II (State List)
List of subjects on which only the State legislatures are competent to make laws

List – III (Concurrent List)
List of subjects on which both the Parliament and State Legislatures are competent to make laws

Article 246 A - Power to impose GST [New Provisions]

- **246 A (1)** : Notwithstanding anything contained in articles 246 and 254, Parliament, and, subject to clause (2), the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such state
- **246 A (2)** : Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce
- **Goods under 279A(5)** : Petroleum crude, High Speed Diesel, Motor Spirit (commonly known as petrol), Natural Gas and Aviation Turbine Fuel

Definition of GST

- Constitution (101st Amendment) Act, 2017
- 366(12A) : “**Goods and services tax**” means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption

GST – Other Changes in Definition

Sl.No	Definition	Article	Definition
1	Service	366 (26A)	Anything other than goods
2	State	366 (26B)	With reference to articles 246A, 268, 269, 269A and article 279A includes a Union territory with Legislature.
3	Goods	366 (12)	includes all materials, commodities, and articles [Definition Already Present prior to 101 Constitutional amendment]
4	Supply	-	Not Defined

Levy & collection of GST in the course of inter-State trade or commerce – Article 269A

- IGST shall be levied and collected by the Central Government and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of GST Council.
- Parliament will formulate the principles for determining the place of supply, and when a supply takes place in the course of inter-State trade or commerce.

Levy & collection of GST in the course of inter-State trade or commerce – Article 269A

- The amount apportioned to a State from the tax collected on supplies in the course of inter-state trade or commerce
- Where an amount collected as tax levied in the course of inter-state trade or commerce has been used for payment of the tax levied by a State under article 246A. In other words, where IGST is used for payment of SGST.
- Where an amount collected as tax levied by a State under article 246A has been used for payment of the tax levied under clause inter-state trade or commerce. When SGST is used for payment of IGST.

These clauses will ensure that no separate appropriation will be required from the Parliament to disburse money to the states.

Amendments to List I

Entry	Prior to Amendment	Amendment
Entry 84	<p>Duties of excise on tobacco and other goods manufactured or produced in India except:</p> <ul style="list-style-type: none">(a) alcoholic liquor for human consumption;(b) opium, Indian hemp and other narcotic drugs and narcotics, but including medicinal and toilet preparations containing alcohol or any substance included in sub paragraph(b) of this entry	<p>Duties of excise on the following goods manufactured or produced in India, namely:</p> <ul style="list-style-type: none">(a) petroleum crude;(b) high speed diesel;(c) motor spirit (commonly known as petrol);(d) natural gas;(e) aviation turbine fuel; and(f) tobacco and tobacco products."

Amendments to List I Cont...

Entry	Provisions Prior to Amendment	Amendment
Entry 92	Taxes on sale or purchase of newspaper and advertisements published therein	Omitted
Entry 92C	Taxes on services	Omitted
Entry 92A	Taxes on the sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce.	No Change
Entry 92B	Taxes on the consignments of goods (whether the consignment is to the person making it or to any other person), where such consignment takes place in the course of inter-State trade or commerce.	No Change

Amendments to List II

Entry	Provisions prior to Amendment	Amendment
Entry 52	Taxes on the entry of goods into a local area for consumption, use or sale therein. (Octroi / Entry Tax)	Omitted
Entry 55	Taxes on advertisements other than advertisements published in the newspapers [and advertisements broadcast by radio or television].	Omitted

Amendments to List II contd

Entry	Provisions prior to Amendment	Amendment
Entry 54	Taxes on the sale or purchase of goods other than newspapers, subject to the provisions of entry 92A of List I.	Taxes on the sale of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, aviation turbine fuel and alcoholic liquor for human consumption, but not including sale in the course of inter- State trade or commerce or sale in the course of international trade or commerce of such goods
Entry 62	Taxes on luxuries, including taxes on entertainments, amusements, betting and gambling.	Taxes on entertainments and amusements to the extent levied and collected by a Panchayat or a Municipality or a Regional Council or a District Council.

GST Council – Article 279A

- Article 279A provides for constituting a Council called the Goods and Services Tax Council within 60 days from date of commencement of 101st Constitution Amendment Act, 2016.
- Members are as follows :-
 - (a) the Union Finance Minister as Chairperson;
 - (b) the Union Minister of State in charge of Revenue or Finance;
 - (c) the Minister in charge of Finance or Taxation or any other Minister nominated by each State Government.
 - (d) Vice Chairperson to be chosen among the members.

GST Council Meetings

Quorum:

One-half of the total number of Members of the Goods and Services Tax Council.

All decisions by a majority of not less than **three-fourths of the weighted votes** of the members present and voting

Weightage of votes:

Central Government – 1/3rd of the total votes cast, and
State Governments – 2/3rd of the total votes cast.

Other important roles of GST Council:

The GST Council to be guided by the need for a harmonised structure of goods and services tax and for the development of a harmonised national market for goods and services.

GST Council to devise mechanisms to adjudicate disputes arising between the Centre and States.

Other Important Clauses

Parliament shall on the recommendation of the GST Council, provide for compensation to the States for loss of revenue arising on account of implementation of the GST for a period of five years.

Any law relating to tax on goods or services in force in any State before the commencement of 101st Constitutional Amendment Act shall continue to be in force until amended or repealed by a competent Legislature or until expiration of one year from such commencement, whichever is earlier.

GST - Levy and Collection of Tax

N Sai Kishore, JC (ST)

Dt 08-11-2019

Essential Components of Taxation

1. Character of the imposition - Taxable event attracting the Levy
 2. Clear indication of the person on whom levy is imposed and obliged to pay tax – Taxable person
 3. Rate at which the tax is imposed – Rate of tax
 4. Measure or value to which the rate is applied for computing the tax liability – Transaction Value
- (Govind Saran Ganga Saran vs. Commissioner of Sales tax – 1985 AIR 1041 – SC)

Essential Components of Taxation

- Clearly and definitely ascertainable
- Any uncertainty or vagueness in the legislative scheme is fatal to its validity
- Relied on this case law in catena of cases

(Govind Saran Ganga Saran vs. Commissioner of Sales tax – 1985 AIR 1041 – SC)

Charging Section

Sec. 9 of CGST/SGST & Sec. 5 of IGST – Levy and collection

- Section 9(1) – There shall be levied a tax called (CGST/SGST/IGST) on all intra-state/inter-state
 - **Supplies of goods or services or both** (except on liquor for human consumption)
 - on the **value** determined under section 15
 - and at such **rates** (not exceeding 20%/40%)
 - shall be paid by **taxable person**

Section 9 of CGST/SGST Act

- Sec. 9(1) – Levy of GST subject to Sec. 9(2) – forward charge
- Sec. 9(2) – Deferring levy of GST on 5 petroleum goods
- Sec. 9(3) – Specific reverse charge
- Sec. 9(4) – General reverse charge
- Sec. 9(5) – Deemed charge on ECO

Scope of Supply

Sec. 7(1)	What is supply	(a) Definition of supply (b) Import of services (c) Schedule – I (without consideration)
Sec. 7(1A) (old Sec. 7(1)(d))	Schedule – II – Classification of certain supplies as supplies of goods or supplies of services	
Sec. 7(2)	What is not SUPPLY	(a) Schedule – III – List of “No supplies” (b) Notified government transactions
Sec. 7(3)	Power to notify transactions as either supply of goods or supply of services or otherwise	

What is supply?

For the purposes of this Act, the expression “supply” includes (Sec. 7(1)(a))

- all forms of supply of goods or services or both
- Such as sale, transfer, barter, exchange, licence, lease, rental or disposal
- made or agreed to be made
- for a consideration
- by a person
- in the course or furtherance of business

(“includes” – enlarges the meaning of words or phrases occurring in the body of the statute; illustrative and not exhaustive; includes those things which the interpretation clause declares)

Elements of Supply – S7(1)(a)

- All forms of supply of goods or services or both
 - Goods (Sec. 2(52)) :
 - Every kind of moveable property (M/s Solid and correct engineering works (2010 SC – CA No. 960 of 2003))
 - Moveable property attached to earth permanently is **immovable** otherwise moveable
 - CCE vs Kone elevators – Lift is immovable property
 - Other than money and securities but includes actionable claim (unsecured debt, lottery ticket, betting and gambling)
 - Clarified that PSLCs are goods and liable to 12% GST

Elements of Supply – S7(1)(a)

- All forms of supply of goods or services or both
 - Services (Sec. 2(102)) :
 - Anything other than goods, money and securities but includes activities relating to use of money or its conversion
 - An explanation was inserted vide Act No. 31 of 2018 clarifying that “services” includes facilitating or arranging transactions in securities

Elements of Supply – S7(1)(a)

- Eight (8) forms of supply
 - Sale – sale of goods act
 - Transfer – alienate, to pass over , relinquishment of a right
 - Barter – thing given in “in return of “ another
 - Exchange - mutual transfer of ownership of one thing for the ownership of another
 - Licence – right to do something upon the property of the grantor, in the absence of such right it would be unlawful
 - Rental – payment of money on renting of property
 - Lease – granting possession and use of an asset for a specific period for a price
 - Disposal – forfeit or pass over, extinguishment of control over

Elements of Supply – S7(1)(a)

- Consideration – Sec. 2(31)
 - Payment made or to be made in money or otherwise
 - In respect of, in response to, or for the inducement of
 - The supply of goods or services or both
 - By the recipient or by any other person
- Person – Sec. 2(84)
 - Includes natural person and judicial person
 - Taxable person – Sec. 2(107)
 - Registered person – Sec. 2(94) (but not UIN)
 - Distinct person – Sec. 25(4)
 - CTP – Sec. 2(20) – No fixed place of business
 - NRTP – Sec. 2(77) – No fixed place of business in India

Elements of Supply – S7(1)(a)

- Business – Sec. 2(17)
 - General – trade, commerce, manufacture etc
 - incidental or ancillary to general
 - Specific
 - commencement or closure of business
 - Club, association, society etc
 - Admission to any premises
 - Holder of an office
 - Services provided by race club
 - Government as public authorities
 - In the course or furtherance of business

Import of service – S.7(1)(b)

- Import of services for a consideration whether or not in the course or furtherance of business
- Inter-state supply liable to IGST
- Exception – Entry 4 of schedule-I : from a related person without transaction
 - Supplier not in India
 - Renders service to customers in India
 - Recipient shall pay GST on RCM
- Import of Goods also liable to IGST under customs tariff Act, 1975

Schedule – I :S.7(1)(c)

- Transactions listed in schedule – I i.e., without consideration are treated as supply
- Entry No.1 : Transfer or disposal of business assets
- Entry No.2 : Transactions between related party or distinct person
- Entry No.3 : Transaction between Principal and Agent
- Entry No.4 : Import of Service in the course of business from a related person

Schedule – I :S.7(1)(c)

- Circular No.16/16/2017
 - GST liability on Intra-state transfer of Air craft engines
- Circular No.57/31/2018
 - GST liability on transactions between principal and agent
- Circular No.73/47/2018
 - In the contest of del-credere agent (DCA)
- Concept of related person
 - Explanation (a) to Sec. 15 of GST Act
 - Listed 7 types of situations

Activities to be treated as supply of goods or supply of services

- Section 7(1A) – List of transactions in schedule – II
 1. Transfer
 2. Land and Building
 3. Treatment or process
 4. Transfer business assets
 5. Supply of services
 - Renting of immovable property
 - Construction of a complex etc – issuance of completion certificate
 6. Composite supply
 - Works contract
 - Restaurant or catering
 7. Supply of goods by any body of persons to a member thereof

Non taxable supply

- Section 7(2)(a) – schedule – III - Transactions – neither supply of goods nor supply of services
 - Employee to the employer the course of employment - Salary or wages
 - Court or tribunal - Court fee
 - Services provided through constitutional posts
 - Services after death
 - Sale of Land and building
 - Actionable claims other than lottery, betting and gambling
 - Supply before the goods enter into customs area

Non taxable supply

- Section 7(2)(b)
 - Notified transactions undertaken by the Central Government , State Government or any local authority in which they are engaged as public authorities.
 - NN. 14/2017 – Services by way of any activity in relation to a function entrusted to a Panchayat under article 243G
 - NN.25/2019 –CTR- Service by way of grant of alcoholic liquor licence, against consideration in the form of licence fee or application fee or by whatever name it is called by state governments

Tax liability on composite and mixed supplies

- Section 8
 - (a) composite supply – two or more supplies – one of which is a principal supply – treated as principal supply
 - (b) mixed supply – two or more supplies – treated as that particular supply which attracts higher rate of tax
- Section 2(30) – composite supply
 - Two or more taxable supplies of goods or services or both
 - Naturally bundled
 - Supplied in conjunction with each other
 - In ordinary course of business
 - Not depends on a price charged
 - Principal supply – Sec.2(90) – Other supply forming part of that composite supply is ancillary

Composite supply

- Definition of taxable supply – S2(108)
- In case of combination of taxable and mixed supply
- Circular No.34/08/2018 dated : 01.03.2018 – other services related to transmission or distribution of electricity such as application fee, rental charges, testing charges are liable to tax
- Torrent Power Limited vs UOI – Gujarat HC held that circular is wholly unjustified.

Sl. No.	Rate Notification No. / Date	Subject
1	1/2017, Dt. 28-06-2017 (Sch.1)	5% rate goods
2	1/2017, Dt. 28-06-2017 (Sch.2)	12% rate goods
3	1/2017, Dt. 28-06-2017 (Sch.3)	18% rate goods
4	1/2017, Dt. 28-06-2017 (Sch.4)	28% rate goods
5	1/2017, Dt. 28-06-2017 (Sch.5)	3% rate goods
6	1/2017, Dt. 28-06-2017 (Sch.6)	0.25% rate goods
7	2/2017, Dt. 28-06-2017	Exempted goods

Sl. No.	Rate Notification No. / Date	Subject
8	Concessional rate on goods	
	3/2017, Dt. 28-06-2017	5% concessional GST rate for supplies to Exploration and Production notified under section 11 (1) - [Section 11(1)]
	39/2017, Dt. 18-10-2017	Seeks to reduce GST rate on Food preparations put up in unit containers and intended for free distribution to economically weaker sections of the society under a programme duly approved by the Central Government or any State Government. - [Section 9(1)]
	45/2017, Dt. 14-11-2017	Seeks to provide concessional GST rate of 5% on scientific and technical equipments supplied to public funded research institutions. - [Section 11(1)]

Sl. No.	Rate Notification No. / Date	Subject
	8/2018, Dt. 25-01-2018	Seeks to amend Rate of tax on old/used motor vehicles in Schedule IV of Notf 1/2017 - [Section 9(1)]
	21/2018, Dt. 26-07-2018 w.e.f. 27-07-2018	Prescribe concessional GST rate on specified handicraft items - [Section 11(1)]
	26/2018, Dt. 31-12-2018	Exempt GST on supply of gold by nominated agencies to registered persons. - [Section 11(1)]
	2/2019, Dt. 08-03-2019	To give composition scheme for supplier of services with a tax rate of 6% having annual turnover in preceding year upto Rs 50 lakhs. - [Section 9(1), 11(1) & 16(1)]

Sl. No.	Rate Notification No. / Date	Subject
9	4/2017, Dt. 28-06-2017	Goods liable for RCM U/S 9(3)
10	7/2019, Dt. 29-03-2019	RCM U/S 9(4)
11	5/2017, Dt. 28-06-2017	Refund U/S 54(3)
12	11/2017, Dt. 28-06-2017	Taxable Services
13	11/2017, Dt. 28-06-2017	Services Codes
14	12/2017, Dt. 28-06-2017	Exempt Services
15	13/2017, Dt. 28-06-2017	Services liable for RCM
16	17/2017, Dt. 28-06-2017	Services liable for RCM ECOMM
17	4/2018, Dt. 25-01-2018 6/2019, Dt. 29-03-2019	Real Estate

Sl. No.	Rate Notification No. / Date	Subject
18	Notification No. 1/2017 – Compensation Cess (Rate)	Compensation Cess - Goods
19	Notification No. 2/2017 – Compensation Cess (Rate)	Compensation Cess - Services
20	11/2019, Dt. 29-06-2019 25/2019, Dt. 30-09-2019	Miscellaneous Rate Notifications

Certain important circulars on Levy

- Circular Number :6/6/2017 Dt: 27.08.2017
 1. Classification of lottery shall be "any chapter" of the First Schedule to the Customs Tariff Act.
 2. Tax on lottery is 12% or 28% as the case may be.
- Circular Number :10/10/2017 Dt: 18.10.2017
 1. In case goods are moved without fructification of sale i.e., on approval basis.
 2. If supply is fructified i.e., recipient accepts, invoice shall be issued at that time.
 3. Goods shall be moved with delivery challan and e-way bill as the case may be.

- **Circular Number :11/11/2017 Dt: 20.10.2017**
 1. In case of printing of Books, Pamphlets, Brochures where the content is supplied by the Publisher/Owner and the physical inputs belong to the printer , supply of printing is the principal supply and hence is a supply of service.
 2. In case of supply of printed envelopes, letters,etc. printed with logo design etc. and where the physical inputs belong to the printer, predominant supply is goods and printing of the content is ancillary. hence such supply would constitute supply of goods

- **Circular Number :12/12/2017 Dt: 26.10.2017**
GST is payable by the refinery on the net quantity of superior kerosene oil (SKO) retained by the manufacturers for the manufacture of Linear Alkyl Benzene (LAB)
- **Circular Number :13/13/2017 Dt: 27.10.2017**
when the Fabric is cut from the bundles or thans in the unstitched state, such pieces of fabrics would continue to be classified under the respective heading as the Fabric and attract the 5% GST Rate.

- **Circular Number :16/16/2017 Dt: 15.11.2017**
 1. GST rate on loading, unloading, packing, storage or warehousing of agricultural produce is Nil. The above exemption is not available to the processed products such as Tea, jaggery pulses(dehusked or split).
 2. Services provided by Central Govt, State Govt and Union Territory under any insurance scheme are exempt from GST

- **Circular Number :19/19/2017 Dt: 20.11.2017**

Milling of paddy into rice on job work basis is liable to GST @ 5% on the processing charges.

- **Circular Number :20/20/2017 Dt: 22.11.2017**

GST rate on Terracotta idols is Nil as Terracotta is clay based.

- **Circular Number :21/21/2017 Dt: 22.11.2017**

Inter-state movement of rigs, tools and spares ,and all goods on wheels 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

- **Circular Number :22/22/2017 Dt: 21.12.2017**

- 1.The art work for supply on approval basis can be moved from the place of business to another place within the state or outside the state with delivery challan and e-waybill.
2. invoice shall be issued at the time of actual supply of art work.
- 3.in case of supply by artists through galleries, as there is no Consideration to the artist when the art works are sent to the gallery for exhibition, the same is not a supply.

- **Circular Number :27/1/2018 Dt: 04.01.2018**

1. In case of accommodation services, the GST is payable on the actual amount charged but not on the declared tariff.
2. In case different tariff is declared at different places, highest of such different tariffs shall be the declared tariff for the purpose of levy of GST.
3. The rate of GST on entry to casinos and gambling is 28%. the tax is applicable on the transaction value of betting, i.e. the total bet value.

- **Circular Number :28/02/2018 Dt: 08.01.2018**

supply of food or drink provided by a mess or canteen is taxable at 5% without Input Tax Credit(provided by educational institute or outsourced to an outside contractor) (Subsequently changed)
- **Circular Number : 29/3/2018 Dt: 05.01.2018**

GST is payable by the refinery on the net quantity of Polybutylene and LPG retained by the manufacturers for the manufacture of Poly Iso Butylene and Propylene or Di-butyl para Cresol

- **Circular Number :32/6/2018 Dt: 12.02.2018**
 1. GST is not leviable on the fee paid by litigants in the Consumer Disputes Redressal Commission.
 2. Elephant /Camel joy rides cannot be classified as transportation services. These services attract GST @ 18% with threshold exemption being available to small service providers.
 3. Health care services provided by a clinical establishment, an authorised medical practitioner are exempt.
- **Circular Number :34/8/2018 Dt: 01.03.2018**
 1. GST @ 18% is leviable on trading of PSLCs (Priority Sector Lending Certificates)
 2. 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).

- **Circular Number :46/20/2018 Dt: 06.06.2018**

In modification of Circular No. 34/8/2018-GST, it is clarified that Renewable Energy Certificates(RECs) and Priority Sector Lending Certificates(PSLCs) are classified under heading 4907 and attract 12% GST.

- **Circular Number :50/24/2018 Dt: 31.07.2018**

If the catering service is one of the services provided by the educational institute to its students and covered by notification no.12/2017 -ct (rate), then the same is exempt

- **Circular Number :51/25/2018 Dt: 31.07.2018**

Services provided by the Private Service providers(PSPs) to the State Govt by way of transportation of patients on behalf of the State Governments against consideration in the form of fee or otherwise charged from the State Govt, the same would be exempt under Sl.No. 3 and 3A of Notification no.12/2017-CT (Rate)Dt.28.06.2017

- **Circular Number :53/27/2018 Dt: 09.08.2018**

GST is payable by refinery only on the net quantity of petroleum gases retained by their recipient manufacturer for the manufacture of petrochemical and chemical products.

- **Circular Number :54/28/2018 Dt: 09.08.2018**

Fertilizers supplied for direct use as fertilizers, or supplied for use in the manufacturing of other complex fertilizers for agricultural use will attract 5% GST

- **Circular Number :55/29/2018 Dt: 10.08.2018**

1. Services provided by a private ITI (Industrial Training Institute) in respect of other than designated trades would be liable to pay GST.
2. In case of other than designated courses, GST is also payable on the service of conduct of examination against consideration in the form of entrance fee and admission fee.

- **Circular Number :81/55/2018 Dt: 31.12.2018**

The term "sprinklers" in entry 195B covers sprinkler irrigation system. Accordingly, sprinkler system consisting of nozzles, lateral and other components attract 12% GST rate.

- **Circular Number :83/2/2019 Dt: 01.01.2019**

services provided by Asian Development Bank(ADB), and International Finance Corporation are exempt from GST but not to any entity appointed by or working on behalf of ADB or IFC.

- **Circular Number :84/3/2019 Dt: 01.01.2019**

Service of “printing of pictures” falls under service code “998386: Photographic and video graphic processing services” and not under 998912: Printing and reproduction services of recorded media, on a fee or contract basis and hence attracts 18% GST.

- **Circular Number :86/5/2019 Dt: 01.01.2019**

The banking company is liable to pay GST on entire value of service charge or fee to customers whether or not received from Business Facilitator or Business Correspondent.

New Return Formats under GST

N. Sai Kishore JC (ST)

Date: 08.11.2019

Introduction

- Provisions on Returns for Normal RP:
 - Chapter IX of GST Act & Chapter VIII of GST Rules
 - Section 37 & 38 and Rule 59 & 60 : Furnishing of details of outward/ inward supplies – GSTR1/ GSTR2
 - Section 39 & Rule 61: Furnishing of Returns – GSTR3B
 - Section 42 & 43 and Rules 69 to 79 : Matching, reversal and reclaim of ITC and reduction in output tax liability
 - **Section 43A: Procedure for furnishing return and availing ITC (inserted by Act No. 31 of 2018 – yet to be notified) (to facilitate new returns)**

Introduction

- Provisions contd...
 - Rule 61(5): Furnishing of return in Form GSTR-3B (NN.17/2017)
 - GSTR-3B is a return u/s 39(1) – NN.49/2019 w.e.f 01-07-2017
 - To overcome Gujarat High Court Judgment in case of AAP India – Held that GSTR-3B is not a return.
 - GSTR2 and GSTR3 are deferred
 - GSTR1 & GSTR 3B are in vogue

New Returns?

- Law provides for matching, reversal and reclaim of ITC – Sec. 42 & Rules 69 to 71
- Unless Supplier discharges liability recipient is not entitled for ITC – Sec 16(3)(c)
- Envisaged system of GSTR-1,2&3 not in place
- Without technological support matching is not possible
- Wide spread ITC frauds and non compliance

Changes in GST Return Landscape

- Current Returns - GSTR-1, GSTR-2A (Auto-populated, for view only) & GSTR-3B
- Future Return Landscape for various taxpayers – **one Return**
 - GST RET-1 (Normal) (monthly/quarterly)
 - GST RET-2 (Sahaj)
 - GST RET- 3 (Sugam)
- Only GST ANX-1 need to be uploaded (i.e. preparation is offline & upload is online)
 - GST ANX-2 is **auto-populated** (Action to be taken)
 - followed by GST RET-1/2/3 filing
- Staggered filing (**different** filing dates):
 - **20th** for **Monthly** filers &
 - **25th** for **Quarterly** filers

Proposed New Return System

- Taxpayers to choose between:
 - **FORM GST RET-1** (Normal/Monthly) – taxpayers with turnover over Rs 5 Cr.
 - **FORM GST RET-1** (Normal/Qtrly) – taxpayers with turnover up to Rs 5 Cr.
 - **FORM GST RET-2** (Sahaj/Qtrly) - taxpayers with turnover up to Rs 5 Cr making B2C supplies & receiving supplies on RCM
 - **FORM GST RET-3** (Sugam/Qtrly) - taxpayers with turnover up to Rs 5 Cr making B2C, B2B supplies & receiving supplies on RCM

Monthly / Quarterly (Normal) Return

FORM GST ANX-2

[See rule ----]

Details of auto- drafted inward supplies (FORM GST ANX-1, FORM GSTR-5 & FORM GSTR-6)

Financial Year				
Tax period	From – To --			

1.	GSTIN	
2.	(a)	Legal name of the registered person <Auto>
	(b)	Trade name, if any <Auto>
	(c)	ARN <Auto (after filing)>
	(d)	Date of filing <Auto (after filing)>

3. Inward supplies received from a registered person (other than the supplies attracting reverse charge), imports and supplies received from SEZ units / developers on Bill of Entry

(Amount in ₹ for all tables)

GSTIN of Supplier, if applicable	Trade Name	Table of FORM GST ANX-1 (3B, 3E, 3F and 3G)	Place of supply (Name of State/UT)	Document details						HS N code	Tax rate (%)	Taxable value	Amount of tax				Acti on** (A/R /P)
				Type	No.	Date	Value	Date of uploa ding	Return status* (F/NF)				Integr ated tax	Centr al tax	State/ UT tax	Cess	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
3A. Supplies received from registered persons including services received from SEZ units (other than those attracting reverse charge)																	
3B. Import of goods from SEZ units / developers on Bill of Entry																	
3C. Import of goods from overseas on Bill of Entry																	

* 'F' stands for return filed and 'NF' stands for return not filed.

** 'A' stands for Accepted, 'R' stands for rejected and 'P' stands for pending.

FORM GST RET-1

[See rule ----]

Monthly / Quarterly (Normal) Return

Financial Year			
Tax period	From --- To --		

1.	GSTIN															
2.	(a)	Legal name of the registered person	<Auto>													
	(b)	Trade name, if any	<Auto>													
	(c)	ARN	<Auto (after filing)>													
	(d)	Date of ARN	<Auto (after filing)>													

3. Summary of outward supplies, inward supplies attracting reverse charge, debit / credit notes, etc. and tax liability (Amount in ₹ for all tables)

Sr. No.	Type of supply	Value	Tax amount			
			Integrated tax	Central tax	State/ UT tax	Cess
1	2	3	4	5	6	7
A. Details of outward supplies						
1.	Taxable supplies made to consumers and unregistered persons (B2C) [table 3A of FORM GST ANX-1]	<Auto>				
2.	Taxable supplies made to registered persons (other than those attracting reverse charge) (B2B) [table 3B of FORM GST ANX-1]	<Auto>				
3.	Exports with payment of tax [table 3C of FORM GST ANX-1]	<Auto>				
4.	Exports without payment of tax [table 3D of FORM GST ANX-1]	<Auto>				
5.	Supplies to SEZ units/developers with payment of tax [table 3E of FORM GST ANX-1]	<Auto>				
6.	Supplies to SEZ units / developers without payment of tax [table 3F of FORM GST ANX-1]	<Auto>				
7.	Deemed exports [table 3G of FORM GST ANX-1]	<Auto>				
8.	Liabilities relating to the period prior to the	<User input>				

Sr. No.	Type of supply	Value	Tax amount			
			Integrated tax	Central tax	State/ UT tax	Cess
1	2	3	4	5	6	7
	introduction of current return filing system and any other liability to be paid					
9.	Sub-total (A) [sum of 1 to 8]	<Auto>				
B. Details of inward supplies attracting reverse charge						
1.	Inward supplies attracting reverse charge (net of debit / credit notes and advances paid, if any) [table 3H of FORM GST ANX-1]	<Auto>				
2.	Import of services (net of debit / credit notes and advances paid, if any) [table 3I of FORM GST ANX-1]	<Auto>				
3.	Sub-total (B) [sum of 1 & 2]	<Auto>				
C. Details of debit / credit notes issued, advances received / adjusted and other reduction in liabilities						
1.	Debit notes issued (FORM GST ANX-1) (Other than those attracting reverse charge)	<Auto>				
2.	Credit notes issued (FORM GST ANX-1) (Other than those attracting reverse charge)	<Auto>				
3.	Advances received (net of refund vouchers and including adjustments on account of wrong reporting of advances earlier)	<User input>				
4.	Advances adjusted	<User input>				
5.	Reduction in output tax liability on account of transition from composition levy to normal levy, if any or any other reduction in liability	<User input>				
6.	Sub-total (C) [1-2+3-4-5]	<Auto>				
D. Details of supplies having no liability						
1.	Exempt and Nil rated supplies	<User input>				
2.	Non-GST supplies (including No Supply / Schedule III supplies)	<User input>				
3.	Outward supplies attracting reverse charge (net of debit/ credit notes)	<User input>				
4.	Supply of goods by a SEZ unit / developer to DTA on a Bill of Entry	<User input>				
5.	Sub-total (D) [sum of 1 to 4]	<Auto>				
E. Total value and tax liability (A+B+C+D)		<Auto>				

4. Summary of inward supplies for claiming input tax credit (ITC)

Sr. No.	Description	Value	Input Tax Credit (ITC)			
			Integrated tax	Central tax	State/ UT tax	Cess
1	2	3	4	5	6	7
A. Details of ITC based on auto-population from FORM GST ANX-1, action taken in FORM GST ANX-2 and other claims						

Sr. No.	Description	Value	Input Tax Credit (ITC)			
			Integrated tax	Central tax	State/ UT tax	Cess
1	2	3	4	5	6	7
1.	Credit on all documents which have been rejected in FORM GST ANX-2 (net of debit /credit notes)	<Auto>				
2.	Credit on all documents which have been kept pending in FORM GST ANX-2 (net of debit /credit notes)	<Auto>				
3.	Credit on all documents which have been accepted (including deemed accepted) in FORM GST ANX-2 (net of debit/credit notes)	<Auto>				
4.	Eligible credit (after 1 st July, 2017) not availed prior to the introduction of this return but admissible as per Law (transition to new return system)	<User Entry>				
5.	Inward supplies attracting reverse charge (net of debit/credit notes and advances paid, if any) [table 3H of FORM GST ANX-1]	<Auto>				
6.	Import of services (net of debit /credit notes and advances paid, if any and excluding services received from SEZ units) [table 3I of FORM GST ANX-1]	<Auto>				
7.	Import of goods [table 3J of FORM GST ANX-1]	<Auto>				
8.	Import of goods from SEZ units / developers [table 3K of FORM GST ANX-1]	<Auto >				
9.	ISD Credit (net of ISD credit notes) [table 5 of FORM GST ANX-2]	<Auto>				
10.	Provisional input tax credit on documents not uploaded by the suppliers [net of ineligible credit]	<User input>				
11.	Upward adjustment in input tax credit due to receipt of credit notes and all other adjustments and reclaims	<User input>				
12.	Sub-total (A) [sum of 3 to 11]	<Auto>				

B. Details of reversals of credit

1.	Credit on documents which have been accepted in previous returns but rejected in current tax period (net of debit/ credit notes)	<Auto>				
2.	Supplies not eligible for credit (including ISD credit) [out of net credit available in table 4A above]	<User input>				
3.	Reversal of credit in respect of supplies on which provisional credit has already been claimed in the previous tax periods	<User input>				

Sr. No.	Description	Value	Input Tax Credit (ITC)			
			Integrated tax	Central tax	State/ UT tax	Cess
1	2	3	4	5	6	7
	but documents have been uploaded by the supplier in the current tax period (net of ineligible credit)					
4.	Reversal of input tax credit as per law (Rule 37, 39, 42 & 43)	<User input>				
5.	Other reversals including downward adjustment of ITC on account of transition from composition levy to normal levy, If any	<User input>				
6.	Sub-total (B) [sum of 1 to 5]	<Auto>				
C. ITC available (net of reversals) (A- B)		<Auto>				
D. ITC declared during first two months of the quarter (Only for quarterly return filers)						
1.	First month	<Auto>				
2.	Second month	<Auto>				
Sub-total (D) [sum of 1& 2]		<Auto>				
E. Net ITC available (C-D)		<Auto>				
Input tax credit on capital goods (out of C)		<User input>				
Input tax credit on services (out of C)		<User input>				

5. Amount of TDS and TCS credit received in electronic cash ledger

Sr. No.	Type of tax	Integrated tax	Central tax	State /UT tax
1	2	3	4	5
1.	TDS			
2.	TCS			
3.	Total			

6. Interest and late fee liability details

Sr. No.	Description	Interest				Late fee	
		Integrated tax	Central tax	State/ UT tax	Cess	Central tax	State/ UT tax
1	2	3	4	5	6	7	8
1.	Interest and late fee due to late filing of return (including late reporting of invoices of previous tax periods, rejection of accepted documents by the recipient) (to be computed by the system)						
2.	Interest on account of reversal of input tax credit (to be calculated by the taxpayer)						

3.	Interest on account of late reporting of supplies attracting reverse charge (to be calculated by the taxpayer)						
4.	Other interest liability (to be specified) (to be calculated by the taxpayer)						
5.	Total						

7. Payment of tax

Sr. No.	Description	Tax payable		Tax already paid, if any (Only for quarterly filers)		Adjustment of negative liability of previous tax period		Paid through IT				Paid in cash		
		Reverse charge	Other than reverse charge	Reverse charge	Other than reverse charge	Reverse charge	Other than reverse charge	Integrated tax	Central tax	State /UT tax	Cesses	Tax/Cess	Interest	Late Fee
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
1.	Integrated tax													
2.	Central tax													
3.	State/UT tax													
4.	Cess													
5.	Total													

8. Refund claimed from electronic cash ledger

Sr. No.	Description	Tax	Interest	Penalty	Fee	Other	Total
1	2	3	4	5	6	7	8
1.	Integrated tax						
2.	Central tax						
3.	State/UT tax						
4.	Cess						
	Total						

9. Verification

I hereby solemnly affirm and declare that the information given herein above, in FORM GST ANX-1 and FORM GST ANX-2 is true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.

SAHAJ

SUGAM

Return Filing Frequency

NAME	FORM	QUARTERLY *	MONTHLY
NORMAL	GST RET-1	YES	YES
SAHAJ	GST RET-2	YES	—
SUGAM	GST RET-3	YES	—

* If aggregate turnover is upto Rs 5Cr, PAN wise

Supplies and Return Type

TRANSACTION/ACTIVITY	SAHAJ	SUGAM	NORMAL
B2C Outward Supply	YES	YES	YES
Inward Supplies Attracting Reverse Charge	YES	YES	YES
Nil rated, exempted or Non-GST supplies (<u>To be Declared in RET-1 only</u>)	YES (in annual return)	YES (in annual return)	YES
B2B Outward Supply	X	YES	YES
Supplies Through E-commerce Operators On Which TCS Is Required	X	X	YES
Taking Credit On Missing Invoices (<u>provisional credit through RET- 1</u>)	X	X	YES
All Other Types Of Inward or Outward Supplies	X	X	YES

Change in Periodicity of Return filing

- Change in periodicity of return filing can be opted for, **only once**, before filing the **first return of the year** by a taxpayer.
- The periodicity will remain **unchanged** during the **next** financial year **unless** changed **before filing** the first return of **that** year.
- The taxpayers, **opting** to file **quarterly return** can **choose** to file **any** of the quarterly return namely – Sahaj, Sugam or Quarterly (Normal).

Change in Quarterly Periodicity of Return

At the **beginning** of any quarter-

- Taxpayers filing return as **Quarterly (Normal)** can **switch over** to Sugam or Sahaj return **only once** in a financial year.
- Taxpayers filing return as **Sugam** can **switch over** to Sahaj return **only once** in a financial year.
- Taxpayers filing return as **Sahaj** can switch over to **Sugam or Quarterly (Normal)** return **more than once** in a financial year at the **beginning** of any **quarter**.
- Taxpayers filing return as **Sugam** can **switch over** to Quarterly (Normal) return **more than once** in a financial year at the **beginning** of any **quarter**.

GST ANX 1 & ANX 2

Taxpayers are required to:

- Prepare & Upload **Annexure of Supplies (GST ANX-1)** for their tax liabilities; and
- Take action on **Annexure of Inward Supplies (GST ANX-2)**.
 - GST ANX-2 contains details of **inward** supplies **auto-populated** from the suppliers' GST ANX-1, Form GSTR-5 and Form GSTR-6.
 - Actions include **accepting/ rejecting/ keep documents pending**.

Details in GST ANX 1

Supplies made to unregistered persons and consumers

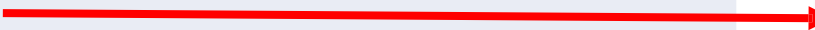
Supplies made to registered persons  **Recipient GSTIN available**

Exports (with payment of tax)

Exports (without payment of tax)

Supplies to SEZ developer/unit (with payment of tax)  **Recipient**

Supplies to SEZ developer/unit (without payment of tax)  **GSTIN**


Deemed Exports  **available**

Inward Supplies attracting Reverse Charge

Import of Services

Import of Goods

Import of Goods from SEZ on Bill of Entry

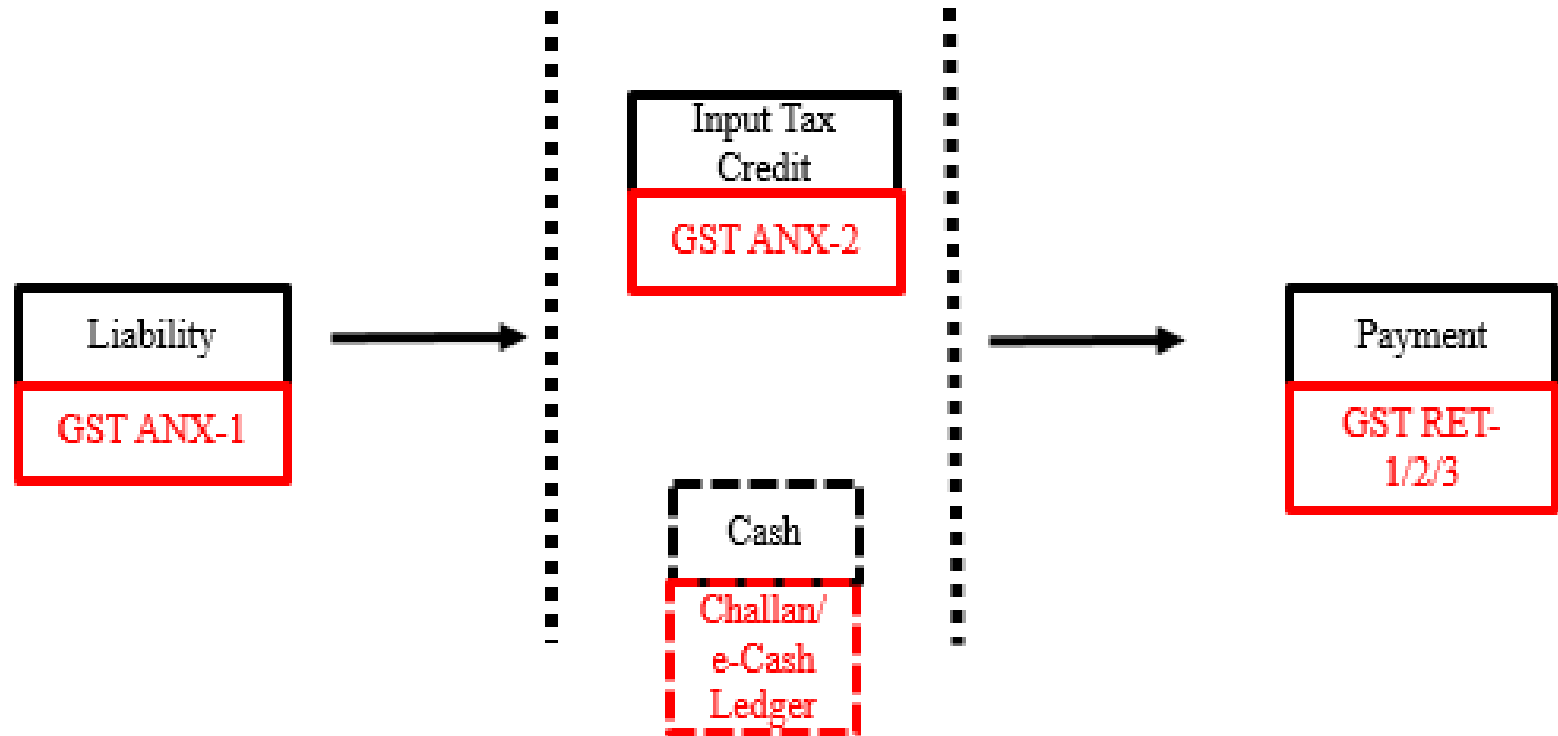
Credit availed on documents not uploaded by Supplier/Seller 

for Reporting only

Details in GST ANX 2

<p>Documents auto-populated from suppliers' GST ANX-1, Form GSTR 5 & 6</p>	
<p>Import of Goods on Bill of Entry <i>(later on after Integration with ICEGATE system)</i></p>	<p>Accept or Reject or Pending</p>
<p>Import of Goods (from SEZ units/developers) on Bill of Entry <i>(later on after Integration with ICEGATE system)</i></p>	

Changes in GST Return Landscape



Liability

- Auto-population of liabilities from **GST ANX-1**
 - Uploading can be done **throughout** the month
 - Documents uploaded in GST ANX 1, till date of filing
 - ITC entitlement to recipient's GST ANX-2 - would **stop** if **two consecutive returns** are **NOT** filed in case of monthly filer and **one** return in case of **quarterly** filer.
- Auto-population of ITC by action (of A/R/P) in **GST ANX-2**
 - Documents **auto-populated till 10th of next month**
 - Deemed action is **acceptance** of Invoices
- Payment of liability using ITC & Cash in **GST RET-1/2/3**
 - Claiming ITC and Payment (on **self assessment**) by *quarterly* filers in first two month of the quarter is through **GST PMT-08**

Features of New Return on GST Portal


- Auto-population of key details in returns
- HSN is captured at Invoice level
- Unidirectional flow of Invoices- Supplier only can edit Document details
- Consolidated Credit/Debit Notes
- Credit/Debit Notes are treated as independent 'documents' for the purpose of uploading
- Facility to file NIL return through SMS will be available
- No separate filing of GST ANX-1 & GST ANX-2. They are **deemed** to be filed on filing of GST RET-1/2/3

Difference between GSTR-1 and GST ANX-1

- Consolidated reporting of B2C transactions (net of Credit/Debit Notes)
 - No separate reporting of B2CS and B2CL transactions
- HSN is captured at Invoice level for B2B transactions.
 - Better sectoral analysis possible.
 - In GSTR-1, HSN reported on consolidated basis in Table-12
- Consolidated reporting of Credit/Debit Notes
 - In GSTR-1, individual correlation of Credit/Debit Notes with the Invoice(s)
- Capturing Place of Supply at document level
 - ensuring smooth Settlement of IGST

New Return Offline Tool Trial

GST Portal – Instructions on Trial Version

 **Goods and Services Tax** Login

Home Services ▾ GST Law Downloads ▾ Search Taxpayer ▾ Help ▾ New Returns (Trial) ▾



News | Updates | Events

- 02/07/2019
2 Years of GST Implementation
- 29/06/2019
Issues reported in filing Form GSTR 9C by the taxpayers:
Steps to be taken

Popular help topics

- How do I import details from E-Way Bill System to Form GSTR1?
- How do I file intimation about voluntary payment?
- How can I use the Returns Offline tool?
- How to file an appeal?

GST Portal – Proposed Return Documents

Skip to Main Content A* A-



Goods and Services Tax

Login

Home

Services ▾

GST Law

Downloads ▾

Search Taxpayer ▾

Help ▾

e-Way Bill System

New Return (Trial) ▾

Offline Tools

Proposed Return documents

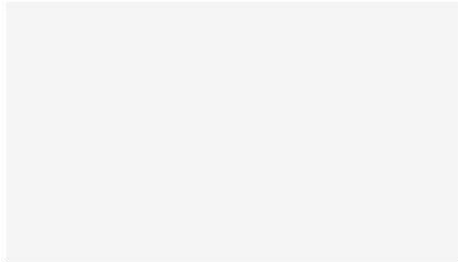
New GST Return - Normal

New GST Return - Sahaj

New GST Return - Sugam



News | Updates | Events



Popular help topics

- How do I import details from E-Way Bill System to Form GSTR1?
- How do I file intimation about voluntary payment?
- How can I use the Returns Offline tool?
- How to file an appeal?
- How do I apply for refund?
- How do I register with GST?

GST on Youtube

Taxpayers (Normal/TDS/TCS)

Register Now

Find a GST Practitioner

GST Practitioners

Important dates

GSTR-3B(May, 2019)	Jun 20th, 2019	CMP-08(Apr-Jun, 2019)	Jul 18th, 2019
GSTR-5(May, 2019)	Jun 20th, 2019	GSTR-5A(May, 2019)	Jun 20th, 2019
GSTR-6(May, 2019)	Jun 20th, 2019	GSTR-7(May, 2019)	Jun 20th, 2019

GST Portal – Download of Offline Tool (Trial)

The screenshot shows the GST Portal website in a browser window. The address bar displays <https://www.gst.gov.in/>. The page header includes the GST logo and the text "Goods and Services Tax". A navigation menu is visible with options: Home, Services, GST Law, Downloads, Search Taxpayer, Help, e-Way Bill System, and New Return (Trial). The "Downloads" menu is expanded, showing a list of offline tools:

- Offline Tools
- Proposed Return documents
- [New Return Offline Tool \(Beta\)](#)
- Tran-1 Offline Tools
- GSTR3B Offline Utility
- ITC03 Offline Tool
- GST ARA 01 - Application for Advance Ruling
- GSTR 6 Offline Tool With Amendments
- GSTR7 Offline Utility
- GSTR10 Offline Tool
- GSTR-9A Offline Tool
- Returns Offline Tool
- Tran-2 Offline Tools
- ITC01 Offline Tool
- ITC04 Offline Tool
- GSTR 4 Offline Tool
- GSTR 11 Offline Tool
- GSTR8 Offline Tool
- GSTR-9 Offline Tool
- GSTR-9C Offline Tool

At the bottom of the page, there are sections for "News | Updates | Events" and "Popular help topics". The "Popular help topics" section includes links for "How do I import details from E-Way Bill System to Form GSTR1?" and "How do I file intimation about voluntary payment?". The date "02/07/2019" is displayed. The browser's taskbar at the bottom shows various application icons and the system clock indicating 10:46 on 10-08-2019.

GST New Return Offline Tool (Trial)



i No profile added. Please create profile of a taxpayer by clicking on 'Manage profile' option.

Manage Profile

Add Profile

Modify Profile

GSTIN *:

Trade/Legal Name:

Return Type:

Financial Year *:

Tax Period *:

Proceed

Purpose of trial

- To **familiarize** stakeholders with tool's **functionalities**
- To get their **feedback/suggestions** to **improve** the tool further before its actual deployment.

New Return Offline Tool Contents

- **Trial/ Beta** version of the Tool has:
 - ANX-1 Workbook Template
 - Offline Application
 - HSN codes
 - Purchase Register Template
 - FAQs & UM
- Offline tool available on GST Portal under Download section.

Facilities available in Trial version

- **Preparation** of GST ANX-1 by **directly** filling data or by using **Excel/CSV template**
- **Creation of JSON File** of GST ANX-1 for **upload** on the Portal
- Opening the, **ANX-2 JSON downloaded** from the Portal, in the tool

Facilities available in Trial version (Contd..)

- **Importing Purchase Register** for **matching** with GST ANX-2 downloaded from the Portal.
- **Comparing GST ANX 2** with details in the **Purchase Register** using the Matching Tool.
- Take actions of Accept/Reject/Pending on documents of GST ANX-2.
- **Creating JSON file** of final GST ANX-2 and **uploading** the same on GST Portal.

Facilities NOT available in Trial Version

- Generation of **Error file** on import of excel/CSV file to prepare ANX-1
- Facility to **delete records** in ANX-1, uploaded earlier on Portal, using '**Mark for Delete**' in offline tool
- **Error file** on upload of ANX-2 JSON file on GST portal, though generated, can't be **opened** in the tool
- Flow of rejected documents from ANX-2 **uploaded by recipient to supplier**
- **HSN code validation** (except structure validation)
- **Online version** of ANX-1 and ANX-2

Liability during Trial Run of the Tool

- Data uploaded on GST Portal do **not** create any tax liability
- This data visible only to taxpayers and their respective buyers
- Taxpayers to **continue filing GSTR-1/ GSTR-3B** during this period
- Data of GST ANX-1/2 uploaded on the Portal to be **completely erased** after trial period is over

Providing Feedback on Offline Tool during Trial

- Give feedback on the Grievance Redressal Portal by clicking on <https://selfservice.gstsystem.in/>
 - Attach screenshots and other relevant material while giving feedback.
 - Suggest inclusion of any feature (with details) to make the Tool more useful for the end-users.
- **Feedback** will be used for **making changes/ enhancements** in the tool.

**Present
Vs
New Proposed
Returns**

Present Return vs. New Proposed Return

Present Return	New Return
Taxpayers are considered small, if turnover is upto Rs 1.5 crore in preceding FY - for the purpose of quarterly filing of GSTR-1	Taxpayers considered small, for filing Return on quarterly basis, if turnover is upto Rs 5 crore in the preceding FY
Formats of GSTR-1 & 3B (with many tables) are common to all taxpayers	Taxpayer will choose a return type based on his nature of business (with limited/relevant tables)
GSTR-3B(with many details) is used for declaring liability and payment of tax on monthly basis	For quarterly filers, a short & simple form PMT-08 will be used for payment for 1 & 2 month of the quarter.

Present Return vs. New Proposed Return

Present Return	New Return
GSTR-1 needs to be 'FILED' (with DSC/EVC)	Supply details in ANX-1 to be just 'uploaded' (No need of DSC/EVC)
Details auto-populated in GSTR-2A, but are available for 'VIEW ONLY'	ANX-2 gets auto-populated , details can be matched with purchase register & 'action' can be taken
Input tax credit is claimed on self-declaration basis through GSTR-3B	Only eligible Input tax credit can be claimed based on invoices uploaded by supplier and accepted by receiver ; Provisional credit can be taken on missing invoices for 02 Tax periods by monthly filers & 01 tax period by quarterly filers.

Present Return vs. New Proposed Return

Present Return	New Return
GSTIN-wise, invoice-wise details need to be given for B2C inter-state supplies > Rs. 2.5 Lakhs	For B2C supplies (irrespective of value), no need to give GSTIN-wise, invoice-wise details ; Only consolidated summary to be given based on PoS
I.r.o supplies to SEZ, no option to indicate the choice of claiming refund	The option of claiming refund in GST ANX-1 is available to the Suppliers making supplies to SEZ and also for supplies made by Deemed Exporters

Present Return vs. New Proposed Return

Present Return	New Return
Nil-rated/Exempt/Non-GST supplies are to be given in GSTR- 1 & GSTR-3B	Nil-rated/Exempt/Non-GST supplies to be given only in annual return for SAHAJ & SUGAM filers and in RET-1 by Monthly/Qty filers (consolidated entry)
Outward supplies attracting reverse charge – Invoice-wise details to be given in GSTR-1 by supplier	Outward supplies attracting reverse charge – only consolidated entry to be given in RETURN by supplier
No facility to indicate missing supply invoices in Return	Facility to give GSTIN-wise, invoice-wise details of supplies not uploaded by supplier

Using the Offline Tool

- **Download** the tool from 'Downloads' section of GST Portal.
- **Install** the tool on your machine
- **System specifications:**
 - *OS: Windows 7 or above. (does not work on Linux and Mac)*
 - *Browser: Google Chrome 7+ only*
 - *Microsoft Excel 2007 & above*
 - *200 MB of free disk space in your machine for the Tool*
- **Create a profile** in it by entering your GSTIN and other details.

*Note: **Multiple** profiles can be created in the tool so that one tool can be used for preparing and retaining data of multiple taxpayers.*

Using the Offline Tool

- **Prepare** outward and certain inward supplies (e.g. reverse charge) data in Form GST ANX-1,
 - **directly** by inputting data or
 - by **importing** the same from an Excel file or CSV, in the **template** provided with the Tool.
- **Log on** the GST portal using your **current** User ID and Password. **Go to Return** under **Services** and select '**New Return Trial**' tab.
- Select **period** and '**Upload/Download of JSON file**' option on the dashboard and **upload** the JSON file created by the Tool.

*Note: This data will **appear** in the Form GST ANX-2 of the respective **recipient** taxpayers.*

Using the Offline Tool

- As recipient taxpayer, **download ANX-2 auto-drafted** by GST System.
- **Open** the same in the Offline Tool to take actions of Accept, Reject or keep Pending.

*Note: In case, of **only few** number of documents (invoices/Credit Note/Debit Note etc.), take action of accept/reject etc. **without** running the matching tool. In case, of **more** invoices, you can **first import purchase register** in the **Offline Tool** and **then run the Matching Tool.***

Using the Offline Tool

- Matching Tool will show invoices/documents which are **exact match/ partial match/ probable match/ unmatched**.
- **After matching, take action** by clicking on Accept, Reject or Pending tabs against each row.
- In case of **partially matched or unmatched invoices/CN/DN**, data as per ANX-2 and that as per purchase register will be displayed in **02 consecutive rows**, with **different background** and document **not matching** in **red colour**.
- **After completing** the accept/reject/pending exercise **create JSON** file using the Offline Tool and then **upload** the same on GST Portal.
- Use the tool to enter data in various permutations/combinations from the **month of July, 2019 onwards** for testing the tool.

Help for the Tool

- Taxpayers can use User Manual and FAQ **downloaded** with the GST New Return Offline Tool, during the Trial Run.
- The taxpayers can also go through the detailed guidelines for using the tool as provided in the Help, on **top right corner** of each page of the tool.
- Computer Based Tutorial (CBTs) will be made available to taxpayers **soon** under the Help section of the GST Portal.

Process Flow of GST ANX-1

Details in Form GST ANX-1 that can be entered

- 3A- Supplies to unregistered persons/consumers (B2C)
- 3B- Supplies to registered persons (B2B)
- 3C & 3D- Exports with/without payment of tax (EXP)
- 3E & 3F- Supplies to SEZ with/without payment of tax (SEZ)
- 3G- Deemed exports (DE)
- 3H- Inward supplies attracting reverse charge (RCM)
- 3I- Import of goods (IMPG)
- 3J- Import of services (IMPS)
- 3K- Import of goods from SEZ units/developers (IMPG SEZ)
- 4- Supplies made through e-commerce operators

Process Flow for GST ANX-1 Offline Utility



Prepare Annexure in Form GSTANX-1 Offline Utility

Steps	Mode of Performing Steps
A. Download and Install "GST New Returns Offline Tool"	ON GST PORTAL
B. Open the "GST New Returns Offline Tool" to:	
I. Add Profile	OFF GST PORTAL
II. Modify Profile	OFF GST PORTAL
III. Opening the "Home" screen and Preparing GST ANX-1	OFF GST PORTAL
IV. Import Excel/ CSV File	OFF GST PORTAL
V. Prepare Table-wise Details	OFF GST PORTAL
VI. Generate GST ANX-1 JSON	OFF GST PORTAL
VII. Upload the generated JSON File on GST Portal	ON GST PORTAL
VIII. Download Error JSON File	ON GST PORTAL
IX. Open Error JSON File	OFF GST PORTAL
X. Download JSON File	ON GST PORTAL
XI. Open Downloaded JSON File	OFF GST PORTAL
C. Preview and Download FORM GST ANX-1	ON GST PORTAL

Process Flow

GST ANX-2

GST Portal Validation Errors

Offline

1. Download and Install the "GST New Returns Offline Tool"

2. Enter GSTIN, Financial Year and Tax Period

3. Open Downloaded Form GST ANX-2 JSON from GST Portal in Offline Tool

4. Take action on auto-populated details in Table 3A

5. Generate JSON File

Online

6. Upload Generated JSON on GST Portal

7. In case of records with error, download the error JSON file

Offline

8. Correct the error in Offline tool

9. Generate JSON File again

Online

10. Upload Generated JSON on GST Portal

11. Actions are populated against respective tables in GST Portal

12. Preview and Download Form GST FORM GST ANX-2

Prepare Annexure in Form GSTANX-2 Offline Utility

Steps	Mode of Performing Steps
A. Download and Install "GST New Returns Offline Tool"	ON GST PORTAL
B. Open the "GST New Returns Offline Tool" to:	
I. Add Profile	OFF GST PORTAL
II. Modify Profile	OFF GST PORTAL
III. Open the "Home" screen of the Offline Tool	OFF GST PORTAL
IV. Download JSON from GST Portal	ON GST PORTAL
V. Open Downloaded JSON File	OFF GST PORTAL
VI. Import and View Purchase Register	OFF GST PORTAL
VII. Match Purchase Register with the entries of GST ANX-2	OFF GST PORTAL
VIII. Take Actions in GST ANX-2	OFF GST PORTAL
IX. View Summary of GST ANX-2	OFF GST PORTAL
X. View Table 4 of GST ANX-2	OFF GST PORTAL
XI. View Draft Return	OFF GST PORTAL
XII. Generate JSON to Upload	OFF GST PORTAL
XIII. Open Error JSON File	OFF GST PORTAL
C. Upload JSON on GST Portal	ON GST PORTAL

Matching Tool

Matched Results Category

Categories of matching results	Matching Parameters
Exact match (All 7 parameters match)	<ol style="list-style-type: none">1. GSTIN2. Document type3. Document number4. Document date5. Total taxable value6. Total tax amount <Sum of IGST+CGST+SGST+CES7. Tax amount head wise
Partial match (6 out of 7 parameters match)	<p>Partial Match is where GSTIN and Document type match and there is mismatch in only one parameter among the following listed parameters in GST ANX-2 and PR:</p> <ol style="list-style-type: none">1. Document number2. Document date3. Total taxable value4. Total tax amount <Sum of IGST+CGST+SGST+CES5. Tax amount head wise

Matched Results Category

Categories of matching results	Matching Parameters
Probable match (6 out of 7 parameters match)	<p>Probable Match, if there is mismatch in one parameter among the parameters listed at Sr. no. 1 & 2. However, parameters 3 to 7 are matching in GST ANX-2 and PR:</p> <ol style="list-style-type: none">1. GSTIN2. Document type3. Document number4. Document date5. Total taxable value6. Total tax amount <Sum of IGST+CGST+SGST+CESS7. Tax amount head wise

Un-Matched Results Category

Categories of matching results	Matching Parameters
Unmatched	<p>A record is said to be Unmatched, with a score of 4/7 or 5/7, if the following parameters match:</p> <ul style="list-style-type: none">• GSTIN• Document type• Document number <Including approximation logic, if any>• Document date <p>BUT there is a mismatch on one or more of following parameters, beyond the tolerance limit set:</p> <ul style="list-style-type: none">• Total taxable value• Total tax amount <Sum of IGST+CGST+SGST+CESS• Tax amount head wise• Integrated tax• Central tax• State/UT tax• CESS

Un-Matched Results Category

Categories of matching results	Matching Parameters
In GST ANX-2 but not in PR	All documents that exist in GST ANX-2, but could not be found in PR, (i.e. not classified in any of the Categories of matching results above), will be classified in this category.
In PR but not in GST ANX-2	All documents that exist in PR, but could not be found in ANX-2, (i.e. not classified in any of the Categories of matching results above), will be classified in this category.

Refine Matching Result

- Click the **REFINE MATCHING RESULT** button, to further refine matching results for tax amount and/ or document number.
 - Tolerance limit in **monetary value (from INR 1 to INR 10)** can be set, for matching the tax amount. For example, if invoice value in your Purchase Register is INR 101 and the document uploaded by supplier is showing INR 100 and if tolerance limit is defined as > 1 , the documents will match 100%.
 - Similarly, select **Yes** to apply **approximation logic on document number**. In case, approximation logic is selected YES, the following will be ignored for match document numbers:
 - Special characters are not present ('/' or '-'); or
 - Prefix or suffix as 'zero'
- Click **APPLY & REMATCH** and results will be **matched again** based on the refined matching parameters. **APPLY & REMATCH** will show results of match with tolerance limits selected.

Matching Tool

(inward supplies)

REFINE MATCHING RESULT

Summary of GST ANX-2 (Annexure of inward supplies) and Purchase Register (PR)

Matching result	No. of documents		Total taxable value (₹)	Total tax amount (₹)
	GST ANX-2	Purchase register		
Exact match (All 7 parameters match) ⓘ	10	10	5,00,192.00	1,40,053.76
Partial match (6 out of 7 parameters match) ⓘ	1	1	50,017.00	14,004.76
Probable match (6 out of 7 parameters match) ⓘ	0	0	0.00	0.00
Mismatch (Few parameters not match or record not exist in ANX-2/PR) ⓘ	27	2	12,36,355.00	1,40,252.67
• Unmatched (2 or more parameters not match) ⓘ	1	1	5,50,088.00	38,183.74
• In GST ANX-2 not in PR ⓘ	26	0	6,36,242.00	88,062.21
• In PR not in GST ANX-2 ⓘ	0	1	50,025.00	14,006.72
TOTAL	38	13	17,86,564.00	2,94,311.19

Details of matching result

3A - (3B) - Supplies from registered persons (B2B) - (From table 3B of ANX-1)

Download 

Matching result	Match type	No. of documents	Taxable value (₹)	Total tax amount (₹)
	B1 Exact match	10	5,00,192.00	1,40,053.76

JUL_2019-20_10A....json ^

Show all

X

Matching Tool

Match	B1 Exact match	10	5,00,192.00	1,40,053.76
	B2 Partial match	1	50,017.00	14,004.76
	B3 Probable match	0	0.00	0.00
	Sub-total	11	5,50,209.00	1,54,058.52
Mismatch	B4(1) Unmatched	1	5,50,088.00	38,183.74
	B4(2) In GST ANX-2 not in PR	18	4,80,242.00	72,908.20
	B4(3) In PR not in GST ANX-2	1	50,025.00	14,006.72
	Sub-total	20	10,80,355.00	1,25,098.66
TOTAL		31	16,30,564.00	2,79,157.18

3A - (3G) - Deemed Exports (DE) - (From table 3G of ANX-1)

Matching result	Match type	No. of documents	Taxable value (₹)	Total tax amount (₹)
Match	B1 Exact match	0	0.00	0.00
	B2 Partial match	0	0.00	0.00
	B3 Probable match	0	0.00	0.00
	Sub-total	0	0.00	0.00
Mismatch	B4(1) Unmatched	0	0.00	0.00
	B4(2) In GST ANX-2 not in PR	8	1,56,000.00	15,154.00
	B4(3) In PR not in GST ANX-2	0	0.00	0.00
	Sub-total	8	1,56,000.00	15,154.00

Matching Tool

Matching result - Details

Select Table 3A - (3B) - Supplies from registered persons ▼

Matching Result Match ▼

Match Type B2(1) Partial match ▼

Search : Search

Records Per Page : 10 ▼

Select Columns To Display/Hide: +13 ▼

GSTIN: GST ANX-2 records GSTIN: Purchase Register(PR) records

GSTIN of supplier ▼	Document type ▼	Document number ▼	Document date ▼	Taxable value (₹) ▼	Total tax (₹) ▼	Integrated tax (₹) ▼	Central tax (₹) ▼	State/ UT tax (₹) ▼	Cess (₹) ▼	ITC entitlement ▼	Reason ▼	Action (Select All)			Action taken ▼
												<input type="radio"/> Accept	<input type="radio"/> Reject	<input type="radio"/> Pending	
20AACPP8620K1ZT	Invoice	INV-07/017	19/07/2019	50,017.00	14,004.76	14,004.76	0.00	0.00	0.00	No ▼	Taxable value mismatch	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
20AACPP8620K1ZT	Invoice	INV-07/017	19/07/2019	50,019.00	14,004.76	14,004.76	0.00	0.00	0.00			<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	

Taking Action in GST ANX-2

Taking Actions in GST ANX 2

- Accept – If the details in GST ANX-2 are **correct** and can be accepted.
- Reject – If the details in GST ANX-2 are **not correct** and cannot be accepted.
Note: Documents with the 'Rejected' status will flow to supplier's GST ANX-1 on filing of return by the recipient.
- Pending – If the details as visible in GST ANX-2, but the same are **not confirmed** as yet and hence marked as 'Pending'. Documents with the 'Pending' status will continue to appear in GST ANX-2 in the next period.
- Document that has **not been marked** as Accept, Reject or Pending will be **deemed** to be **marked** as **Accepted** on filing of return.

Taking Actions in GST ANX 2



Matching result - Details

Select Table 3A - (3B) - Supplies from registered persons ▼

Matching Result Match ▼

Match Type All ▼

Search : Q

Records Per Page : 10 ▼

Select Columns To Display/Hide: +14 ▼

GSTIN: GST ANX-2 records GSTIN: Purchase Register(PR) records

GSTIN of supplier	Document type	Document number	Document date	Taxable value (₹)	Total tax (₹)	Integrated tax (₹)	Central tax (₹)	State/ UT tax (₹)	Cess (₹)	ITC entitlement	Match Type	Reason	Action (Select All)			Action taken
													Accept	Reject	Pending	
33AHLPP8362B6Z6	Invoice	GST10	26/07/2019	1,000.00	1,015.00	15.00	0.00	0.00	1,000.00	No	Exact match		<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
33AHLPP8362B6Z6	Invoice	GST10	26/07/2019	1,000.00	1,015.00	15.00	0.00	0.00	1,000.00				<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
33AHLPP8362B6Z6	Debit Note	GST11	26/07/2019	1,000.00	2,000.00	1,000.00	0.00	0.00	1,000.00	No	Exact match		<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
33AHLPP8362B6Z6	Debit Note	GST11	26/07/2019	1,000.00	2,000.00	1,000.00	0.00	0.00	1,000.00				<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
33AHLPP8362B6Z6	Invoice	GST13	26/07/2019	1,000.00	1,015.00	15.00	0.00	0.00	1,000.00	No	Exact match		<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
33AHLPP8362B6Z6	Invoice	GST13	26/07/2019	1,000.00	1,015.00	15.00	0.00	0.00	1,000.00				<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
33AHLPP8362B6Z6	Debit Note	GST14	26/07/2019	1,000.00	2,000.00	1,000.00	0.00	0.00	1,000.00	No	Exact match		<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
33AHLPP8362B6Z6	Debit Note	GST14	26/07/2019	1,000.00	2,000.00	1,000.00	0.00	0.00	1,000.00				<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
33AHLPP8362B6Z6	Credit Note	GST15	26/07/2019	1,000.00	2,000.00	1,000.00	0.00	0.00	1,000.00	No	Exact match		<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
33AHLPP8362B6Z6	Credit Note	GST15	26/07/2019	1,000.00	2,000.00	1,000.00	0.00	0.00	1,000.00				<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
33AHLPP8362B6Z6	Invoice	GST16	26/07/2019	1,000.00	1,015.00	15.00	0.00	0.00	1,000.00	No	Exact match		<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
33AHLPP8362B6Z6	Invoice	GST16	26/07/2019	1,000.00	1,015.00	15.00	0.00	0.00	1,000.00				<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
33AHLPP8362B6Z6	Debit Note	GST17	26/07/2019	1,000.00	2,000.00	1,000.00	0.00	0.00	1,000.00	No	Exact match		<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
33AHLPP8362B6Z6	Debit Note	GST17	26/07/2019	1,000.00	2,000.00	1,000.00	0.00	0.00	1,000.00				<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
33AHLPP8362B6Z6	Credit Note	GST18	26/07/2019	1,000.00	2,000.00	1,000.00	0.00	0.00	1,000.00	No	Exact match		<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
33AHLPP8362B6Z6	Credit Note	GST18	26/07/2019	1,000.00	2,000.00	1,000.00	0.00	0.00	1,000.00				<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
33AHLPP8362B6Z6	Invoice	GST19	26/07/2019	1,000.00	1,015.00	15.00	0.00	0.00	1,000.00	No	Exact match		<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
33AHLPP8362B6Z6	Invoice	GST19	26/07/2019	1,000.00	1,015.00	15.00	0.00	0.00	1,000.00				<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	

« Previous 1 2 3 Next »

BACK CONFIRM

Thank You

Time of supply under GST

CA Sudhir V S



Time of supply

- In order to discharge tax liability it is important to know the date when the tax liability arises, which would be determined as per ToS provisions
 - Goods – As per section 12.
 - Services – As per section 13.

Time of supply of goods (section 12)

As per Section 12(2) of CGST ACT, time of supply of goods shall be **earlier of invoice/ payment, i.e., -**

Actual date of issue of invoice by the supplier

Due date for issue of invoice by the supplier [Section 31(1)*]:

- **Non-Continuous Supply involves movement:** Time of removal of goods for supply [31(1)(a)]
- **Non-Continuous Supply - Other cases:** Delivery of goods/ making available to the recipient or [31(1)(b)]
- **Continuous Supply:** Date of issue of statement of account/receipt of payment [31(4)]
- **Sale on approval basis:** Earlier of time at which it becomes known that the supply has taken place OR 6 months from date of removal [31(7)]

Date of receipt of payment (date on which payment is entered in the books of Accounts of supplier or Date on which payment is credited to the supplier's bank a/c whichever is earlier- Explanation 2 to Section 12(2))

Other points

- ❑ *Where payment is received in advance, the Supplier shall issue a receipt voucher, and NOT a tax invoice.*
- ❑ *No tax payment on advance receipts in respect of goods from 15th Nov,2017 onwards by vide notification No.66/2017-Central Tax*

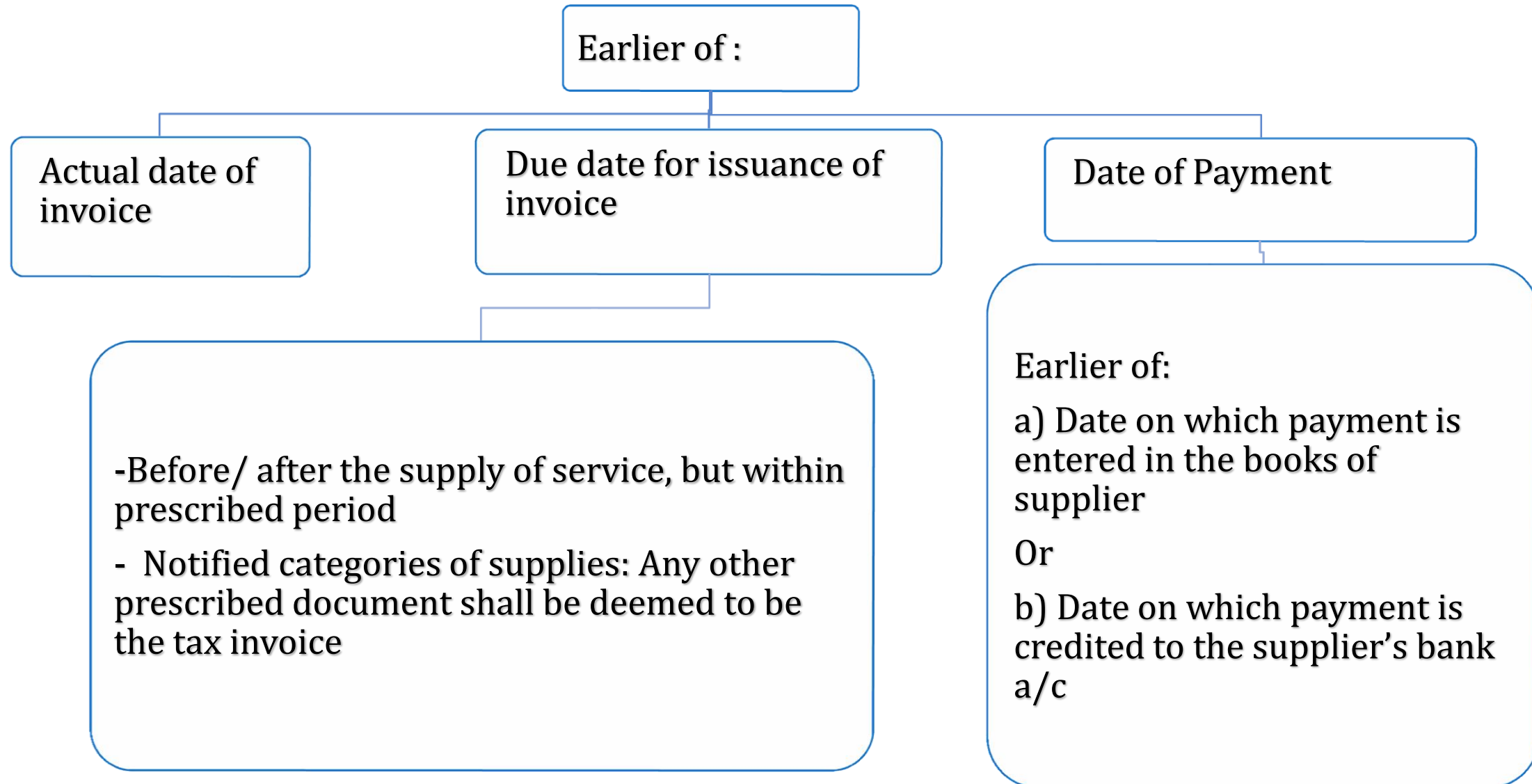
This benefit is not available to person covered under Composition Scheme.

- ❑ *In case goods are removed in batches or lots, as per rule 55 (5) of the CGST Rules, 2017 the supplier shall issue the complete invoice before dispatch of the first consignment.*
- ❑ *Further, as per explanation 1 to section 12(2) supply shall be deemed to be made to the extent it is covered in the invoice.*

Illustration

	Supply of goods Section 12(2) r/w Sec 31(1)	Invoice/ document date	Removal of goods	Receipt of payment	Time of supply
1	Invoice raised before removal	10-Oct-18	20-Oct-18	26-Oct-18	10-Oct-18
2	Delayed issue of invoice	26-Oct-18	20-Oct-18	28-Oct-18	20-Oct-18
3	Inter-State stock transfer	20-Oct-18	20-Oct-18	-	20-Oct-18

Time of supply of services (section 13)



Other points

- ❑ *Where payment is received in advance, the Supplier shall issue a receipt voucher, and NOT a tax invoice*
- ❑ *Further, as per explanation 1 to section 13(2) supply shall be deemed to be made to the extent it is covered in the invoice*

Illustration

	Section 13(2) r/w 31(2) r/w Rule 47	Invoice date	Completion of provision of service	Payment entry in supplier's books	Credit in bank account	Time of supply
1	Invoice raised well within time limit	10-Oct-18	10-Oct-18	26-Oct-18	30-Oct-18	10-Oct-18
2	Advance received	30-Oct-18	20-Oct-18	10-Oct-18	15-Oct-18	10-Oct-18

Time of supply of goods/services under RCM

Date of receipt of Goods (applicable only for goods)

Date on which **payment is entered in the books of recipient or debited** to the recipient's bank a/c (whichever is earlier)

Where tax liable to be paid on reverse charge basis, the time of supply of goods/services shall be **earliest** of

31st day (in case of goods) / 61st day (in case of services) from the date of issue of invoice by supplier

Note: This factor is not relevant in case of import of services from an associated enterprise outside India

Where it is not possible to determine time of supply in the 3 *other cases*: Date of entry in the books of account of the recipient

Note: This factor is relevant in case of import of services from an associated enterprise outside India

In case of import of services from an associated enterprises the time of supply is the date of entry in the books of account of recipient of supply OR date of payment, whichever is earlier. (2nd proviso to Section 13(3) of CGST Act).

Illustration-1

	Reverse charge Section 12(3)	Date of invoice issued by supplier	Removal of goods	Receipt of goods	Payment by recipient	Time of supply
1	General	31-Oct-17	31-Oct-17	20-Nov-17	30-Nov-17	20-Nov-17
2	Advance paid	31-Oct-17	31-Oct-17	20-Nov-17	05-Nov-17	05-Nov-17
3	No payment made for the supply	31-Oct-17	30-Dec-17	05-Jan-18	-	30-Nov-17

Illustration-2

	Reverse charge Section 13(3)	Date of invoice issued by supplier	Date of completion of service	Payment by recipient	Entry of receipt of services in recipient's books	Time of supply
4	General	31-Oct-17	31-Aug-17	20-Nov-17	30-Nov-17	20-Nov-17
5	Advance paid	31-Oct-17	31-Oct-17	05-Nov-17	31-Oct-17	05-Nov-17
6	Delay in payment (Max. 60 days from date of invoice)	31-Oct-17	31-Oct-17	10-Feb-18	31-Oct-17	31-Dec-17 (61st day from date of invoice)
7	Service received from associated enterprise located outside India	31-Oct-17	30-Nov-17	05-Apr-18	31-Mar-18	31-Mar-18
8	Service by unregistered person, no payment made	-	30-Nov-17	-	05-Dec-17	05-Dec-17

Time of supply - section 12(4)/13(4)

Supply of Vouchers:

- If supply is identifiable at that point – Date of issue
- Other cases – Date of redemption

**Voucher can be for Goods or Services*



Residual provision- sec 12(5)/13(5)

Where it is not possible to determine the time of supply under any of the circumstances discussed, it shall be determined as:

Due date for filing of such return – *If periodical return has to be filed*

Date on which the Tax is paid – *Other cases*

Time of supply for value addition section 12(6)/13(6)

Time of supply for value addition by way of

Interest,
Late Fees,
Penalty

For Delayed
payment of
Consideration shall
be

**Date on which the
supplier receives
such addition in
value**

Time of supply – change in rate of tax – section 14

Date of completion of supply (1)	Date of invoice (2)	Date of receipt of payment (3)	Time of supply	Rate of tax
Before	After	After	Earlier of (2) and (3)	New
	Before	After	(2)	Old
	After	Before	(3)	Old
After	Before	After	(3)	New
	Before	Before	Earlier of (2) and (3)	Old
	After	Before	(2)	New

ToS for transfer of development rights (before 01.04.2019)

Notification No. 4/2018-Central Tax (Rate) dated 25.01.2018

Scenario	Time of supply(liability to pay)
Registered person supplying development rights to the developer, builder etc. against consideration in the form of construction service of complex, building or civil structure;	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).
Registered person supplying construction service of complex, building or civil structure against consideration in the form of transfer of development rights	

ToS for transfer of development rights (after 01.04.2019)

Notification No. 6/2019-Central Tax (Rate) dated 29.03.2019

Scenario	Time of supply(liability to pay)
A promoter who receives development rights or FSI on or after 01.04.2019 for construction of a project for a consideration of construction service.	Date of issuance of completion certificate for the project, where required, by the competent authority or on its first occupation, whichever is earlier.
Registered person supplying construction service against a consideration in form of development rights or FSI.	

Levy v/s Collection

- Applicability of service tax/ GST based on Levy or ToS.
- Collector of C. EX., Hyderabad Versus Vazir Sultan Tobacco Co. Ltd 1996 (83) E.L.T. 3 (S.C.)



sudhir@hiregange.com

GOODS AND SERVICES TAX

GSTR - 9 - Annual Return

09 Nov 19

Mohd. Irshad Ahmed
FCA, LLB

GSTR 9 Transactions

Missing Transactions

- Ow supply is neither reported in GSTR 1 and nor in GSTR 3B
- I/w supply is not reported in GSTR 3B
- Ow sup is reported in GSTR 1 and not in GSTR 3B
- Transaction is reported in GSTR 3B and not in GSTR 1
- Transaction is not reported in audited accounts and nor in GST ret
- Transaction is reported in audited accounts but not in GST ret
- Transaction is rep in GST ret but not in aud acc

Mismatch in Transactions

- Ow sup under or overstated between 3B/R1
- Ow sup under or overstated between GST ret and audited acc
- I/w sup under or overstated in 3B vis a vis 2A
- I/w sup under or overstated in 3B vis a vis any other source
- TRAN credit taken in 3B instead of TRAN 1
- TRAN credit taken both in 3B and TRAN 1
- All Supplies reported but tax under paid
- Tax paid but supplies under reported

Transactions overlapping between different periods

- O/w supply reported or credit/debit note issued after Mar 18 but before Mar 19
- O/w supply reported or credit/debit note issued after Mar 19
- I/w supply availed after Mar 18 but before Mar 19
- RCM paid and availed after Mar 18 but before Mar 19, whether or not provision is made in books
- Input reversals reported after Mar 18 but before Mar 19

Recent updates

- **Due Date** Last date for furnishing of Annual Return in the FORM GSTR-9 / FORM GSTR-9A and Reconciliation Statement in the FORM GSTR-9C for the Financial Year 2017-18 is extended from 31st August, 2019 to 30th November, 2019.
- **Waiver to file Annual Return** In respect of financial years 2017-18 and 2018-19, follow the special procedure such that those registered persons whose aggregate turnover in a financial year does not exceed two crore rupees shall have the option to furnish the annual return and it shall be deemed that Annual return has been filed.
- A Committee of Officers to be constituted to examine the simplification of Forms for Annual Return and reconciliation statement.

Getting Ready

- Obtain the audited or unaudited financial statements for the FY along with all the ledgers such as sales ledger, purchases ledger, stocks ledger, ITC ledger, advances ledger, fixed assets register etc
- Extract the relevant information and details from the books of accounts in a prescribed manner such as [sales classified as B2B, B2C, Direct Exports, Exports to SEZ], [advances during the year, adjustment of advances with invoices], [ITC ledger subdivided into inputs, input services and capital goods], Quantity reconciliations etc
- Make note of adjustments in financial statements after the year end to ensure that such information is reported in GST returns or vice versa.
- Obtain the backup workings for each monthly return to arrive at annual data and reconcile the same with information extracted from books of accounts.

Getting Ready *cont..*

- Obtain the copies of notices issued for the FY 2017-18 with respect to differences in GSTR 1 v 3B and GSTR 3B v 2A.
- Verify independently whether any differences exists between GSTR 1 and GSTR 3B or GSTR 3B v GSTR 2A
- Make corrections, if any by way of adjustments in the GSTR 9C reconciliation statement
- Reliance should be placed on the information which is factual and correct for example supplies not reported in returns but captured in financial statements or supplies neither captured in financial statements and nor in returns shall be captured in annual returns even though they are not recorded in books or reported in returns.
- Offline utilities can be used effectively before proceeding for online filing

PART - 1

BASIC DETAILS

GSTR 9

Part I

Part 1	Basic Details	
1	Financial year	2017-18
2	GSTIN	XXXXXXXXXXXX
3A	Legal Name	ABCD Ltd
3B	Trade Name (if any)	Dream world

Part -1 particulars are expected to be auto-populated.

Trade name is also sought in several applications/forms. This is an optional requirement.

If there are several trade names, any name which is more popular can be given for the purpose of identification.

PART - 2

Details of Outward and inward
supplies made during the
financial year 2017-18

GSTR 9

Part II

Details of advances, inward and outward supplies **made** during the financial year **on which tax is payable**

Part II	Nature of Supplies	Taxable Value	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
4A	Supplies made to un-registered persons (B2C)					

Aggregate value of supplies made to consumers and unregistered persons on which tax has been paid shall be declared here. These will include details of supplies made through E-Commerce operators and are to be declared as net of credit notes or debit notes issued in this regard. Table 5, Table 7 along with respective amendments in Table 9 and Table 10 of FORM GSTR-1 may be used for filling up these details.

GSTR 1 extract

GSTR-1 - Invoice Details

** Important Notice: If the invoices are more than 500 . Please check [here](#)

4A, 4B, 4C, 6B, 6C - B2B Invoices 822	5A, 5B - B2C (Large) Invoices 0	9B - Credit / Debit Notes (Registered) 11
Total Value ₹22,82,45,276.38 Total Taxable Value ₹19,36,96,043.77 Total Tax Liability ₹3,45,49,226.52 bility to be computed on filing of GSTR-3.	Total Value ₹0.00 Total Taxable Value ₹0.00 Total Tax Liability ₹0.00	Total Taxable Value ₹-4,49,669.29 Total Tax Liability ₹-80,940.47
9B - Credit / Debit Notes (Unregistered) 0	6A - Exports Invoices 0	9A - Amended B2B Invoices 0
Total Taxable Value ₹0.00 Total Tax Liability ₹0.00	Total Value ₹0.00 Total Taxable Value ₹0.00 Total Tax Liability ₹0.00	Total Value ₹0.00 Total Taxable Value ₹0.00 Total Tax Liability ₹0.00
9A - Amended B2C (Large) Invoices 0	9A - Amended Exports Invoices 0	9C - Amended Credit/Debit Notes (Registered) 0

GSTR 1 extract

Goods & Service Tax (GST) | User x +

Goods And Services Tax Network [IN] | <https://return.gst.gov.in/returns/auth/gstr1>



GSTR-1 - Other Details

7 - B2C (Others) 1	8A, 8B, 8C, 8D - Nil Rated Supplies 1	11A(1), 11A(2) - Tax Liability (Advances Received) 0
Total Taxable Value ₹2,56,026.50	Total Nil Amt ₹0.00	Gross Advance Received ₹0.00
Total Tax Liability ₹46,084.78	Total Exempted Amt ₹0.00	Total Tax Liability ₹0.00
	Total Non-GST Amt ₹0.00	
11B(1), 11B(2) - Adjustment of Advances 0	12 - HSN-wise summary of outward supplies 11	13 - Documents Issued 2
Gross Advance Adjusted ₹0.00	Total Value ₹22,80,16,777.90	Total Docs 848
Total Tax Liability ₹0.00	Total Taxable Value ₹19,35,02,400.98	Cancelled Docs 1
	Total Tax Liability ₹3,45,12,734.62	Net Issued Docs 847
11A - Amended Tax Liability (Advance Received) 0	11B - Amendment of Adjustment of Advances 0	10 - Amended B2C(Others) 0

GSTR 1 extract

Table 5

B2C(Large) Invoices- Details

• Indicates Mandatory Fields

POS ⓘ •

Invoice No. •

Invoice Date •

Supply Type

Total Invoice Value (₹) •

Item Details

Rate (%)	Taxable Value (₹) •	Amount of Tax	
		Integrated Tax (₹) •	CESS (₹)
0%	<input type="text"/>	<input type="text"/>	<input type="text"/>
0.25%	<input type="text"/>	<input type="text"/>	<input type="text"/>
3%	<input type="text"/>	<input type="text"/>	<input type="text"/>
5%	<input type="text"/>	<input type="text"/>	<input type="text"/>

GSTR 3B *extract*

3.2 Of the supplies shown in 3.1 (a) above, details of inter-State supplies made to unregistered persons, composition taxable persons and UIN holders

	Place of Supply (State/UT)	Total Taxable value	Amount of Integrated Tax
1	2	3	4
Supplies made to Unregistered Persons			
Supplies made to Composition Taxable Persons			
Supplies made to UIN holders			

4A cont...

Key takeaways

- Table 5 of GSTR 1 captures B2C inter-state supplies more than 2.5 lakh invoice value (B2C large). This should be further split between e-commerce and non e-commerce activity. However, these are **gross** of debit or credit notes.
- Table 7 of GSTR 1 captures all other B2C supplies. Accordingly, table 5 & 7 of GSTR 1 covers all B2C supplies whether inter-state or intra-state. Unlike Table 5, B2C supplies in Table 7 should be net of debit or credit notes.
- Table 9 of GSTR 1 captures amendments in respect of B2B / B2C large either through credit/debit notes or otherwise.
- Table 10 of GSTR 1 captures amendments (other than credit/debit notes) in respect of B2C small

4A cont...

Key takeaways cont...

- In Table 4A of GSTR 9, all B2C consolidated transactions have to be reported:
 - No need to split between more than or less than 2.5 lakh value
 - No need to split inter/intra state supplies
 - No need to separately show gross or net of debit or credit notes or amendments
- B2C supplies for which tax paid through 3B but not reported in GSTR 1 can be reported in GSTR 9.
- B2C supplies for FY 2017-18 not reported in relevant tax period and were discovered after March 2019 **can also** be reported in current **digital** GSTR 9 format.

GSTR 9 cont..

Part II cont..

Details of advances, inward and outward supplies **made** during the financial year **on which tax is payable**

Part II	Nature of Supplies	Taxable Value	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
4B	Supplies made to registered persons (B2B)					

Aggregate value of supplies made to registered persons (including supplies made to UINs) on which tax has been paid shall be declared here. These will include supplies made through E-Commerce operators but shall not include supplies on which tax is to be paid by the recipient on reverse charge basis. Details of debit and credit notes are to be mentioned separately. Table 4A and Table 4C of FORM GSTR-1 may be used for filling up these details.

4B

Key takeaways

- Table 4A of GSTR 1 captures details pertaining to Supplies other than those (i) attracting reverse charge and (ii) supplies made through e-commerce operator
- Table 4C of GSTR 1 captures details pertaining to Supplies made through e-commerce operator attracting TCS (operator wise, rate wise)
- These supplies are reported gross of Debit or Credit notes or amendments
- Similarly in item 4B of GSTR 9, consolidated aggregate values of all the B2B supplies whether through e-commerce or other wise shall be reported
- However, supplies attracting reverse charge shall not be reported in 4B.

GSTR 9 cont..

Part II cont..

Details of advances, inward and outward supplies **made** during the financial year **on which tax is payable**

Part II	Nature of Supplies	Taxable Value	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
4C	Zero rated supply (Export) on payment of tax (except supplies to SEZs)					

Aggregate value of exports (except supplies to SEZs) on which tax has been paid shall be declared here. Table 6A of FORM GSTR-1 may be used for filling up these details.

GSTR 1 continued...

Table 6A

Exports- Add Details

• Indicates Mandatory Fields

Invoice No. •


Invoice Date •

Port Code

Shipping Bill No./Bill of Export No.

Shipping Bill Date/Bill of Export Date

Total Invoice Value (₹) •

Supply Type

GST Payment •

 ▼

Item Details

Rate	Taxable Value (₹) •	Amount of Tax	
		Integrated Tax (₹) •	
0%	<input type="text"/>	<input type="text"/>	
0.25%	<input type="text"/>	<input type="text"/>	
3%	<input type="text"/>	<input type="text"/>	

Activate Windows
Go to PC settings to activate Windows

4C - *Export on payment of tax*

Key takeaways

- Table 6A of GSTR 1 captures details pertaining to exports covering with payment of tax and as well as without payment of tax.
- However, this is exclusive of supplies to SEZ or the Deemed exports which are covered by 6B & 6C of GSTR 1
- Export transactions effected without payment of IGST (under Bond/ Letter of Undertaking (LUT)) needs to be reported under “0” tax amount heading in Table 6A and 6B of GSTR 1.
- Table 4C of GSTR 9 has a very limited purpose i.e. Exports effected with payment of tax and gross of credit or debit notes or the amendments

GSTR 9 cont..

Part II cont..

Details of advances, inward and outward supplies **made** during the financial year **on which tax is payable**

Part II	Nature of Supplies	Taxable Value	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
4D	Supply to SEZs on payment of tax					

Aggregate value of supplies to SEZs on which tax has been paid shall be declared here. Table 6B of GSTR-1 may be used for filling up these details.

4D - *Supply to SEZ on payment of tax*

Key takeaways

- Table 6B of GSTR 1 captures details pertaining to Supplies made to SEZ unit or SEZ Developer with payment of tax and as well as without payment of tax.
- However, this does not cover Deemed exports which are covered by 6C of GSTR 1
- Table 4D of GSTR 9 captures supplies to SEZ on payment of tax and gross of credit or debit notes or the amendments

GSTR 9 cont..

Part II cont..

Details of advances, inward and outward supplies **made** during the financial year **on which tax is payable**

Part II	Nature of Supplies	Taxable Value	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
4E	Deemed Exports					

Aggregate value of supplies in the nature of deemed exports on which tax has been paid shall be declared here. Table 6C of FORM GSTR-1 may be used for filling up these details.

4E - *Deemed exports*

Key takeaways

- Table 6C of GSTR 1 captures details pertaining to Deemed exports.
- The question of Bond or LUT does not arise in case of Deemed exports. Hence all supplies are with payment of tax
- Table 4E of GSTR 9 captures Deemed exports and gross of credit or debit notes or the amendments

GSTR 9 cont..

Part II cont..

Details of advances, inward and outward supplies **made** during the financial year **on which tax is payable**

Part II	Nature of Supplies	Taxable Value	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
4F	Advances on which tax has been paid but invoice has not been issued (not covered under (A) to (E) above)					

Details of all unadjusted advances i.e. advance has been received and tax has been paid but invoice has not been issued in the current year shall be declared here. Table 11A of FORM GSTR-1 may be used for filling up these details.

4F - *Advances*

Key takeaways

- Table 11A of GSTR 1 captures details pertaining to advance amount received in the tax period for which invoice has not been issued (tax amount to be added to output tax liability). This should be further split into intra and inter state supplies
- The amendments in respect of information in Table 11A shall also be reported in 4F
- Table 4F of GSTR 9 captures details pertaining to those advances which remain unadjusted and for which tax has been paid.
- The advances which are adjusted need not be reported.

GSTR 9 cont..

Part II cont..

Details of advances, inward and outward supplies **made** during the financial year **on which tax is payable**

Part II	Nature of Supplies	Taxable Value	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
4G	Inward supplies on which tax is to be paid on reverse charge basis					

Aggregate value of all inward supplies (including advances and net of credit and debit notes) on which tax is to be paid by the recipient (i.e. by the person filing the annual return) on reverse charge basis. This shall include supplies received from registered persons, unregistered persons on which tax is levied on reverse charge basis. This shall also include aggregate value of all import of services. Table 3.1(d) of FORM GSTR-3B may be used for filling up these details.

GSTR 3B *extract*

3.1 Details of Outward Supplies and inward supplies liable to reverse charge

Nature of Supplies	Total Taxable value	Integrated Tax	Central Tax	State/UT Tax	Cess
1	2	3	4	5	6
(a) Outward taxable supplies (other than zero rated, nil rated and exempted)					
(b) Outward taxable supplies (zero rated)					
(c) Other outward supplies (Nil rated, exempted)					
(d) Inward supplies (liable to reverse charge)					
(e) Non-GST outward supplies					

4G - *Payments under reverse charge*

Key takeaways

- GSTR 1 which is meant for reporting outward supplies does not have provision for reporting payments under reverse charge mechanism (RCM) on inward supplies
- Table 3.1(d) of Form GSTR 3B is relevant for the purpose of extracting the details for 4G
- Since the details in 3.1(d) are net of all the credit/debit notes and amendments, the information can be extracted without any additions or deletions.

GSTR 9 cont..

Part II cont..

Details of advances, inward and outward supplies **made** during the financial year **on which tax is payable**

Part II	Nature of Supplies	Taxable Value	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
4I	Credit Notes issued in respect of transactions specified in (B) to (E) above (-)					

Aggregate value of credit notes issued in respect of B to B supplies (4B), exports (4C), supplies to SEZs (4D) and deemed exports (4E) shall be declared here. Table 9B of FORM GSTR-1 may be used for filling up these details.

GSTR 9 cont..

Part II cont..

Details of advances, inward and outward supplies **made** during the financial year **on which tax is payable**

Part II	Nature of Supplies	Taxable Value	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
4J	Debit Notes issued in respect of transactions specified in (B) to (E) above (+)					

Aggregate value of debit notes issued in respect of B to B supplies (4B), exports (4C), supplies to SEZs (4D) and deemed exports (4E) shall be declared here. Table 9B of FORM GSTR-1 may be used for filling up these details.

4I & 4J - *Debit or Credit notes*

Key takeaways

- In respect of B2B supplies, export/SEZ/Deemed export supplies, any changes by way of debit or credit notes shall be reported in row 4I and 4J respectively
- In 4B, 4C, 4D & 4E rows the details provided were gross of debit or credit notes and therefore information in 4I & 4J supplements the information reported in the above rows to report the net figures
- However, the details of debit and credit notes shall be gross of amendments i.e. prior to any amendments made to these debit or credit notes
- Although, rows 4I & 4J refers to changes in respect of details submitted in Rows 4B, 4C, 4D & 4E, it should be noted that in row 4A, B2C large supplies were reported gross of debit or credit notes, therefore changes in 4A through cr/dr notes can also be reported in the available format.

GSTR 9 cont..

Part II cont..

Details of advances, inward and outward supplies **made** during the financial year **on which tax is payable**

Part II	Nature of Supplies	Taxable Value	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
4K	Supplies / tax declared through Amendments (+)					
4L	Supplies / tax reduced through Amendments (-)					

Details of amendments made to B to B supplies (4B), exports (4C), supplies to SEZs (4D) and deemed exports (4E), credit notes (4I), debit notes (4J) and refund vouchers shall be declared here. Table 9A and Table 9C of FORM GSTR-1 may be used for filling up these details.

4I & 4J - *Debit or Credit notes*

Key takeaways

- In respect of B2B supplies, export/SEZ/Deemed export supplies, debit or credit notes any amendments made shall be reported in row 4K and 4L respectively
- In 4B, 4C, 4D, 4E, 4I & 4J rows the details provided were gross of debit or credit notes and amendments therefore this information supplements the information reported in the above rows to report the net figures
- Although, rows 4K & 4L refers to changes in respect of details submitted in Rows 4B, 4C, 4D, 4E, 4I & 4J, it should be noted that in row 4A, B2C large supplies were reported gross of amendments to debit or credit notes, therefore changes in 4A through cr/dr notes can also be reported in the available format.

GSTR 9 cont..

Part II cont..

Details of Outward supplies **made** during the financial year **on which tax is not payable**

Part II	Nature of Supplies	Taxable Value	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
5A	Zero rated supply (Export) without payment of tax					

Aggregate value of exports (except supplies to SEZs) on which tax has not been paid shall be declared here. Table 6A of FORM GSTR-1 may be used for filling up these details.

5A - *Export without payment of tax*

Key takeaways

- Table 6A of GSTR 1 captures details pertaining to exports covering with payment of tax and as well as without payment of tax.
- However, this is exclusive of supplies to SEZ or the Deemed exports which are covered by 6B & 6C of GSTR 1
- Export transactions effected without payment of IGST (under Bond/ Letter of Undertaking (LUT)) needs to be reported under “0” tax amount heading in Table 6A and 6B of GSTR 1.
- Table 5A of GSTR 9 captures details of remaining exports which are exported without payment of tax either under the LUT or Bond. However, the source of such information will remain Table 6A of GSTR 1
- The information in 5A is gross of credit or debit notes or the amendments

GSTR 9 cont..

Part II cont..

Details of Outward supplies **made** during the financial year **on which tax is not payable**

Part II	Nature of Supplies	Taxable Value	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
5B	Supply to SEZs without payment of tax					

Aggregate value of supplies to SEZs on which tax has not been paid shall be declared here. Table 6B of GSTR-1 may be used for filling up these details.

5B - *Supply to SEZ without payment of tax*

Key takeaways

- Table 6B of GSTR 1 captures details pertaining to Supplies made to SEZ unit or SEZ Developer with payment of tax and as well as without payment of tax.
- However, this does not cover Deemed exports which are covered by 6C of GSTR 1
- Table 5B of GSTR 9 captures details pertaining to supplies to SEZ without payment of tax and gross of credit or debit notes or the amendments

GSTR 9 cont..

Part II cont..

Details of Outward supplies **made** during the financial year **on which tax is not payable**

Part II	Nature of Supplies	Taxable Value	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
5C	Supplies on which tax is to be paid by the recipient on reverse charge basis					

Aggregate value of supplies made to registered persons on which tax is payable by the recipient on reverse charge basis. Details of debit and credit notes are to be mentioned separately. Table 4B of FORM GSTR-1 may be used for filling up these details.

5C

Key takeaways

- Table 4B of GSTR 1 captures details pertaining to Supplies attracting tax on reverse charge basis. These supplies in GSTR 1 are outward supplies on which tax is payable by the recipient and the supplier who is filing the annual return
- These supplies are reported gross of Debit or Credit notes or amendments
- Item 5C aggregate values of all the supplies where tax is payable under reverse charge by the recipient
- These details are gross of debit or credit notes.

GSTR 9 cont..

Part II cont..

Details of Outward supplies **made** during the financial year **on which tax is not payable**

Part II	Nature of Supplies	Taxable Value	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
5D	Exempted					
5E	Nil Rated					
5F	Non-GST supply (includes 'no supply')					

Aggregate value of exempted, Nil Rated and Non-GST supplies shall be declared here. Table 8 of FORM GSTR-1 may be used for filling up these details. The value of "no supply" shall be declared under Non-GST supply (5F).

5D, 5E & 5F - *Exempted, nil rated and Non-GST supplies*

Key takeaways

- Table 8 of GSTR 1 captures details pertaining to Exempted, Nil rated and Non-GST supplies categorized into Inter-state and intra-state. A further split of registered and un-registered categories shall also be reported in GSTR -1
- The question of issue of tax invoice does not arise in respect of these categories of supplies
- Item 5D of GSTR 9 requires details pertaining to these supplies which can be extracted from GSTR -1. However, only consolidated details are required for GSTR 9 without further categorizing into inter/intra state or registered or un-registered.
- No supply may include those supplies not falling under Section 7 say Gift, a CA preparing accounts for himself i.e. self service
- Debit or credit notes are not applicable to them.

GSTR 9 cont..

Part II cont..

Details of Outward supplies **made** during the financial year **on which tax is not payable**

Part II	Nature of Supplies	Taxable Value	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
5H	Credit Notes issued in respect of transactions specified in A to F above (-)					

Aggregate value of credit notes issued in respect of supplies declared in 5A,5B,5C, 5D, 5E and 5F shall be declared here. Table 9B of FORM GSTR-1 may be used for filling up these details.

GSTR 9 cont..

Part II cont..

Details of Outward supplies **made** during the financial year **on which tax is not payable**

Part II	Nature of Supplies	Taxable Value	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
5I	Debit Notes issued in respect of transactions specified in A to F above (+)					

Aggregate value of debit notes issued in respect of supplies declared in 5A,5B,5C, 5D, 5E and 5F shall be declared here. Table 9B of FORM GSTR-1 may be used for filling up these details.

5H & 5I - *Debit or Credit notes*

Key takeaways

- In respect of Export/SEZ supplies or supplies attracting reverse charge any changes by way of debit or credit notes shall be reported in row 5H and 5I of GSTR 9 respectively
- In 5A, 5B and 5C rows the details provided were gross of debit or credit notes and therefore this information supplements the information reported in the above rows to report the net figures
- However, the details of debit and credit notes shall be gross of amendments i.e. prior to any amendments made to these debit or credit notes
- As per Section 34 read with third proviso to Rule 46, tax invoice is required in case of exports and SEZ supplies and further as per Section 34, tax invoice is also required in respect of reverse charge supplies

5H & 5I - *Debit or Credit notes cont...*

Key takeaways

- Any changes that require debit or credit note to give them effect shall be carried out through the debit and credit notes.
- Accordingly, the details of such debit or credit notes shall be reported in section 5H & 5I of GSTR 9
- Although row 5H & 5I of GSTR 9 refers to debit or credit notes in respect of exempted, nil rated or non-GST supplies, there is no provision of issuing any such debit or credit notes since no Tax Invoice is issue

GSTR 9 cont..

Part II cont..

Details of Outward supplies **made** during the financial year **on which tax is not payable**

Part II	Nature of Supplies	Taxable Value	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
5J	Supplies declared through Amendments (+)					
5K	Supplies reduced through Amendments (-)					

Details of amendments made to exports (except supplies to SEZs) and supplies to SEZs on which tax has not been paid shall be declared here. Table 9A and Table 9C of FORM GSTR-1 may be used for filling up these details.

5J & 5K - *Amendments*

Key takeaways

- Table 9A & 9C refers to amendments made to invoices and as well as debit or credit notes
- In respect of export/SEZ supplies without payment of tax, debit or credit notes thereof any amendments made shall be reported in row 5J and 5K respectively
- In 5A, 5B rows of GSTR 9 the details provided were gross of debit or credit notes and amendments therefore this information supplements the information reported in the above rows to report the net figures
- Amendments with respect to reverse charge supplies can also be made in row 5J and 5K respectively

GSTR 9 cont..

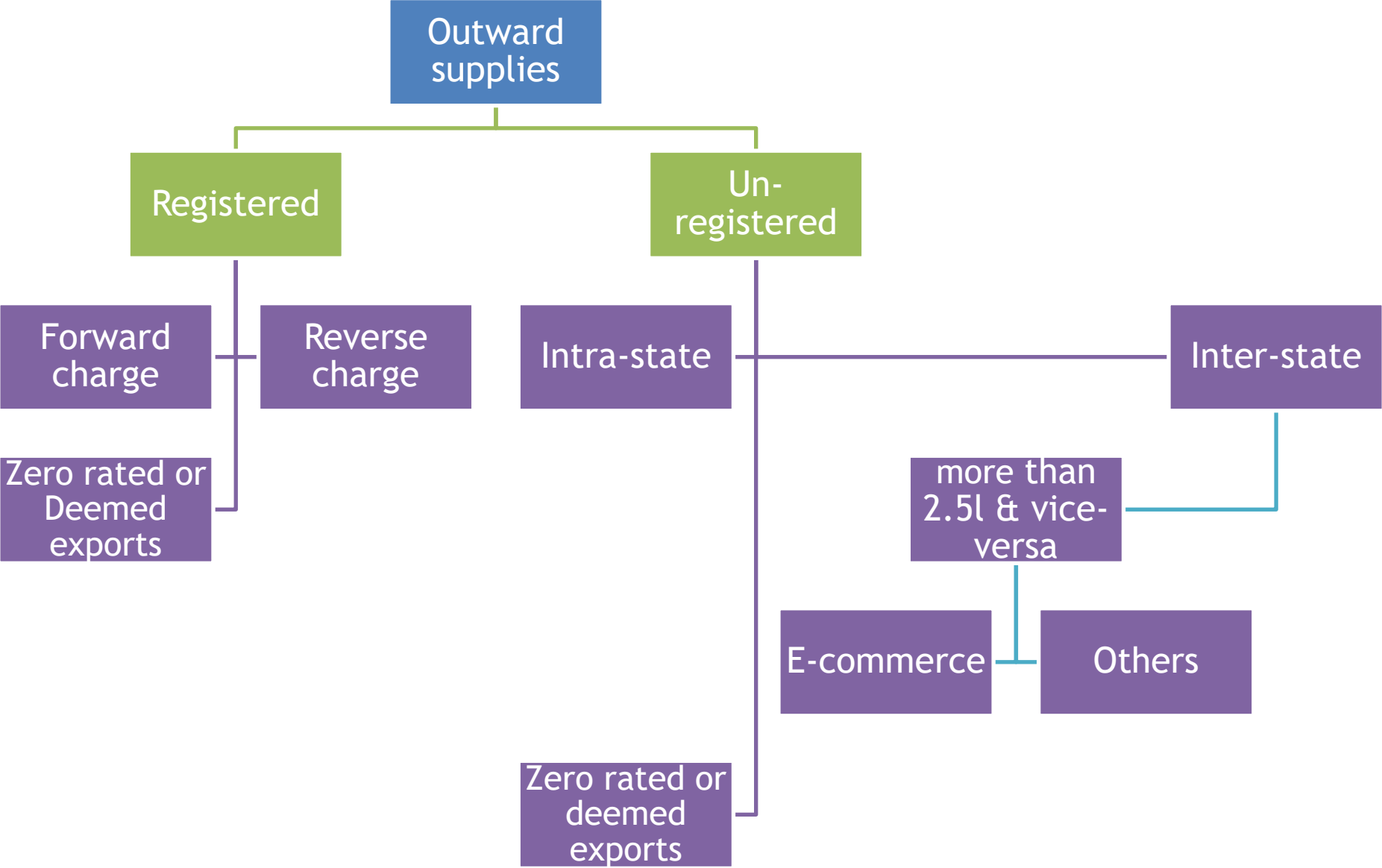
Part II cont..

Sum

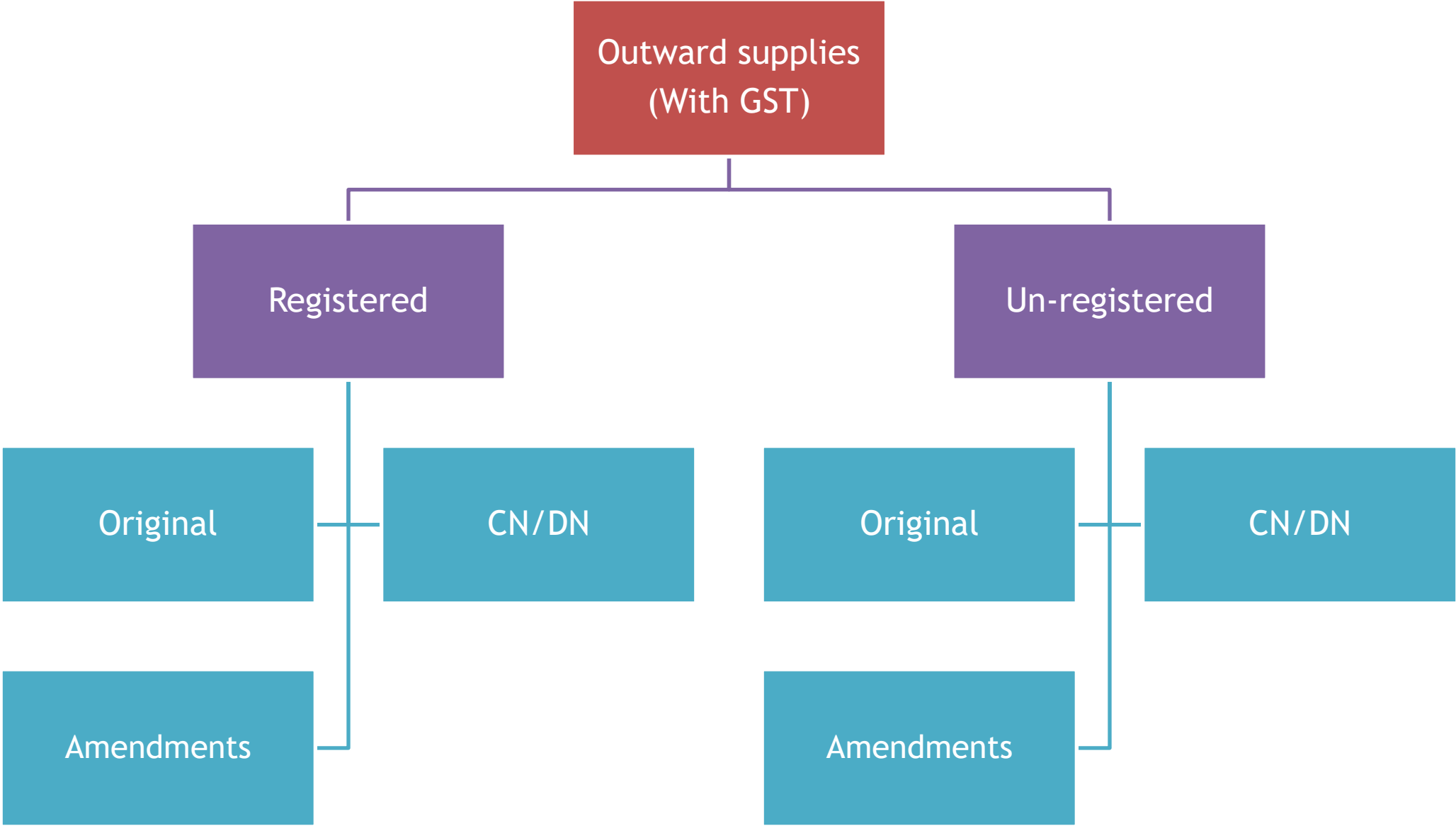
Part II	Nature of Supplies	Taxable Value	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
5N	Total Turnover (including advances) (4N + 5M - 4G above)					

Total turnover including the sum of all the supplies (with additional supplies and amendments) on which tax is payable and tax is not payable shall be declared here. This shall also include amount of advances on which tax is paid but invoices have not been issued in the current year. However, this shall not include the aggregate value of inward supplies on which tax is paid by the recipient (i.e. by the person filing the annual return) on reverse charge basis.

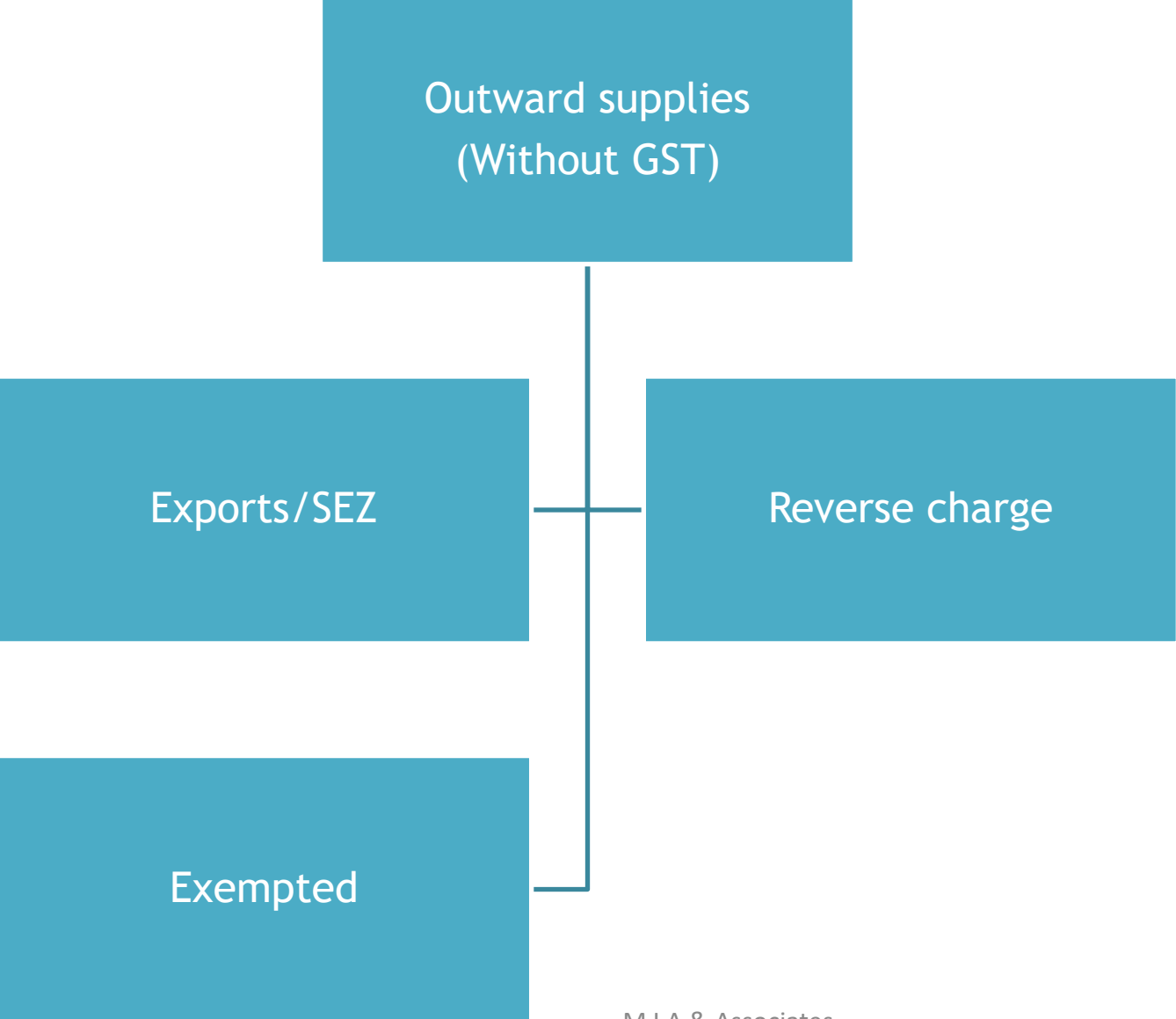
GSTR 1 snapshot



GSTR 9 snapshot



GSTR 9 snapshot cont..



PART - III

Details of ITC **for** the financial
year

GSTR 9 cont..

Part III

Details of ITC availed during the financial year

Part III	Nature of Supplies	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
6A	Total amount of input tax credit availed through FORM GSTR-3B (sum total of Table 4A of FORM GSTR-3B)				

Total input tax credit availed in Table 4A of FORM GSTR-3B for the taxpayer would be auto-populated here.

GSTR 3B extract

4. Eligible ITC

Details	Integrated Tax	Central Tax	State/UT Tax	Cess
1	2	3	4	5
(A) ITC Available (whether in full or part)				
(1) Import of goods				
(2) Import of services				
(3) Inward supplies liable to reverse charge (other than 1 & 2 above)				
(4) Inward supplies from ISD				
(5) All other ITC				
(B) ITC Reversed				
(1) As per rules 42 & 43 of CGST Rules				
(2) Others				
(C) Net ITC Available (A) – (B)				
(D) Ineligible ITC				
(1) As per section 17(5)				
(2) Others				

GSTR 9 cont..

Part III cont...

Details of ITC availed during the financial year

Part III	Nature of Supplies	Inputs	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
6B	Inward supplies (other than imports and inward supplies liable to reverse charge but includes services received from SEZs)	C. Goods Input Services				

Aggregate value of input tax credit availed on all inward supplies except those on which tax is payable on reverse charge basis but includes supply of services received from SEZs shall be declared here. It may be noted that the total ITC availed is to be classified as ITC on inputs, capital goods and input services. Table 4(A)(5) of FORM GSTR-3B may be used for filling up these details.

This shall not include ITC which was availed, reversed and then reclaimed in the ITC ledger. This is to be declared separately under 6(H) below.

GSTR 9 cont..

Part III cont...

Details of ITC availed during the financial year

Part III	Nature of Supplies	Inputs	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
6C	Inward supplies received from unregistered persons liable to reverse charge (other than B above) on which tax is paid & ITC availed	C. Goods Input Services				

Aggregate value of input tax credit availed on all inward supplies received from unregistered persons (other than import of services) on which tax is payable on reverse charge basis shall be declared here. It may be noted that the total ITC availed is to be classified as ITC on inputs, capital goods and input services. Table 4(A)(3) of FORM GSTR-3B may be used for filling up these details.

GSTR 9 cont..

Part III cont...

Details of ITC availed during the financial year

Part III	Nature of Supplies	Inputs	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
6D	Inward supplies received from registered persons liable to reverse charge (other than B above) on which tax is paid and ITC availed	C. Goods Input Services				

Aggregate value of input tax credit availed on all inward supplies received from registered persons on which tax is payable on reverse charge basis shall be declared here. It may be noted that the total ITC availed is to be classified as ITC on inputs, capital goods and input services. Table 4(A)(3) of FORM GSTR-3B may be used for filling up these details.

GSTR 9 cont..

Part III cont...

Details of ITC availed during the financial year

Part III	Nature of Supplies	Inputs	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
6E	Import of goods (including supplies from SEZs)	C. Goods				

Details of input tax credit availed on import of goods including supply of goods received from SEZs shall be declared here. It may be noted that the total ITC availed is to be classified as ITC on inputs and capital goods. Table 4(A)(1) of FORM GSTR-3B may be used for filling up these details.

GSTR 9 cont..

Part III cont...

Details of ITC availed during the financial year

Part III	Nature of Supplies	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
6F	Import of services (excluding inward supplies from SEZs)				

Details of input tax credit availed on import of services (excluding inward supplies from SEZs) shall be declared here. Table 4(A)(2) of FORM GSTR-3B may be used for filling up these details.

GSTR 9 cont..

Part III cont...

Details of ITC availed during the financial year

Part III	Nature of Supplies	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
6G	Input Tax credit received from ISD				

Aggregate value of input tax credit received from input service distributor shall be declared here. Table 4(A)(4) of FORM GSTR-3B may be used for filling up these details.

GSTR 9 cont..

Part III cont...

Details of ITC availed during the financial year

Part III	Nature of Supplies	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
6H	Amount of ITC reclaimed (other than B above) under the provisions of the Act				

Aggregate value of input tax credit availed, reversed and reclaimed under the provisions of the Act shall be declared here.

GSTR 9 cont..

Part III cont...

Details of ITC availed during the financial year

Part III	Nature of Supplies	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
6K	Transition Credit through TRAN-I (including revisions if any)				

Details of transition credit received in the electronic credit ledger on filing of FORM GST TRAN-I including revision of TRAN-I (whether upwards or downwards), if any shall be declared here.

GSTR 9 cont..

Part III cont...

Details of ITC availed during the financial year

Part III	Nature of Supplies	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
6L	Transition Credit through TRAN-II				

Details of transition credit received in the electronic credit ledger after filing of FORM GST TRAN-II shall be declared here.

GSTR 9 cont..

Part III cont...

Details of ITC availed during the financial year

Part III	Nature of Supplies	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
6M	Any other ITC availed but not specified above				

Details of ITC availed but not covered in any of heads specified under 6B to 6L above shall be declared here. Details of ITC availed through FORM ITC-01 and FORM ITC-02 in the financial year shall be declared here.

GSTR 9 cont..

Part III cont...

Details of ITC Reversed and Ineligible ITC **for** the financial year

Part III	Nature of Supplies	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
7A	As per Rule 37 (non-payment of consideration)				
7B	As per Rule 39 (ISD reversals)				
7C	As per Rule 42 (Common credits)				
7D	As per Rule 43 (Common credits - capital Goods)				
7E	As per Section 17(5)				
7F	Reversal of TRAN-I credit				
7G	Reversal of TRAN-II credit				
7H	Other reversals (pl. specify)				

GSTR 9 cont..

Part III cont...

Details of ITC Reversed and Ineligible ITC for the financial year 7A to 7H cont..

Details of input tax credit reversed due to ineligibility or reversals required under rule 37, 39, 42 and 43 of the CGST Rules, 2017 shall be declared here. This column should also contain details of any input tax credit reversed under section 17(5) of the CGST Act, 2017 and details of ineligible transition credit claimed under FORM GST TRAN-I or FORM GST TRAN-II and then subsequently reversed. Table 4(B) of FORM GSTR-3B may be used for filling up these details. Any ITC reversed through FORM ITC -03 shall be declared in 7H. **If the amount stated in Table 4D of FORM GSTR-3B was not included in table 4A of FORM GSTR-3B, then no entry should be made in table 7E of FORM GSTR-9. However, if amount mentioned in table 4D of FORM GSTR-3B was included in table 4A of FORM GSTR-3B, then entry will come in 7E of FORM GSTR-9.**

GSTR 3B extract

4. Eligible ITC

Details	Integrated Tax	Central Tax	State/UT Tax	Cess
1	2	3	4	5
(A) ITC Available (whether in full or part)				
(1) Import of goods				
(2) Import of services				
(3) Inward supplies liable to reverse charge (other than 1 & 2 above)				
(4) Inward supplies from ISD				
(5) All other ITC				
(B) ITC Reversed				
(1) As per rules 42 & 43 of CGST Rules				
(2) Others				
(C) Net ITC Available (A) – (B)				
(D) Ineligible ITC				
(1) As per section 17(5)				
(2) Others				

GSTR 9 cont..

Part III cont...

Other ITC related information

Part III	Nature of Supplies	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
8A	ITC as per GSTR-2A (Table 3 & 5 thereof)				

The total credit available for inwards supplies (other than imports and inwards supplies liable to reverse charge but includes services received from SEZs) received during 2017-18 and reflected in FORM GSTR-2A (table 3 & 5 only) shall be auto-populated in this table. This would be the aggregate of all the input tax credit that has been declared by the corresponding suppliers in their FORM GSTR-I.

GSTR 9 cont..

Part III cont...

Table 3 & 5 of GSTR 2A

PART A

3. Inward supplies received from a registered person other than the supplies attracting reverse charge

(Amount in Rs. for all Tables)

GSTIN of supplier	Invoice details			Rate	Taxable value	Amount of tax				Place of supply (Name of State/UT)
	No.	Date	Value			Integrated tax	Central Tax	State/UT Tax	Cess	
1	2	3	4	5	6	7	8	9	10	11

5. Debit / Credit notes (including amendments thereof) received during current tax period

Details of original	Revised details of	Rate	Taxable	Amount of tax	Place of
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GSTR 9 cont..

Part III cont...

Other ITC related information

Part III	Nature of Supplies	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
8B	ITC as per sum total of 6(B) and 6(H) above				

The input tax credit as declared in Table 6B and 6H shall be auto-populated here.

GSTR 9 cont..

Part III cont...

Other ITC related information

Part III	Nature of Supplies	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
8C	ITC on inward supplies (other than imports and inward supplies liable to reverse charge but includes services received from SEZs) received during 2017-18 but availed during April to September, 2018				

Aggregate value of input tax credit availed on all inward supplies (except those on which tax is payable on reverse charge basis but includes supply of services received from SEZs) received during July 2017 to March 2018 but credit on which was availed between April to September 2018 shall be declared here. Table 4(A)(5) of FORM GSTR-3B may be used for filling up these details.

GSTR 9 cont..

Part III cont...

Other ITC related information

Part III	Nature of Supplies	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
8E	ITC available but not availed (out of D)				
8F	ITC available but ineligible (out of D)				

Aggregate value of the input tax credit which was available in FORM GSTR-2A (table 3 & 5 only) but not availed in any of the FORM GSTR-3B returns shall be declared here. The credit shall be classified as credit which was available and not availed or the credit was not availed as the same was ineligible. The sum total of both the rows should be equal to difference in 8D.

GSTR 9 cont..

Part III cont...

Other ITC related information

Part III	Nature of Supplies	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
8G	IGST paid on import of goods (including supplies from SEZ)				

Aggregate value of IGST paid at the time of imports (including imports from SEZs) during the financial year shall be declared here.

GSTR 9 cont..

Part III cont...

Other ITC related information

Part III	Nature of Supplies	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
8H	IGST credit availed on import of goods (as per 6(E) above)				

The input tax credit as declared in Table 6E shall be auto-populated here.

PART - IV

Details of tax paid as declared
in returns filed during the
financial year

GSTR 9 cont..

Part IV

Details of tax paid as declared in returns filed during the financial year

Part IV 9	Description	Tax Payable	Paid through cash	Paid through ITC			
				Central Tax	State Tax / UT Tax	Integrated Tax	Cess
	Integrated tax						
	Central Tax						
	State Tax / UT Tax						
	Cess						
	Interest						
	Late fee						
	Penalty						
	Other						

Part IV is the actual tax paid during the financial year. Payment of tax under Table 6.1 of FORM GSTR-3B may be used for filling up these details.

PART - V

Particulars of the transactions for the financial year 2017-18 declared in returns between April, 2018 till March, 2019

GSTR 9 cont..

Part V

Part V	Description	Taxable value	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
10	Supplies / tax declared through Amendments (+) (net of debit notes)					

Details of additions or amendments to any of the supplies already declared in the returns of the previous financial year but such amendments were furnished in Table 9A, Table 9B and Table 9C of FORM GSTR-1 of April to September of the current financial year or date of filing of Annual Return for the previous financial year, whichever is earlier shall be declared here.

GSTR 9 cont..

Part V cont...

Part V	Description	Taxable value	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
11	Supplies / tax reduced through Amendments (-) (net of credit notes)					

Same as 10

GSTR 9 cont..

Part V cont...

Part V	Description	Taxable value	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
12	Reversal of ITC availed during previous financial year					

Aggregate value of reversal of ITC which was availed in the previous financial year but reversed in returns filed for the months of April to September of the current financial year or date of filing of Annual Return for previous financial year , whichever is earlier shall be declared here. Table 4(B) of FORM GSTR-3B may be used for filling up these details.

GSTR 9 cont..

Part V cont...

Part V	Description	Taxable value	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
13	ITC availed for the previous financial year					

Details of ITC for goods or services received in the previous financial year but ITC for the same was availed in returns filed for the months of April to September of the current financial year or date of filing of Annual Return for the previous financial year whichever is earlier shall be declared here. Table 4(A) of FORM GSTR-3B may be used for filling up these details. However, any ITC which was reversed in the FY 2017-18 as per second proviso to subsection (2) of section 16 but was reclaimed in FY 2018-19, the details of such ITC reclaimed shall be furnished in the annual return for FY 2018-19.

GSTR 9 cont..

Part V cont...

Differential tax paid on account of declaration made in 10, 11, 12 & 13 above

Part V	Description	Payable	Paid
14	Integrated Tax		
	Central Tax		
	State/UT tax		
	Cess		
	Interest		

OTHER INFORMATION

GSTR 9 cont..

Tables 15, 16, 17, 18 and 19

❑ Particulars of Demands and Refunds

❑ Supplies received from composition tax payers, deemed supply by job worker and goods sent on approval basis

❑ HSN wise supply of outward supplies

- Optional for annual turnover upto 1.5 cr. Mandatory for turnover above 1.5 cr. Two digit below 5 crore and 4 digit above 5 cr.

❑ HSN wise supply of inward supplies

- Optional for annual turnover upto 1.5 cr. Mandatory for turnover above 1.5 cr. Two digit below 5 crore and 4 digit above 5 cr.

CLARIFICATIONS AND USEFUL TIPS

Clarifications

- Information contained in FORM GSTR-2A as on 01.05.2019 shall be auto-populated in Table 8A of FORM GSTR-9.
- Figures in GSTR-2A are auto populated based on filed/ saved / submitted Form GSTR-1 of the supplier taxpayer. But figures in table 8A of Form GSTR-9 are auto-populated only on the basis of filed Form GSTR-1 by the supplier taxpayer. In case, Form GSTR - 1 is not filed, then credit related to those invoices will not appear in table 8A of Form GSTR-9.
- Figures in table 8A of Form GSTR 9 are auto populated only for those Form GSTR-1, which are filed by the supplier taxpayer by due date of its filing i.e. 30th April, 2019. Thus, ITC on supplies of the financial year 2017-18, if reported beyond 30th April, 2019, will not get auto-populated in table 8A of Form GSTR-9.

Clarifications *cont..*

- It may be noted that irrespective of when the supply was declared in FORM GSTR-1, the principle of declaring a supply in Pt. II or Pt. V is essentially driven by when was tax paid through FORM GSTR-3B in respect of such supplies. If the tax on such supply was paid through FORM GSTR-3B between July 2017 to March 2018 then such supply shall be declared in Pt. II and if the tax was paid through FORM GSTR-3B between April 2018 to March 2019 then such supply shall be declared in Pt. V of FORM GSTR-9.
- Any additional outward supply which was not declared by the registered person in FORM GSTR-1 and FORM GSTR-3B shall be declared in Pt.II of the FORM GSTR-9. Such additional liability shall be computed in Pt.IV and the gap between the “tax payable” and “Paid through cash” column of FORM GSTR-9 shall be paid through FORM DRC-03.

Clarifications *cont..*

- No input tax credit can be reversed or availed through the annual return. If input is to be reversed, it can be done through FORM GST DRC-03 separately.
- Regarding non-availability of information in Table 16A (Composition etc) or 18 (HSN of inward supply) of Annual return in FORM GSTR-9, taxpayers can declare all such data / details (which are not part of their regular statement/returns) to the best of their knowledge and records. This data is only for information purposes and reasonable/explainable variations in the information reported in these tables will not be viewed adversely.
- Clarification on the appropriate column or table in which tax which was to be paid on reverse charge basis for the FY 2017-18 but was paid during FY 2018-19. It may be noted that since the payment was made during FY 2018-19, the input tax credit on such payment of tax would have been availed in FY 2018-19 only. Therefore, such details will not be declared in the annual return for the FY 2017-18 and will be declared in the annual return for FY 2018-19.

Useful tips

- If any taxable outward supply is not reported in monthly returns, the same will not appear in GSTR 9 auto-populated data. This can be reported in Table 4 while making sure the same reconciles with Audited accounts. The tax payable shall be declared in Table 9 and payment shall be made through DRC 03
- Details of tax payable and tax paid Table 9 This table can be used to disclose tax payable on missing transactions, mis-matches and as well as reversal of excess ITC. Since tax paid is freezed based on monthly returns, tax payable will display as being payable which should be backed by DRC 03 challan.

Useful tips

- Difference between ITC as per GSTR 2A and details furnished in GSTR 9 appears in Table 8D. These differences should be appropriately dealt with by paying the excess ITC availed along with interest in DRC 03
- Inward supply is not reported in monthly returns and therefore ITC is not availed. If ITC is not availed before March 2019, it becomes ineligible. ITC availed through monthly returns is auto-populated in GSTR 9 and cannot be amended. At the same time, system permits input of any amount in Table 6 - ITC availed. Therefore any excess ITC taken over and above availed in monthly return is shown as difference which may lead to enquiries from tax authorities.

Questions

THANK YOU

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GST

GST – OVERVIEW – LEVY

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MULTIPLE TAXES – CENTRAL GOVERNMENT – PRE GST

- Excise Duty
- Countervailing Duty
- Customs Duty
- Duty of 4% under Section 3(5) of the Customs Tariff
- Service Tax
- Primary education cess
- Secondary education cess
- Products specific cess (automobile / tractor / jute / sugar / tea / tobacco / paper / rubber / iron ore / cement)
- Research and Development cess
- National Contingent Calamity Duty
- Clean Energy Cess
- Swachh Bharath Cess
- Krishi Kalyan Cess
- Infrastructure Cess on motor vehicles

MULTIPLE TAXES – STATE – PRE GST

- VAT
- Purchase tax
- CST by originating State
- Entry tax
- Octroi by Municipality
- Entertainment tax
- Luxury tax
- Stamp duty and Registration fee

VAT – PRE GST

- Multiple rates
- Different rates in different States
- Different definitions
- Multiple forms
- Cascading effect due to CST purchases
- Deviations
- Refunds

CST

- Origin based tax
- No credit on CST purchases leading to cascading effect
- Exempt stock transfer related distortions
- Complex law on stock transfer and transit sales
- CST Vs. VAT

WHY DID INDIA IMPLEMENT GST?

- Tax reform
- Elimination of 'cascading effect'
- Equitable taxation
- Simpler system
- One market

101st CONSTITUTIONAL AMENDMENT

ARTICLE 246A(1)

- Notwithstanding anything contained in Articles 246 and 254, Parliament, and subject to clause (2), the Legislature of every State, have power to make laws with respect to Goods and Services Tax imposed by Union or by such State
 - Central Goods and Services Tax Act, 2017
 - Every State has enacted its State Goods and Services Tax Act, 2017
 - Parliament has enacted the Union Territory Goods and Service Tax Act, 2017

ARTICLE 246A(1)

- Article 246 deals with subject matter of laws made by Parliament and State Legislatures
- Article 254 deals with inconsistency between laws made by Parliament and laws made by State Legislatures
- Article 246A is notwithstanding Article 246 and Article 254
 - Departure from list based levies
 - Not in the nature of a concurrent list levy
 - **Equal power to Parliament and State to make laws with respect to GST**

EFFECT OF ARTICLE 246A

- Central Government gets the right to tax sale of goods
- State Government gets the right to tax services along with Centre
- Central Government gets the right to tax the entire supply chain
- State Government gets the right to tax the entire supply chain

LOSS OF REVENUE

- Manufacturing States apprehended revenue losses on account of GST
- Taxes on services was not expected to generate significant revenue for many States including smaller States
- Section 18 of the 101st Constitution (Amendment) Act, 2016 provides that *Parliament shall by law on the recommendation of the GST Council provide for compensation to the States for loss of revenue arising on account of implementation of Goods and Services Tax for a period of 5 years*
- GST Compensation Cess on pan masala, aerated water, lemonade, tobacco, cigarettes, motor vehicles, motorcycles, aircrafts

UOI VS. MOHIT MINERALS (2019) 2

SCC 599 (SC)

- *The expression used Article 246A is 'power to make laws with respect to goods and services tax'*
- *The power to make law, thus is not a general power related to a general entry rather it specifically relates to goods and services tax*
- *When express power is there to make law regarding goods and services tax, we fail to comprehend that how such power shall not include power to levy Cess on goods and services tax*
- *True, that Constitution (101st Amendment) Act, 2016 was passed to subsume various taxes, surcharges and cesses into one tax but the Constitutional provision does not indicate that henceforth no surcharge or cess shall be levied – Para 56*

ARTICLE 246A(2)

- Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods or of services or both takes place in the course of inter-State trade or commerce
 - Integrated Goods and Services Tax Act, 2017
- Explanation: The provisions of this Article, shall in respect of goods and services tax referred to in clause (5) of Article 279A take effect from the date recommended by the GST Council
 - *GST on petroleum products only from the date recommended by the GST Council*

ENTRIES IN THE UNION LIST, SEVENTH SCHEDULE

Entry	List	Scope	101 st Constitutional Amendment
83	Union	Duties of customs including export duty	No Change
84	Union	Duty of excise on tobacco and other goods manufactured in India except alcohol and certain drugs	Duties of excise on the following goods manufactured or produced in India (a) Petroleum crude (b) High speed diesel (c) Motor spirit (commonly known as petrol) (d) Natural gas (e) Aviation turbine fuel (f) Tobacco and tobacco products

ENTRIES IN THE UNION LIST, SEVENTH SCHEDULE

Entry	List	Scope	101 st Constitutional Amendment
92	Union	Tax on the sale or purchase of newspapers and on advertisements published therein	Omitted
92A	Union	Tax on sale or purchase of goods other than newspapers where such sale takes place in the course of inter State trade or commerce	No change
97	Union	Any other matter not included in List II or III	No change

ENTRIES IN THE STATE LIST, SEVENTH SCHEDULE

Entry	List	Scope	101 st Constitutional Amendment
52	State	Tax on entry of goods into local area for consumption, use or sale therein	Omitted
53	State	Tax on consumption or sale of electricity	No change
54	State	Tax on sale or purchase of goods other than newspapers subject to Entry 92A, Union List	Taxes on the sale of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, aviation turbine fuel and alcoholic liquor for human consumption, but not including sale in the course of inter- State trade or commerce or sale in the course of international trade or commerce of such goods

ENTRIES IN THE STATE LIST, SEVENTH SCHEDULE

Entry	List	Scope	101 st Constitutional Amendment
55	State	Tax on advertisement other than advertisement in newspapers and advertisements broadcast by radio or television	Omitted
62	State	Tax on luxuries, including, tax on entertainment, amusements, betting and gambling	Taxes on entertainments and amusements to the extent levied and collected by a Panchayat or a municipality or a regional council or a district council

ARTICLE 366

- Article 366(12A) – ‘goods and services tax’ means any tax on supply of goods or services or both except taxes on the supply of alcoholic liquor for human consumption
 - Technically there is no distinction between goods and services
 - New Article 366(26A) **defines services to mean anything other than goods**
 - **Very wide and general in nature**
 - **Immovable property?**

ARTICLE 269A(1)

- Goods and service tax on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the GST Council
 - Inter- State supply of goods or services or both taxed by the Union
 - Integrated Goods and Service Tax Act, 2017
- Explanation: for the purposes of this clause, supply of goods or services or both in the course of import into the territory of India shall be deemed to be supply of goods or of services or both in the course of inter- State trade or commerce

ARTICLE 269A(5)

- Parliament may by law, formulate principles for determining the place of supply, and when a supply of goods or of services, or both takes place in the course of inter-State trade or commerce
 - Section 7 of the Integrated Goods and Service Tax Act, 2017
- This Article is similar to Article 269(3)
- *Article 269(3) provides that Parliament may by law formulate principles for determining when a sale or purchase of goods takes place in the course of inter-State trade or commerce*
 - Section 3 of the Central Sales Tax Act, 1956

CHARGING PROVISIONS

- Section 9(1) of the CGST Act – CGST on *intra-State supply of goods or services or both* except on supply of alcoholic liquor for human consumption
- On the value determined under Section 15
- At such rates not exceeding 20%, as may be notified by the Government on the recommendations of the Council
- Collected in such manner as may be prescribed
- And shall be paid by the taxable person

CHARGING PROVISIONS

- Reverse charge
- Section 9(3) of the CGST Act
 - Categories of supply of goods or services or both as notified
 - Tax shall be paid on reverse charge basis **by the recipient**
- Section 9(4) of the CGST Act
 - Class of registered persons in respect of supply of specified categories of goods or services or both, as notified
 - Goods or services or both received from unregistered supplier
 - Tax shall be paid on reverse charge basis by such class of registered persons, as the recipient of such supply
- Section 5(3) of the IGST Act
- Section 5(4) of the IGST Act

TAX ON SUPPLY

Nature of Transaction	Taxes
Intra – State supply	CGST + SGST
Inter – State supply	IGST
Import of Goods	BCD + IGST
Import of Services	IGST
Export of Goods	IGST or without IGST subject to conditions
Export of Services	IGST or without IGST subject to conditions

GOODS OR SERVICES

- The place of supply provisions for goods is governed by Section 10 and Section 11 of the IGST Act
- The place of supply provisions for services is governed by Section 12 and Section 13 of the IGST Act
- Section 12 is applicable where the location of the supplier and recipient is in India
- Section 13 is applicable where the location of the supplier or location of recipient is outside India

INTER-STATE SUPPLY Vs. INTRA-STATE SUPPLY

- In the pre-GST era, inter-State sale of goods was subject matter of Entry-92A, Union List and the CST Act provided for a levy of GST
- Intra-State sale of goods was subject matter of Entry-54, State List and States levied sales tax and subsequently VAT
- CST sale Vs. Local sale
- Stock transfer related disputes
- Constitution of separate CSTAA based on the directions given by the Supreme Court

INTER-STATE SUPPLY Vs. INTRA-STATE SUPPLY

- Section 7 of the IGST Act provides where the location of the supplier and the place of supply of goods are in two different States or in two Union Territories or in a State and UT, it shall be treated as *supply in the course of* inter-State trade or commerce
- T from Tamil Nadu supplies goods to G in Gujarat
 - Place of Supply is determined as Gujarat in accordance with IGST Act
 - T would charge IGST
 - G can avail input tax credit
- M from Maharashtra supplies goods to N in Maharashtra
 - Place of supply is determined as Maharashtra as per IGST Act
 - M would charge CGST and MGST
 - N can avail input tax credit

INTER-STATE SUPPLY Vs. INTRA-STATE SUPPLY

- W Ltd. in West Bengal avails legal services
 - Legal Service is a notified service under reverse charge mechanism
 - W Ltd. is liable to pay GST
 - W Ltd. has to pay CGST and WBGST
 - W Ltd. can avail input tax credit
- Z Ltd. is a company based in Delhi availing the services of a management consultant in Karnataka
 - The consultant is liable to pay IGST
 - Z Ltd. can avail input tax credit.

INTER-STATE SUPPLY Vs. INTRA-STATE SUPPLY

- Section 8 of the IGST Act provides that where the location of supplier and the place of supply of goods are in the same State or same Union Territory, it shall be treated as an intra-State supply of goods
- Intra-State supply would attract CGST and SGST
- Assuming the purchase order has come from the Gujarat office and the buyer has an office in Tamil Nadu which has no connection with the supply, what will happen if the transaction is not considered as an inter-State supply by the Government of Tamil Nadu at a later date?
- *Can there be a CGST and SGST levy after the transaction has been considered as an IGST transaction?*

INTER-STATE SUPPLY Vs. INTRA-STATE SUPPLY

- Section 19 of the IGST Act provides that where IGST has been paid by a registered person considering the supply as an inter-State supply and subsequently *it is held to be an intra-State supply, he shall be granted refund of the IGST paid in such manner and subject to such conditions as may be prescribed*
- Section 19(2) provides that where a person has paid CGST and SGST on a transaction considered by him as an intra-State supply but it is subsequently held to be an inter-State supply, he shall not be required to pay any interest on the amount of IGST payable
- *Assuming 28% IGST is paid and subsequently another 14% CGST and SGST of 14% is demanded, it can have a huge impact*
- ***The law should have provided for backend adjustment between the Governments as against double payment and refund***

INTER-STATE SUPPLY Vs. INTRA-STATE SUPPLY

- G from Gujarat places a purchase order for supply of equipment on D, New Delhi
- G sends his employee to New Delhi to receive the goods
- Risk and title passes at the factory gate in New Delhi
- **In the pre-GST, situs of the goods played an important role**
- In the GST law
 - *Recipient is defined as the person who is liable to pay the consideration.*
 - *Address of delivery is defined as the address of the recipient of goods as indicated in the tax invoice issued by the registered person for delivery of such goods.*
 - *'Agent' means a person who carries on the business of supply or receipt of goods or services or both on behalf of another.*
 - *As per Section 10(1)(a), where the supply involves movement of goods whether by the supplier or the recipient or by any other person, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient.*

INTER-STATE SUPPLY Vs. INTRA-STATE SUPPLY

IGST	CGST + SGST
<ul style="list-style-type: none">• Recipient is the person who pays the consideration.• Recipient is located in Gujarat.• Goods terminate for delivery only when the goods are delivered to the recipient.• The emphasis is on 'termination for delivery to the recipient'.• The employee who takes custody of the goods in Delhi is not the recipient.• The employee is not the agent of the recipient since he is not engage in the business of supply or receipt of goods on behalf of another.• Risk and title may not have a bearing in GST.	<ul style="list-style-type: none">• Sale takes place when the goods are located in New Delhi.• There is a notional delivery to the employee when he receives the goods in New Delhi as per the instructions of his employer.

INTER-STATE SUPPLY Vs. INTRA-STATE SUPPLY

- C from Cochin carries out repair and servicing of ships that dock in Cochin port
- The ships are owned by a company based out of Madhya Pradesh
- C has registration in Kerala and hence location of supplier of service is Kerala
- **Any treatment or process which is applied to another person's goods is a supply of services – Schedule II, CGST Act**
- Repair and servicing falls under the default provision namely Section 12(2) of the IGST Act and hence location of the recipient is relevant.
- *Should C charge IGST since the location of the ship owner is in Madhya Pradesh?*
- *Should C charge CGST and Kerala GST since servicing involves replacement of part or supply of spares?*
- *If the transaction of repair or work on goods belonging to another is declared as a service by law, whether usage of goods in the course of providing service should even be relevant?*

SOFTWARE

- Permanent transfer of Intellectual Property (IP) right in respect of Information Technology software attracts GST at the rate of 18% under Notification No.1/2017 applicable to 'goods'
- Temporary or permanent transfer or permitting the use or enjoyment of Intellectual Property (IP) right in respect of information technology software attracts GST at the rate of 18% under Notification No. 11/2017 applicable to 'services'
- Place of supply for '**goods**' would be governed by 'delivery'
- Place of supply for 'services' would be governed by 'location of recipient'

SOFTWARE

- Packaged software
- Download of software
- *Whether download of software and usage under licence should be considered as supply of goods or supply of services?*
- *Can the medium of delivery alter the nature of the transaction?*

SOFTWARE

- The Supreme Court in the case of ***Associated Cement Company Vs. Commissioner of Customs (2001) 128 ELT 21*** had held that
 - All tangible moveable articles would be goods for the purposes of Customs Act, 1962
 - Any media, whether in the form of books or computer disks or cassettes which contain information technology would necessarily be regarded as goods
 - The moment information or advice is put on a media whether paper or diskettes or any other thing, that what is supplied becomes chattel.
- The Constitutional Bench of the Supreme Court in the case of ***TCS Vs. State of Andhra Pradesh (2004) 178 ELT 22*** has held that since software is capable of abstraction, consumption, use, transmission, transfer, delivery, storage, possession it would be goods for the purpose of levy of sales tax.

SOFTWARE

- The New South Wales Supreme Court in the case of ***Gammasonics Institute for Medical Research Pty Ltd Vs. Comrad Medical Systems Pty Ltd*** has held that software delivered by means of internet download is not 'goods' for the purposes of the Australian Sale of Goods Act, 1923 since software is supplied in an intangible form and goods are limited to tangible form.
- The Madras High Court in the case of ***Infotech Software Dealers Association (2010) 20 STR 289*** held that if the software is sold through the medium of internet in the form of downloadable, it does not fit into the ambit of "IT software of any media". In that event, it is possible to hold that when an access control is given through an internet medium with a username and password and when there is no CD or other storage media for the item, it does not satisfy the requirement of being 'goods' or the entry used in the statute.

SOFTWARE

- The Delhi Bench of the Tribunal in the case of ***Atul Kaushik Vs. Commissioner of Customs (2015) 330 ELT 417*** has held that
 - Electronic download of software from a server located abroad amounts to import of goods.
 - **There is no mechanism for levy of duty on download of software.**
 - Entire Customs Act in the present form only provides for collection of customs duty on tangible goods.
 - In the absence of mechanism of collection of tax, the levy paid.
 - ***Electronically downloaded software is not leviable to customs duty.***
- Civil Appeal of the Revenue against this decision dismissed by the Supreme Court holding that there is no reason to interfere with the order passed by the Tribunal. ***(2016) 339 ELT A136.***

SOFTWARE

Import of goods

- If download of software is considered as import of goods, there is no mechanism for levy of customs duty under Section 12
- IGST on import of goods is levied at the point of time of levy of customs duty under Section 12
- If Section 12 of the Customs Act is not applicable there cannot be a levy of IGST on import of goods

Import of service

- What is acquired is only a right to use a copyrighted article
- If the same is considered as service there is an import of service
- Import of service attracts IGST under reverse charge mechanism

CONCEPT OF SUPPLY



CGST – SUPPLY – SECTION 7

- Supply includes
 - All forms of supply of goods or services or both such as **sale, transfer, barter, exchange, license, rental, lease or disposal** made or agreed to be made for a consideration by a person in the course or furtherance of business
 - **Import of service for a consideration and whether or not in the course or furtherance of business**
 - **Activities specified in Schedule-I – made or agreed to be made *without a consideration***

CGST – SUPPLY

- *Made or agreed to be made indicates that advances would attract GST*
 - *No GST on advance for goods while GST is applicable for advances for services*
- *In respect of import of service, nexus to business is not required for GST applicability*
- *Activities in Schedule – I treated as supply even if made without consideration*

SUPPLY

- None of the terms used in supply defined
- 101st Constitutional Amendment did not delete Article 366(29A)
 - 46th Amendment
 - 6 categories
 - Amendment for the purpose of Entry 54, State List and Entry 92A, Union List
 - Amendment explained by Supreme Court in ***BSNL (2006) 2 STR 161***
- What is a transfer?
- Barter treated as supply but not defined

CASE STUDY – 1

- Accident
- Insurance compensation as per policy
 - Is there a supply?
 - Is compensation consideration?
 - Does the asset exist post the transaction?
 - Transfer presumes the existence of the asset and the transferee to whom it is transferred. The Court observed that when an asset is destroyed there is no question of transferring it to others – ***Vania Silk Mills (1991) 191 ITR 647 (SC)***



CASE STUDY – 1

- ***Jurgen Mohr Vs. Finanzamt Bad Segeberg***
 - Farmers agreed to discontinue milk production as per directions of the Government
 - Compensation paid by the Government for such discontinuance
 - The ECJ held that the tax is a consumption based tax and cannot be levied without consumption of service
- ***Landboden Agrardienste GmbH & Co. LG Vs. Finanzat Calau***
 - Government awarded compensation for reduction of potato production to a farmer
 - Compensation is not a consideration for any service as there is no consumption involved in this case

IN THE COURSE OR FURTHERANCE OF BUSINESS

Decision	Case Law Reference	GST
Sale of publications spreading the message of Sai Baba cannot be considered as business	<i>Sai Publication (SC) - (2002) 126 STC 288</i>	?
Sale of Prasadam is not in connection with business	<i>Arulmigu Dhandayuthapani Swami Thirukkoil (Mad) - (1998) 108 STC 114</i>	?
Charitable Organisation engaged in construction of latrines is not a dealer	<i>Sulabh International (Mad) - (2012) 53 VST 248</i>	?
Sale of food in canteen run by temple is not taxable	<i>Shree Bhramaramba (AP) - (1989) 73 STC 321</i>	?
Publishing admission forms does not constitute business. University is not a dealer	<i>Mahatma Gandhi Kashi Vidyapeeth (All) - (2013) 64 VST 271(</i>	?
Providing accommodation to devotees by Trust of temples without profit motive is not business	<i>Palani Dhandayuphabani Devasthanam (Mad) - (1998) 108 STC 114</i>	?
Sale of business as a going concern is not business	<i>Coromandel Fertilizers (AP) - (1999) 112 STC 1</i>	?

CASE STUDY - 2

- Old jewellery given by a customer to a jeweller.
- Old jewellery to be melted and converted into new jewellery.
- Supply?



CASE STUDY - 3

- Mr. X had purchased a car in 2016 which is now sold for Rs.21 lakhs. Is there a supply by Mr.X?



CASE STUDY – 4

- Food and beverages to passengers
- Vendors permitted to advertise in lieu of payment



SUPPLY - CONSIDERATION

- In relation to supply of goods and / or services **includes**
 - Payment made or to be made whether in money or otherwise in respect of or in response to or for the inducement of, supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central or State Government.
 - Monetary value of any act or forbearance, in respect of or in response to or for the inducement of supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central or a State Government.
 - Deposit in respect of supply shall not be payment unless the deposit is applied as consideration for supply by the supplier.
- Section 2(1) of the Malaysia GST Act, 2014

SUPPLY - CONSIDERATION

Decision	Case Reference
<p>'valuable consideration' takes colour from the preceding expression 'cash or deferred payment'. Therefore, it can cover only other monetary payments in the nature of cash or deferred payment.</p>	<p><i>Devidas Gopal Krishnan Vs. State of Punjab (1967) 20 STC</i></p>
<p><i>When goods are exchanged for goods it is a contract of barter or exchange</i></p>	<p><i>CIT Vs. Motor and General Stores AIR – 1968 – SC – 200.</i></p>

BARTER

- Can there be a barter in services?
- Can there be a barter between goods and services?
- Railways providing services for which consideration is goods
- Vendor supplying goods to the passengers during the journey for which consideration is the right to advertise
- Can there be a non-monetary consideration?
- Are both taxable?
- Valuation?
- Can both claim ITC?

CASE STUDY - 5

- M/s. XYZ Ltd. provides breakfast and lunch at subsidized rates (35% of the costs) to its employees. Is there a supply?



*Frankly, I've seen better menus on
my computer Accounts Package*

CASE STUDY - 5

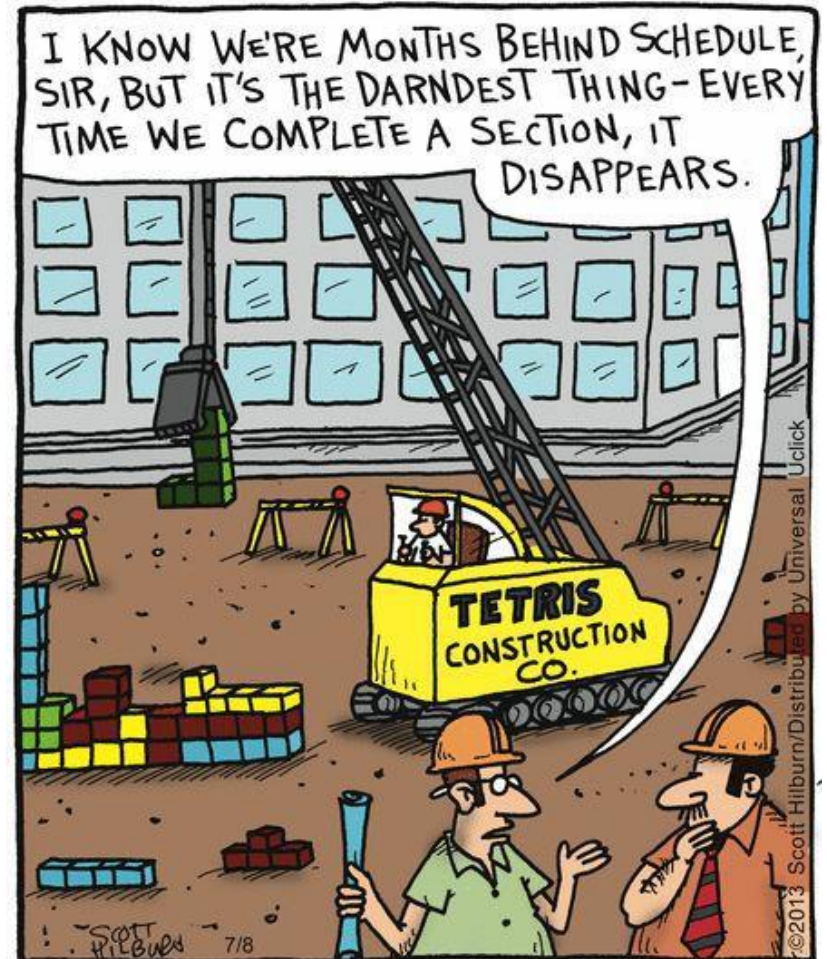
- Public offices in Finland provided legal services free of charge or on part payment based on income / wealth group of the recipient
- ECJ in the case of ***Commission of the European Communities Vs. Republic of Finland*** held that
 - payment made by recipient of services was only a part payment and did not cover whole amount of fees set by law by reference to nature of dispute.
 - Although part payment represented a portion of fee, but, it was fixed based on recipient's income and assets and not on basis of number of hours worked by public offices and complexity of case concerned.
 - Link between legal aid services provided by public offices and payment to be made recipients, was not sufficiently direct for that payment to be regarded as consideration for those services and therefore not taxable.

CASE STUDY - 5

- Provision of food at subsidised cost identified in the employment contract
- Schedule III provides that services by an employee to an employer in the course of or in relation to his employment is neither supply of goods nor supply of services
- *Once the activity undertaken by the petitioner in the form of supply of food to its workers at a subsidized rate is understood to be part of their industrial obligation, it is unthinkable that the same can be construed as service falling within the definition of the expression 'service' under Section 65B(44) of the Finance Act – AP HC – **Bhimas***
- Non-taxable?
- Taxability and ITC

CASE STUDY - 6

- JDA between Landowner and Developer
- Development Rights
- Is there a supply?
- New Notifications

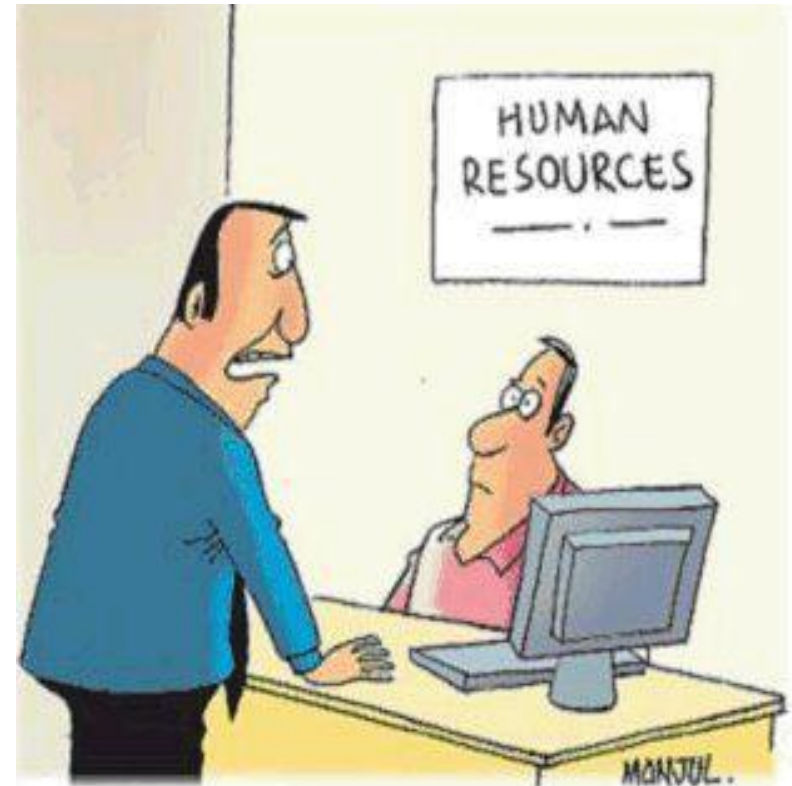


CASE STUDY - 6

- Development Rights can be considered as immovable property
 - *DLF Commercial Projects Corporations (CESTAT Chandigarh)*
- Supply is not in the course or furtherance of business in the hands of the Landowner
 - When purchase of property is an isolated transaction, on execution of JDA, it cannot be said that the owner of land also intended to carry on business using the subject land as stock in trade since they may well have decided to part with the land for other reasons also - *Devineni Avinash (AP HC)*.
- If it is not a supply in the hands of the Landowner, can RCM apply?

CASE STUDY - 7

- Notice pay
 - Supply?
 - Consideration?
 - Schedule – II?



I want to withdraw my resignation.
The company which hired me is
hiring my boss too.

CASE STUDY - 7

- New Section 7(1A) w.e.f. 01.07.2017
- Where certain activities or transactions constitute a supply in accordance with provisions of sub-section (1), ***they shall be treated either as supply of goods or supply of services as referred to in Schedule II***
- **Whether Section 7(1A) has diluted the scope of supply?**
 - Section 7(1) deals with supply
 - Such supplies could now be supply of goods or supply of services
 - **Schedule-II has become a classification mechanism**
 - **There is no deemed supply**

CASE STUDY - 7

- Whether agreeing to the obligation to refrain from an act or to tolerate an act or a situation or to do an act is taxable?
- Whether notice pay is taxable?
- Whether construction of complex is taxable?
- Whether clubs are liable?
- Whether renting of immovable property is taxable?

CASE STUDY - 7

- Schedule-II is now linked with Section 7(1A) of the CGST Act which provides that *where certain activities or transactions constitute a supply in accordance with the provisions of subsection (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule-II.*
 - Whether all these transactions can be considered as a supply under Section 7(1)?
 - Whether the transaction should have the character of service?
 - Mere mention in Schedule II may not be enough unless the transaction fits within the ambit of supply in Section 7(1)

CASE STUDY - 7

- The Federal Court of Appeal Australia in the case of ***AP Group Limited Vs. Commissioner of Taxation*** has observed that
 - The definition of 'supply' and 'consideration', even if read literally as part of that requirement do not result in the omission of the word 'for'.
 - *Section 9-15 and Section 9-17 identify circumstances which are included within the meaning of consideration including, relevantly in Section 9-15(1)(a), 'any payment or any act or forbearance, in connection with a supply of anything'.*
 - *Even if these words are substituted for 'consideration', the result is simply repetition of the 'in connection with' element of the statutory condition, not omission of the word 'for'.*
 - *The consideration must be 'in connection with' the supply but the supply must also be 'for' the consideration.*
 - *The word 'for' thus functions in the statutory description to identify the character of the connection which is required.*
 - *It ensures that not every connection between the giving of consideration and the provision satisfy the first condition of making a taxable supply. If it were otherwise, any form of connection of any character between the making of supply and the payment of consideration would suffice.*

CASE STUDY - 7

- Bombay High Court in the case of *Bai Mamubai Trust Vs. Suchitra* vide order dated **13.09.2019** has held that enforceable reciprocal obligations are essential to a supply. The supply doctrine does not contemplate or encompass a wrongful unilateral act or any resulting payment of damages.

SCHEDULE-I - ACTIVITIES TREATED AS SUPPLY EVEN IF MADE WITHOUT CONSIDERATION

- Permanent transfer / disposal of business assets where ITC has been availed on such assets
- **Supply of goods or services or both between related persons or between distinct persons as specified in Section 25, when made in the course or furtherance of business**
 - *Provided gifts not exceeding Rs. 50,000 in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both*
- Supply of goods by principal to agent where the agent undertakes to supply such goods on behalf of principal
- Supply of goods by agent to principal where the agent undertakes to receive such goods on behalf of the principal
- Import of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business

CASE STUDY - 8

- Cost allocation to other state locations
- Third party costs
- Employee costs
- IT systems, management costs



**“Why should I have to put money in?
All I did was sniff your food.”**

CASE STUDY - 8

- Can an activity be a supply even without consideration?
- Can there be a levy without a deeming fiction?
- Can it be said that an employee identified with Hyderabad is providing services to the Chennai location when the company is the employer?
- When employee services are out of GST, can allocation of employee cost be taxable?
- Can an accounting allocation mandate a tax liability?

SCHEDULE – I - ISSUES

- Whether Parliament can treat activities as supply *even in the absence of consideration?*
- Consideration as contemplated in Section 2(d) of the Contract Act
- In the absence of consideration, can there be a levy?
- Can mere activities be declared as supply through Section 7 when Article 246A of the Constitution confers the power to make laws with reference to GST where there is a supply of goods or services or both?
- Can there be a levy without a deeming fiction?
- Even assuming Section 7 of the CGST Act, 2017 creates a fiction and treats certain activities as supply, the charging section contemplates the levy of GST on the value determined under Section 15 of the CGST Act, 2017 and Section 15 refers to transaction value which is the price paid or payable

SCHEDULE - I

- The SC in the case of ***Govind Saran Ganga Saran Vs. Commissioner of Sales tax (1985) 60 STC 1***, has held that the components which enter into the concept of a tax is well known
 - The first is the character of the imposition known by its nature which prescribes the taxable event attracting the levy;
 - second is a clear indication of the person on whom the levy is imposed and who is obliged to pay the tax;
 - the third is the rate at which the tax is imposed;
 - fourth is the measure or value to which the rate will be applied for computing the tax liability.
- If these components are not clearly and definitely ascertainable, it is difficult to say that the levy exists in point of law. Any uncertainty or vagueness in the legislative scheme, defining any of those components of the levy will be fatal to its validity

SCHEDULE-III

- **Neither supply of goods nor supply of services**
- Few examples:
 - Employee – employer
 - Court or Tribunal
 - Sale of land and subject to Para 5(b), Schedule II, Sale of building
 - Actionable claims other than lottery, betting and gambling
 - Supply of goods from a place in the non- taxable territory to another place in the non- taxable territory
 - Supply of warehoused goods before clearance for home consumption
 - Transfer of title to goods before clearance for home consumption.

COMPOSITE AND MIXED SUPPLY



COMPOSITE SUPPLY

- Composite supply means a supply made by a taxable person to a recipient
 - consisting of two or more taxable supplies of goods or services or both, or any combination thereof
 - which are *naturally bundled and*
 - *supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply*
- In the case of composite supply comprising of two or more supply, one of which is a **principal supply** shall be treated as supply of such principal supply
- Principal supply means the supply of goods or services which constitutes the **predominant element** of the composite supply and to which any other supply forming part of the composite supply is **ancillary**

MIXED SUPPLY

- Mixed supply means
 - Two or more individual supplies of goods or services or any combination thereof
 - Made in conjunction with each other by a taxable person
 - For a single price
 - Where such supply does not constitute a composite supply
- A mixed supply shall be treated as a supply of that particular supply which attracts the highest rate of tax.



COMPOSITE SUPPLY

- Supply of goods
 - In a packed condition
 - In a lorry
 - Duly insured
- Supply of goods / packing / transport / insurance
- Naturally bundled
- Principal Supply

CASE STUDY

- GST goes bananas
 - Rahul Bose's Tweet
 - Action by authorities
 - Transaction
 - Room service?
 - Restaurant Supply?
 - Fruit Supply?



CASE STUDY

- Healthcare services
- Food to in-patients
- Food to visitors



HEALTH CARE SERVICES

- Board Circular
 - Food supplied to in-patients as advised by doctor / nutritionist is of composite supply of health care and exempt
 - Food supplied to patients (not admitted) or their attendants or visitors are taxable
- Food provided to doctors and employees
- Medicines and implants

CASE STUDY

- Gift Hamper
- Fruits
- Chocolates@ 18%



CASE STUDY

- Works Contract?
- Composite Supply?
- Mixed Supply?
- 70-30 formula through notification



CASE STUDY

- Supply of UPS along with Battery
- Single price
- Mixed Supply or Composite Supply ?
- Batteries taxed at 28%
- UPS taxed at 18%
- Can there be separate supplies?



EU VAT

- In the case of ***Card Protection Plan Ltd. Vs. CCE***, the European Court of Justice held that
“A supply which constitutes a single service from an economic point of view should not be artificially split. There was a single supply in particular in cases where one or more elements are to be regarded as constituting the principal service whilst one or more elements are to be regarded by contrast as ancillary service which share the same treatment of the principal service. A service must be regarded as ancillary to a principal service if it does not constitute for customers an aim in itself but a means of better enjoying the principal service supplied.”

JOURNEY AHEAD

- *Tolsma*
- *A taxable supply of services requires not only consideration, but also requires a direct and necessary link between such consideration and the services supplied*



THANK YOU

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VALUE OF SUPPLY

CA RADHIKA VERMA

RELEVANT PROVISIONS IN GST

- Valuation of taxable supplies is governed by Section 15 of the CGST & SGST Acts
- Chapter IV OF THE C/SGST Rules – “Determination of Value of supply” contains Rule 27 to Rule 35 which contains specific provisions in case one or more conditions u/s 15 is not fulfilled and for valuation under specific circumstances
- Understanding the “Standard provisions” of Value of supply and “Valuation under exception scenario”

A hand holding a pen points towards a calculator resting on a financial chart. The chart features various data series, including a line graph and a bar chart, with dates like '5 Oct 15:30' and '6 Oct 07:30' visible. The calculator has a digital display and various function keys. The overall scene is set against a background of financial documents and charts.

VALUE OF SUPPLY

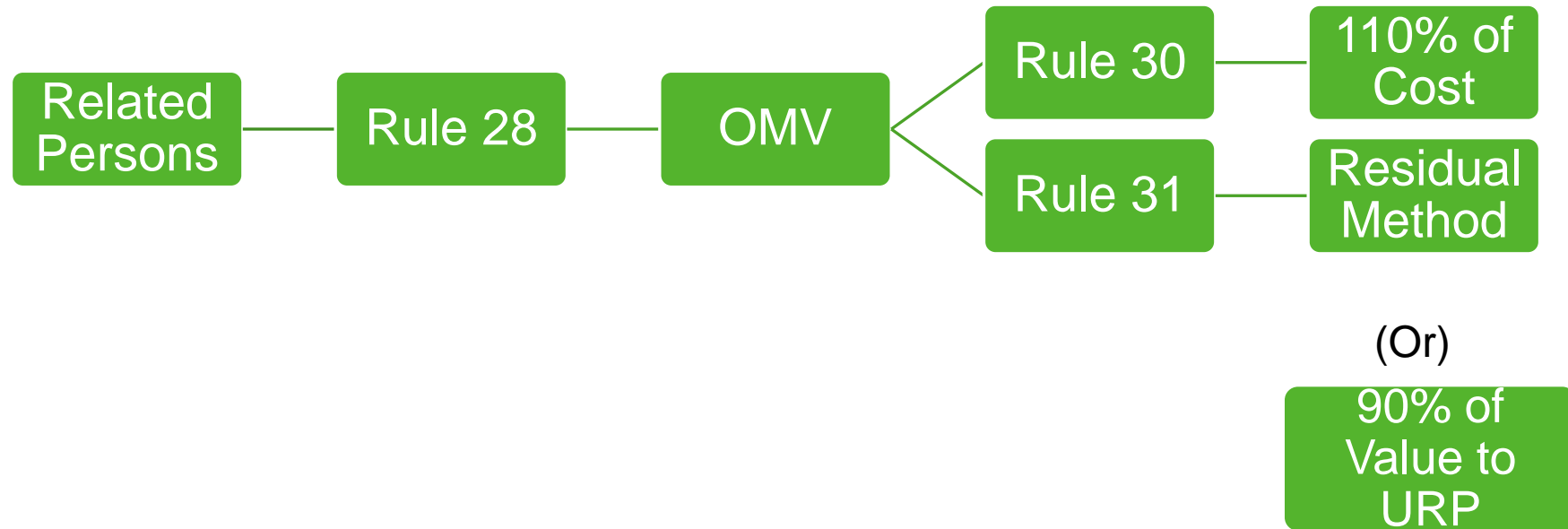
PROVISIONS OF C/S GST ACT

Section 15 of C/SGST Act

Reference	Provisions
Section 15(1)	The value of a supply of <u>goods or services</u> or both shall be the <u>transaction value</u> , which is the <u>price actually paid or payable</u> for the said supply of goods or services or both where the <u>supplier and the recipient of the supply are not related</u> and the price is the sole consideration for the supply.

- Value of supply applies to “Goods” or “Services”
- TV = Price Paid or payable for said supply
- Supplier and Recipient are not “related persons”
- Price = “Sole Consideration”

Exception 1- RELATED PERSONS - FLOW



Exception 2 – “Sole Consideration” & FIAT INDIA FIASCO

- **Commnr. Of Central Excise, Mumbai vs M/S. Fiat India (P) Ltd. & Anr on 29 August, 2012**
 - Fiat was engaged in manufacture of Fiat UNO model and charged below cost price to penetrate the Indian market
 - The adjudicating authority confirmed the demand by concluding that the assessee main consideration was to **penetrate the market** and hence the price at which they were selling the Cars in the market could not be considered as Sole Consideration
 - Revenue does not allege that the buyer is a related person, nor do they allege element of flow back directly from the buyer to the seller, but certainly, **they allege that the price was not the sole consideration and the circumstance that no prudent businessman would continuously suffer huge loss**
 - The court held that consideration’ means a reasonable equivalent or other valuable benefit passed on by the promisor to the promisee or by the transferor to the transferee. Similarly, **when the word ‘consideration’ is qualified by the word ‘sole’, it makes consideration stronger so as to make it sufficient and valuable having regard to the facts, circumstances and necessities of the case.**
 - Budget 2014 amended the provision that where goods were sold below the manufacturing cost in such case also value of goods is deemed to be transaction value

Section 15 of C/SGST Act

Reference	Provisions
Section 15(2)	<p>The value of a supply shall include:</p> <ul style="list-style-type: none">a) .. Taxes, duties, fees and charges levied under any statute except C/S/UT GST Act or GST Compensation to states Actb) .. Amount incurred by recipient which is liable to be paid by the supplier of goodsc) ..Incidental expenses such as commission or packing charges charged by supplier for anything done in respect of the supplyd) ..interest or late fees or penalty of delayed payment of consideratione) ..subsidies directly linked to price except subsidies by CG/SG

Whether cost of tools provided by OEM to be included in value of supply?

Whether moulds and dies owned by Original Equipment Manufacturers(OEM) that are sent free of cost FOC to a component manufacturer is leviable to tax and whether OEMs are required to reverse input tax credit in this case?

1.1. Moulds and dies owned by the original equipment manufacturer (OEM) which are provided to a component manufacturer (the two not being related persons or distinct persons) on FOC basis does not constitute a supply as there is no consideration involved. Further, since the moulds and dies are provided on FOC basis by the OEM to the component manufacturer in the course or furtherance of his business, there is no requirement for reversal of input tax credit availed on such moulds and dies by the OEM.

1.2. It is further clarified that while calculating the value of the supply made by the component manufacturer , **the value of moulds and dies provided by the OEM to the component manufacturer on FOC basis shall not be added to the value of such supply because the cost of moulds/dies was not to be incurred by the component manufacturer and thus, does not merit inclusion in the value of supply in terms of Section 15(2)(b) of the Central Goods and Service Tax Act, 2017 (CGST Act for short)**

1.3. However, **if the contract between OEM and component manufacturer was for supply of components made by using the moulds/dies belonging to the Component manufacturer, but the same have been supplied by the OEM to the component manufacturer on FOC basis; the amortised cost of such moulds/dies shall be added to the value of the components.** In such cases, the OEM will be required to reverse the credit availed on such moulds/dies, as the same will not be considered to be provided by OEM to the component manufacturer in the course or furtherance of the former's business

CONCEPT OF 'PURE AGENT'

Who is a 'Pure agent'?

Pure agent means a person who-

- (a) ...enters into a **contractual agreement** with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;
- (b)... neither intends **to hold nor holds any title to the goods or services or both** so procured or supplied as pure agent of the recipient of supply;
- (c)...**does not use** for his own interest such goods or services so procured; and
- (d)... **receives only the actual amount** incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.

Exclusions as Pure Agent

Concept is applicable only to “supplier of services”

The expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply.

Conditions:

- (i) the **supplier acts as a pure agent** of the recipient of the supply, when he makes the payment to the third party on authorisation by such recipient;
- (ii) the payment made by the pure agent on behalf of the recipient of supply has been **separately indicated in the invoice issued by the pure agent** to the recipient of **SERVICE**; and
- (iii) the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply **are in addition to the services the supplies on his own account. .**

Illustration of 'Pure Agent' for Customs Broker

S.No.	Component charged in invoice	Amount
1	Agency Income	Rs. 10000/-
2	Traveling expenses ; Hotel expenses	Rs. 15,000/-
3	Customs Duty	Rs. 55,000/-
4	Docks Dues	Rs. 5000/-

AAR in case of E-Square

E-Square Leisure Private Limited (AAR Maharashtra):

-The Applicant is engaged in the business of accommodation in hotels, inns, guest house etc.

-The Applicant intends to enter into a contractual agreement of renting of immovable property and also intends to collect expenses of electricity, water charges etc. from the lessee in actual.

Ruling

The utility charges reimbursed by the Applicant from lessee forms part of composite supply. Thus, GST is payable at a rate as applicable to the principal supply. Applicant has failed to establish themselves as a “pure agent” as defined under the GST Valuation Rules. Therefore, the cost incurred by the Applicant and subsequent reimbursement thereof cannot be excluded from the value of supply.

Section 15 of C/SGST Act

Reference	Provisions
Section 15(3)	<p>The value of a supply shall not include:</p> <ul style="list-style-type: none">a) .. Discount which is duly recorded on in the invoice issuedb) .. Post-supply discount which is “established from agreement at or before the time of supply” and “input tax credit is specifically reversed by the recipient of supply”

Post supply discounts – A Dilemma

Discount provided after supply is made shall be excluded from value of supply upon fulfilment of following conditions:

- Such discount is established in terms of agreement which is entered into at or before the time of supply and

A fixed and specific quantum or percentage of discount is mentioned in such agreement.

Authority for Advance Ruling (Maharashtra) in case of M/s Ultratech Cement Ltd. 2018 (7) TMI 1761

- Such discount is specifically linked to relevant supply and
- Input tax credit attributable to such discount has been reversed by the recipient of goods/services

The above 3 conditions need to be satisfied cumulatively

Section 15 of C/SGST Act

Reference	Provisions
Section 15(4) & (5)	15(4).... In case the conditions u/s 15(1) not satisfied – Refer to rules 15(5)... Notwithstanding 15(1) & (4) – Value of “certain supplies” shall be determined – Refer to relevant rules

VALUE OF SUPPLY

RULES UNDER C/S GST RULES



Determination of Value of Supply - Rules

Reference	Provision
Rule 27	Value of supply of goods or services where the consideration is not wholly in money
Rule 28	Value of supply or services or both between distinct persons or related persons other than agent
Rule 29	Value of supply of goods made or received through agent
Rule 30	Value of supply of goods or services based on cost
Rule 31	Residual method
Rule 31A	Value of supply in case of lottery, betting, gambling or horse racing
Rule 32	<ul style="list-style-type: none">- Sale of foreign currency including money changing- Air travel agent- Life Insurance business (Except if 100% premium is towards risk cover)- Dealer of Second hand goods (Margin scheme)- Valuation in case of token/vouchers/coupon redeemable against supply of goods or services

Determination of Value of Supply - Rules

Reference	Provision
Rule 32A	Value of supply in cases where Kerala Flood Cess is applicable
Rule 33	Value of supply in case of pure agent
Rule 34	Value of supply other than Indian rupees
Rule 35	Consideration inclusive of taxes



CA Radhika Verma,
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THANK YOU



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Input Tax Credit

CA SATISH SARAF | SARAF SATISH & CO | CHARTERED ACCOUNTANTS

Day 2 - Friday 24th January, 2020

Timings	Session/Topics
Technical Session-I	
10.00 AM - 11.30AM	Input Tax Credit, Inverted Tax structure
11.30 AM - 11.45 AM	Tea Break
11.45 AM - 1.05 PM	Input Service Distributor, Practical issues related to ITC reversals

Input Tax Credit

Section 16 to 21 of CGST Act, 2017
Rule 36 to 45 of CGST Rules, 2017



Definitions

INPUT -2(59)



Any goods
other than
Capital
Goods

Used or
intended to be
used:

- By supplier
- In the course of business or
- Furtherance of business

INPUT SERVICE – 2(60)



Any
Service

**Used or
intended to be
used:**

- **By supplier**
- **In the course of
business or**
- **Furtherance of
business**

INPUT TAX – 2(62)

Input Tax in relation to registered person

- Means IGST, CGST, SGST & UTGST
- Charged on supply of Goods or Services or Both

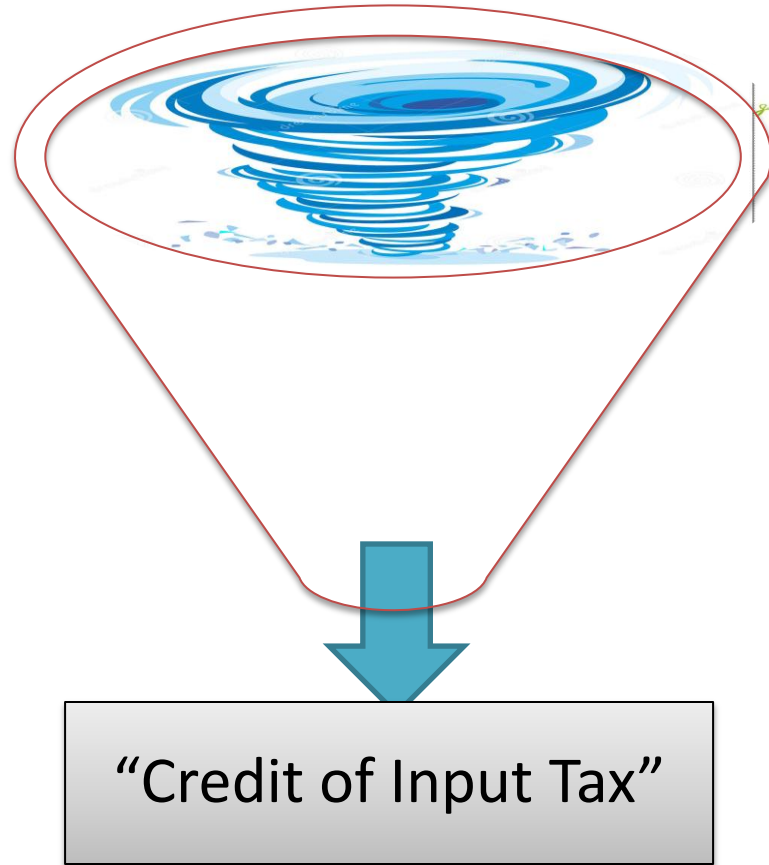
Input Tax Includes:

- IGST Charged on Import of Goods
- Tax paid under Reverse Charge Mechanism

Input Tax does not includes:

- Tax paid under composition

INPUT TAX CREDIT – 2(63)



CAPITAL GOODS – 2(19)

“capital goods” means

goods, the value of which is capitalized in the books of accounts of the person claiming the credit and

which are used or intended to be used in the course or furtherance of business;



ITC Sections

Sections relevant for Tax Credit

Section	Particulars
16	Eligibility and conditions for taking ITC
17	Apportionment of Credits and blocked Credits
18	Availability of credit in special circumstances
19	Taking ITC in respect of inputs & Capital Goods sent for job-work
20	Manner of distribution of credit by ISD
21	Manner of recovery of credit distributed in excess

ITC Enabler

Sec. 49(4) of CGST Act enables the registered taxable person to avail ITC

The amount available in the “Electronic Credit Ledger” may be used for making any payment towards Output Tax payable

Eligibility & Condition

Who can claim ITC:

- Every registered taxable person
- Credit of tax charged on any supply (recipient)
- Goods or Services are used or intended to be used in the course or furtherance of business
- Credited to Electronic Credit Ledger

Manner of claiming ITC

Input tax Credit on account of	Output liability on account of Integrated tax	Output liability on account of Central tax	Output liability on account of State tax / Union Territory tax
Integrated tax	(I)	(II) – In any order and in any proportion	
<i>(III) Input tax Credit on account of Integrated tax to be completely exhausted mandatorily</i>			
Central tax	(V)	(IV)	Not permitted
State tax / Union Territory tax	(VII)	Not permitted	(VI)

Condition..

Recipient:

- In possession of Tax Invoice / Debit Note or any other tax paying document
- Issued by the registered supplier
- Received the Goods or Services or both
- In case of goods received in lots – ITC to be claimed on receipt of last lot
- Fails to pay the supplier within 180 days from the date of invoice – added to the output tax
- Filed valid return U/s. 39.

Supplier:

- Actually paid the tax in cash or utilization of ITC

Condition..

Capital Goods and Plant & Machinery

- Registered Taxable Person
- Claims Depreciation on tax component
- No ITC is allowed

Time Limit for availing ITC:

- Earliest of
 - Before furnishing the September month return after end of financial year
 - Date of furnishing the relevant Annual Return

Illustration on Time Limit

Date of Purchase	Month to be claimed	Date of furnishing Next year September return	Date of furnishing Annual Return
10-07-2017	July 2017	20-10-2018	30-06-2018
10-07-2017	July 2017	20-10-2018	31-12-2019
15-03-2018	March 2018	20-10-2018	31-07-2018
15-03-2018	March 2018	20-10-2018	31-12-2019

- ROD 02/2018 - CT: 02/2018, Dt: 31-12-2018
- GUJARAT HIGH COURT - AAP AND CO., CA's Vs. UOI
- CTN 49/2019 Dt:9th October 2019

**Apportionment of
Credit**

Sec. 17(1) to 17(4)

Partly for business
purpose and partly
for other purposes

Partly for taxable
supplies including
zero rated and partly
for exempted
supplies

Banking Company,
Financial Institution
including NBFC

Blocked Credit – Sec. 17(5)

Motor vehicles for transportation of persons having approved seating capacity of not more than 13 persons except when they are used for making specified services.

Vessel & Aircrafts except when they are used for making specified taxable supplies & transportation of goods.

Services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa).

Food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance

- Exception (1) Mixed or composite supply & (2) where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.

Membership of a club, health and fitness centre;

Travel benefits extended to employees on vacation such as leave or home travel concession

Works contract services
when supplied for
construction of
immovable property, other
than plant and machinery

Goods or services
received by a taxable
person for construction of
an immovable property on
his own account, other
than plant and machinery

Goods / services on which tax has been paid
under composition

Goods or Services or both received by a NRTP

- Exception: Goods imported by NRTP

Goods and/or services used for personal consumption

Goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples

Any tax paid in terms of sections 74, 129 or 130

Special Circumstances

When	From which date	On what	Rider
Applied for registration with in 30 days on becoming liable to register	Day immediately preceding date from which becomes liable to pay tax	Inputs held in stock and inputs contained in semi-finished or finished goods held in stock	<p>Any supply of goods and / or services to him after the expiry of one year from the date of issue of tax invoice relating to such supply</p>
Voluntary Registration	Day immediately preceding date of grant of registration	Inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods	
Ceases to pay tax under composition	Day immediately preceding the date from which he becomes liable to pay tax	Inputs held in stock and inputs contained in semi-finished or finished goods held in stock relatable to such exempt supply and on capital goods exclusively used for such exempt supply	
Exempted supply becomes taxable supply	Day immediately preceding the date from which such supply becomes taxable		

Special Circumstances..

Change in the constitution of Registered Taxable person:

Sale, merger, demerger, amalgamation, lease or transfer of business

With the specific provision of transfer of liabilities

Allowed to transfer un-utilized ITC in Electronic Credit Ledger

To Sold, merged, demerged, Amalgamated, leased or transferred business

Special Circumstances..

Any registered taxable person

Availed ITC and switches

- To Composition
- Supply becomes exempted

He shall pay by way of debit in Cash or credit ledger

- Equivalent to credit of input tax in respect of
 - Inputs held in stock as finished / Semi Finished
 - Capital Goods as reduced by percentage points

On the day immediately preceding the date of switch over or date of exemption

Balance of input tax in the Electronic Credit Ledger shall lapse.

Special Circumstances..

Supply of Capital Goods or Plant & Machinery

- On which ITC credit is availed

Pay an amount higher of

- equal to the ITC availed as reduced by the percentage points as may be prescribed
- Tax on the transaction value U/s. 15.

In case of Refractory Bricks, Moulds & Dies, Jigs & Fixtures are supplied as scrape

- Pay tax on the transaction value of goods U/s. 15

ITC in respect of inputs sent for job work


On what ITC is available	Inputs only
Who can take ITC	Principal
When	Principal sends inputs or directly delivered to the job worker
When the goods shall come back	In case of: Other than Capital Goods – 1 Yr. Capital Goods – 3 Yrs.
If not received back	It is deemed that the principal has supplied the goods to the job worker
Applicable in all cases	Not applicable in case of Moulds & Dies, Jigs & Fixtures or tools





Inverted Tax Structure




Inverted Tax Structure



Meaning of Inverted
Tax Structure



Refund of accumulated
Input Tax Credit



Meaning of Inverted Tax Structure

- Rate of tax on inputs being higher than the rate of tax on output supplies

Refund of tax – Inverted tax structure

Section 54(3) of CGST Act, 2017

Credit accumulated on account of inverted tax structure

Input are alone eligible for refund

- Input Services, Capital Goods & Transition Credit

No refund in case of Nil rated & fully exempt supplies

Exception – refund of tax

- Supplies of Goods or Services or both
- As may be notified

Relevant Notifications

CTR
05/2017,
Dt: 28th
June, 2017

CTR
15/2017,
Dt: 28th
June, 2017

CTR
44/2017,
Dt: 14th
November,
2017

CTR
20/2018,
Dt: 26th
July, 2018

15 Goods
Notified not
eligible for
refund

Entry 5(b)
of Schedule
– II not
eligible for
refund

Three
Goods
inserted –
not eligible
for refund

10 Goods
removed
from
ineligible
list

HIGH COURT OF GUJARAT
SHABNAM PETROFILS (P) LTD. Vs. UOI

ORAL ORDER - Date : 17/07/2019

It is a well settled principle that the delegated legislation has to be in conformity with the provisions of the parent statute. By prescribing for lapsing of ITC, the Notification No. 05/2017-C.T. (Rate) dated 28.06.2017, as amended by Notification No. 20/2018-C.T. (Rate) dated 26.07.2018, has **exceeded the power delegated** under Section 54(3)(ii) of the CGST Act.

In view of the above, proviso (ii) of the opening paragraph of the Notification No.05/2017-C.T. (Rate) dated 28.06.2017, inserted vide Notification No.20/2018-C.T. (Rate) dated 26.07.2018, is *ex-facie* invalid and liable to be strike down as being without any authority of law.

Input Service Distributor

Section 20 & 21
of CGST Act

INPUT SERVICE DISTRIBUTOR

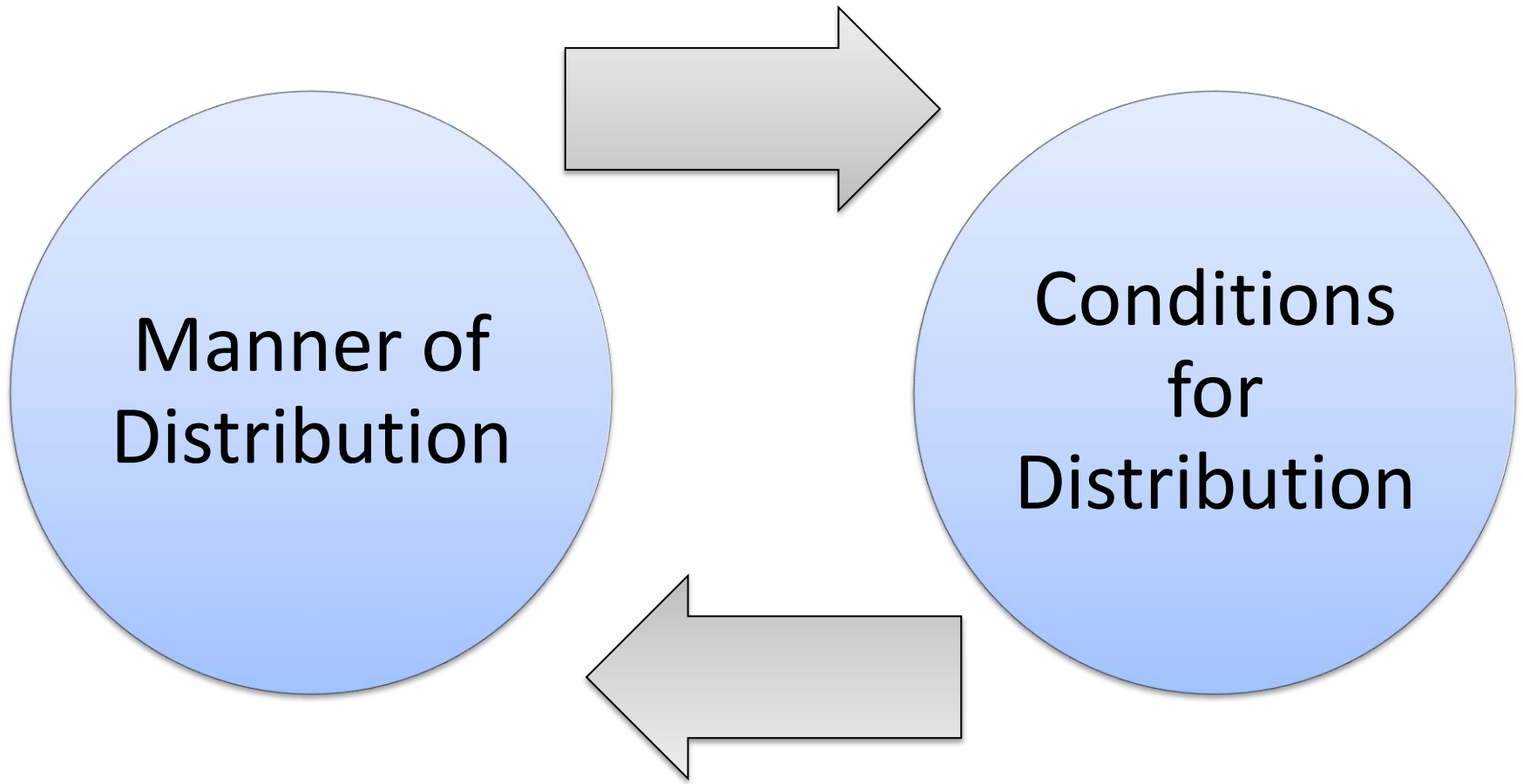
An office of the supplier of goods or services or both

Receives tax invoice towards 'input services'

Issues prescribed documents for distribution of ITC of IGST / CGST / SGST / UTGST

Having same PAN

Distribution of Credit by ISD



Manner of Distribution

```
graph TD; A[Manner of Distribution] --> B[CGST as CGST or IGST]; A --> C[SGST as SGST or IGST]; A --> D[IGST as IGST or CGST];
```

CGST as
CGST or IGST

SGST as
SGST or IGST

IGST as IGST
or CGST

Conditions for Distribution

Credit to be distributed by prescribed document containing the such details

Credit distributed shall not exceed the credit available for distribution

Credit attributable to

- Single recipient – to that recipient
- Multiple recipient – to those recipients on pro rata basis of turnover
- All recipient – pro rata basis of turnover

Recovery of excess distribution

ISD distributes in contravention

Which results
excess distribution
of credits

- To one or more recipients of credit

Excess so
distributed

- Shall be recovered from recipient along with interest
- Sec. 73 & 74 apply mutatis mutandis

A horizontal green rounded rectangle with a thin black border. The left side is rounded, and the rest is a simple rectangle. The text "ITC Rules" is centered inside in red.

ITC Rules

Input Tax Credit Rules

Rule	Content
36	Documentary requirements and conditions for claiming input tax credit
37	Reversal of input tax credit in case of non-payment of consideration
38	Claim of credit by a banking company or a financial institution
39	Procedure for distribution of input tax credit by Input Service Distributor
40	Manner of claiming credit in special circumstances
41	Transfer of credit on sale, merger, amalgamation, lease or transfer of a business

Input Tax Credit Rules

Rule	Content
42	Manner of determination of input tax credit in respect of inputs or input services and reversal thereof
43	Manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases
44	Manner of reversal of credit under special circumstances
44A	Manner of reversal of Credit of Additional Duty of Customs in respect of Gold Dore Bar
45	Conditions and restrictions in respect of inputs and capital goods sent to the job worker

Input Tax Credit Formats

Form No	Purpose
GST ITC - 1	Declaration for claim of input tax credit under sub-section (1) of section 18 (New Registration)
GST ITC - 2	Declaration for transfer of ITC in case of sale, merger, demerger, amalgamation, lease or transfer of a business under sub-section (3) of section 18.
GST ITC-2A	Declaration for transfer of ITC pursuant to registration under sub-section (2) of section 25 (Multiple Registration in a State or UT)
GST ITC – 3	Declaration for intimation of ITC reversal on inputs, inputs contained in semi-finished and finished goods and capital goods in stock under sub-section (4) of section 18. (converting to Composition Levy)
GST ITC – 4	Details of goods/capital goods sent to job worker and received back

36 – Documents & Conditions for ITC

Registered Person & ISD

- Invoice issued by supplier
- Debit Note
- Bill of Entry under Customs Act, 1962
- ISD Invoice or ISD Debit Note

The prescribed particulars are contained in the Invoice

Furnished in Form GSTR-2

No ITC – in case demand raised under fraud, willful misstatement or suppression of facts

New Rule 36(4) – CTN 49/2019, Dt: 09-10-2019

37 – Reversal of ITC in case of non payment of consideration

Consideration along with Tax not paid within 180 days from the date of issue of Invoice

Time limit of 180 days not applicable in case of Schedule – I transactions

Any amount required to be paid by supplier but incurred by recipient – will not be considered

The ITC availed will be added as output tax liability for the month in which the details are furnished

Interest @ 18% PA is payable

Upon payment of Consideration & Tax to supplier

- Reclaim the ITC
- The time limit of U/s. 16(4) is not applicable

38 – Claim of Credit by Bank, Etc.

Does not follow the restriction method i.e. proportionate on the basis of business and non-business uses

Shall follow the following procedure:

- Not to avail ITC on supplies relating to non-business purposes
- Not to avail ITC on negative list for ITC
- Avail full credit between distinct persons
- On the Balance avail 50% of ITC
- Provisions relating to Provisional ITC, Matching of Credit, matching of output tax reversal & reclaim claim will apply

39 – Distribution of ITC by ISD

ISD to distribute the Credit in the month in which the credit is available

The details to be filed in Form GSTR-6

ISD to distribute eligible and ineligible credits as per formula

ISD to distribute credit of IGST, CGST, SGST & UTGST as per formula

Credit attributable to:

one recipient – to that recipient

More than one – as per formula

Formula for calculation of pro rate distribution to each recipient (r1)

- **$C1 = (t1/T) * C$**

- C1 = Credit attributable to r1

- t1 = Turnover of r1

- T = Aggregate turnover of all r's

- C = Amount of Credit to be distributed

- Rn= Recipient

ITC of IGST to be distributed as Credit of IGST

CGST, SGST & UTGST to be distributed as follows:

- ISD & Recipient located in the same State
 - To be distributed as CGST, SGST & UTGST respectively
- ISD & Recipient are located in two different States
 - To be distributed as IGST the sum of CGST + SGST + UTGST as qualifies as per formula

ISD to issue 'ISD Invoice' indicating issued only for 'distribution of ITC'

In case of reduction of ITC already distributed – Credit Note to be issued by ISD and corresponding ISD Invoice / Debit Note to be issued to another recipient & vis-a-vis

40 – Manner of claiming ITC in Special Circumstances

Capital Goods:

- Reducing the Tax paid on Capital Goods
- 5% points for each quarter or part of quarter

Applying for registration :

- ITC relating to inputs, semi-finished, finished
- To be declared electronically in Form GST ITC – 01
- The details to be certified by a Practicing CA or CA if the total claim of eligible ITC of IGST, CGST, SGST & UTGST exceeds Rs. 2,00,000/-

In case of

- (1) Composition to regular levy
- (2) Exempted supply becoming taxable
 - The corresponding eligible details to be furnished
 - In from GSTR-1 & Form GSTR-4 as the case may be

In case of
supply of
Capital Goods
on which ITC is
already availed

- ITC to be reduced by 5% points for each quarter or part of quarter.

41-Transfer of Credit on Sale, Merger Etc.

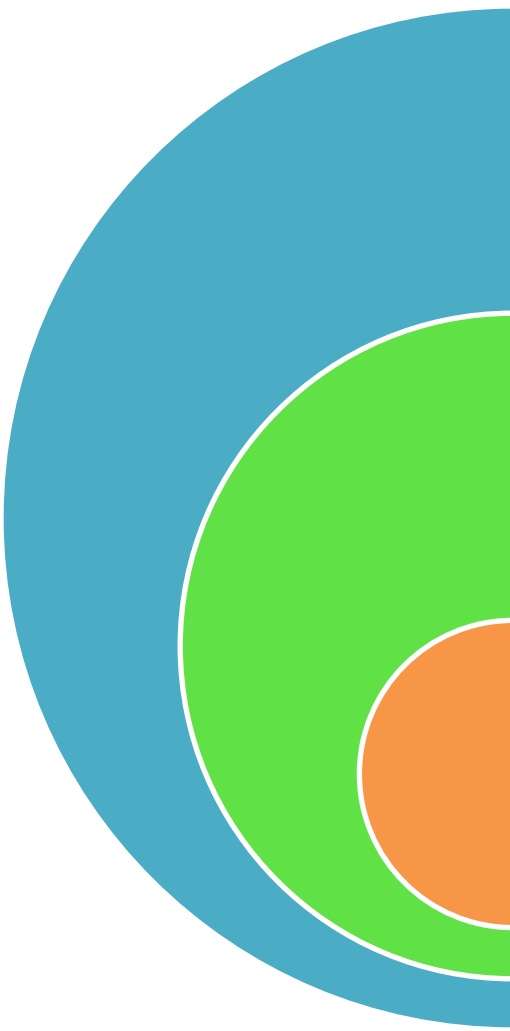
In the event of Sale, Merger, de-merger, amalgamation, lease or transfer of business

The registered person furnish the details of such Sale..... in Form GST ITC – 02

With a request to transfer the un-utilized ITC to transferee.

In case of de-merger – ITC is apportioned in the ratio of value assets of new units.

- Value of assets means the value of the entire assets of the business, whether or not ITC has been availed thereon

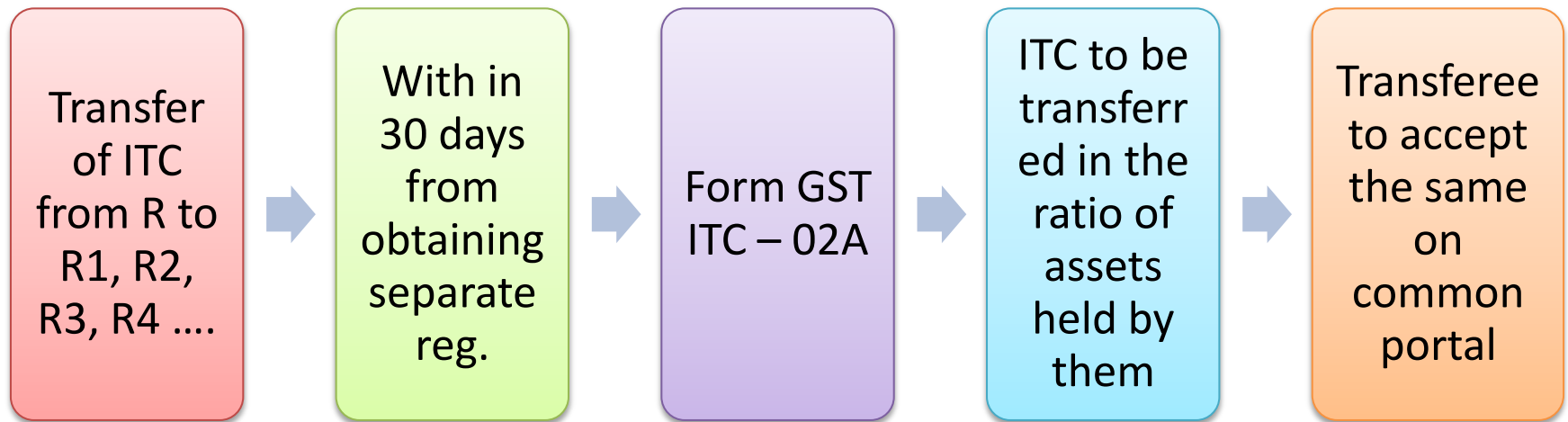


The transferor to submit a copy of certificate issued by Practicing CA or CA certifying in sale..... done with specific provision for transfer of liabilities.

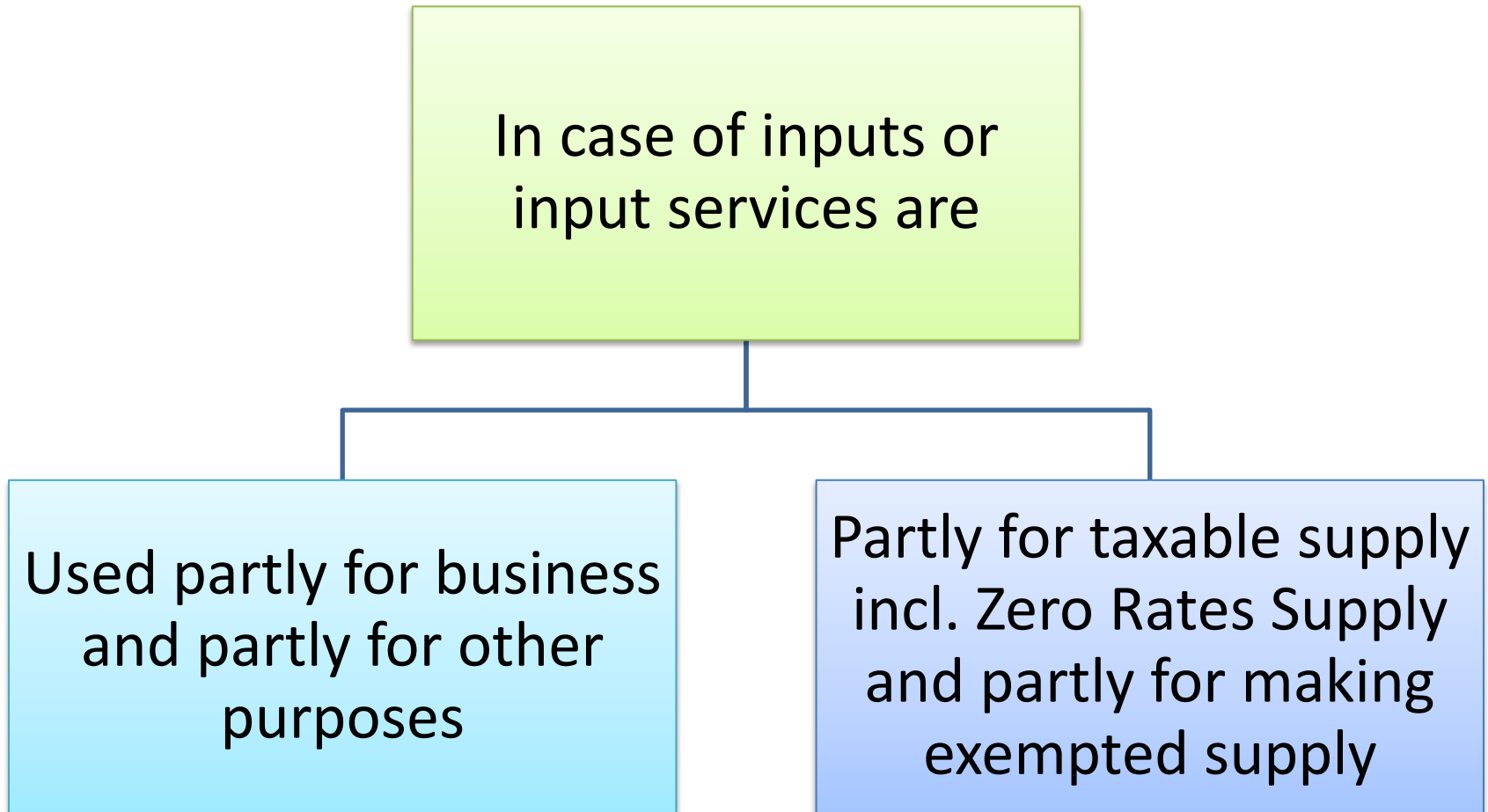
The transferee shall accept the details in Form GST ITC – 02 on common portal

The inputs & capital goods shall be accounted in the books of accounts of transferee.

41A – Transfer of Credit on obtaining separate registration for multiple places of business within a State or UT



42 – Manner of determination of ITC in respect of Inputs or Input Services and reversal thereof



Step – 1:

The formula to be adopted “ $C_1 = T - (T_1 + T_2 + T_3)$ ”

C_1 = ITC credited to Electronic Credit Ledger

T = Total ITC involved in Inputs & Input Services

T_1 = out of T , ITC attributable for other than business purposes

T_2 = Out of T , ITC attributable for exempted supplies

T_3 = Out of T , ITC attributable towards ITC Negative items

Step – 2:

T4 = ITC attributable to other than exempted supplies including Zero Rates Supplies

- T1, T2, T3 & T4 shall be determined and declared invoice level in Form GSTR – 2.

Formula is “ $C2 = C1 - T4$ ” to arrive at

C2 = Common Credit

Step – 3:

Formula is $D1 = (E/F) * C2$

D1 = ITC relating to Exempted Supply

E = Aggregate value of exempted supplies

F = Total turnover in the State in a tax period

Step – 4:

Common credit attributable for non-business purpose is denoted as 'D2' which is 5% of C2.

Step – 5:

Common credit attributable towards business purpose and other than exempted supplies including zero rated supplies is C3

$$“C3 = C2 - (D1+D2)”$$

C3 to be computed separately for IGST, CGST, SGST & UTGST and declared in GSTR-3B or through Form GST DRC-03.

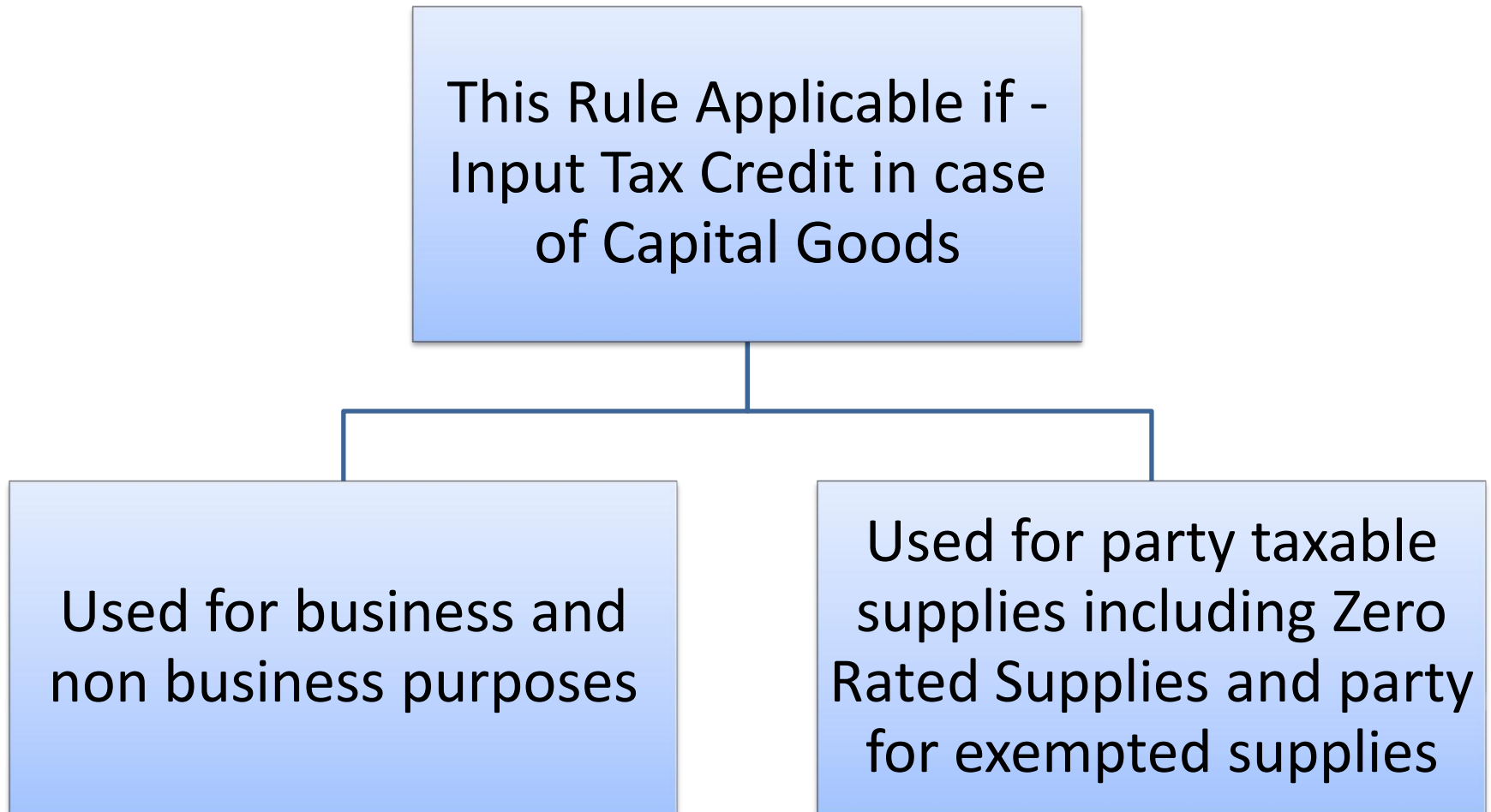
Step – 6:

The amount equal to D1 & D2 shall be reversed by the RP in Form GSTR-3B or DRC-03

Annual Calculation:

Input determined in above steps to be calculated annually, before the due date for filing the September month return following the end of the financial year.

43 - Manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases



Case – 1:
Input in
respect of
Capital goods
exclusively
used for Non
Business
Purposes and
also wholly
exempted
supplies

- Shall be indicated in the GSTR-2 and shall not be credited to Electronic Credit Ledger.

Case – 2:
Input tax on
Capital Goods
used
exclusively for
business
purposes and
wholly taxable
supplies
including Zero
Rated Supplies

- Shall be included in GSTR-2 and shall be credited to Electronic Credit Ledger.

Input tax on Capital Goods not covered in the above two cases, following treatment to be adopted:

- Input tax is denoted as 'A' and shall be credited to Electronic Credit Ledger
- Use full life of the Capital Goods to be taken as 5 Years

- Capital Goods fall under first case and subsequently covered in this case – ‘A’ shall be reduced by 5% points for each quarter and the balance is credited to Electronic Ledger
 - The amount of Input credit ledger is denoted as ‘T_c’ i.e. common credit in respect of capital Goods
-
- Capital Goods fall under second case and subsequently covered in this case – ‘A’ shall be reduced by 5% points for each quarter
 - The part shall be added to the aggregate value of ‘T_c’.

- The common credit on Capital Goods during the use full life is denoted as 'T_m'

$$T_m = T_c / 60$$

- The input tax on all common Capital Goods for the remaining use full life is denoted as 'Tr' and shall be the aggregate of 'T_m'
- Common credit of Capital Goods for exempted supplies be denoted as 'Te'

$$T_e = (E / F) \times T_r$$

E = Aggregate value of exempted supplies

F = Total Turnover in the state during the tax period

- The amount of 'Te' along with the interest shall be added to the output tax liability for every tax period during the useful life of the Capital Goods
- The amount of 'Te' to be calculated for IGST, CGST, SGST & UTGST separately and declared in Form GSTR-3B.

44 - Manner of reversal of credit under special circumstances

- Applicable in the case of:
 - Conversion from Regular to composition supply becoming wholly exempted
 - Cancellation of registration
- Inputs held in Stock & Semi-fins., Finished Goods
 - Shall be calculated proportionately on the basis of corresponding invoice

- Capital Goods held in Stock
 - ITC to be calculated for remaining useful life in months
 - Computed on pro-rate basis
 - Taking useful life as 5 years
- Illustration:
 - *Capital goods have been in use for 4 years, 6 month and 15 days.*
 - *The useful remaining life in months= 5 months ignoring a part of the month*
 - *Input tax credit taken on such capital goods= C*
 - *Input tax credit attributable to remaining useful life= C multiplied by 5/60*

- The above amounts shall be calculated for separately:
 - IGST, CGST, SGST, UTGST
 - In case of non availability of Invoice, the taxable person shall estimate the amount based on the prevailing market price
- The amount calculated above, shall be added to the Output Tax Liability
- Details to be submitted in Form GST ITC-03
- These details must be certified by a CA/CA
- The same treatment should adopted for Capital Goods also and details must submitted in GSTR-1

45 - Conditions and restrictions in respect of inputs and capital goods sent to the job worker

Inputs, Semi-finished Goods or Capital Goods shall be sent to job-worker

- Under cover of a challan issued by the principal
- Including the goods are sent to job worker directly

The challan issued by the principal shall contain the details mentioned in Rule 55

The details of challans issued to the Job-Worker

- Shall be furnished in GSTR-1

The inputs or Capital Goods does not received back by the principal within the time limit specified in Section 143

- Challan issued shall be treated as Invoice

The Principal shall declare details of goods / capital goods sent and/or received from Job Worker in Form GST ITC-04 on quarterly basis.





CA Satish Saraf | Saraf Satish & Co | Chartered Accountants | Hyderabad

GST on Job work

CA Sudhir V S



Coverage of this session

- Job work meaning
- Difference between job work and manufacture
- Job work procedures
- Eway bill provisions
- Procedures
- Q&A

Job work under GST

Section 2(68) of CGST Act, 2017 defines the term 'job work' to mean

- undertaking *any treatment or process on the goods*
- belonging to another registered taxable person.

Any person who does such job work will be considered as “Job worker”.

Job worker should take registration under GST

Ex: Designing done for the goods sent by manufacturer.

Manufacture under GST

Manufacture -

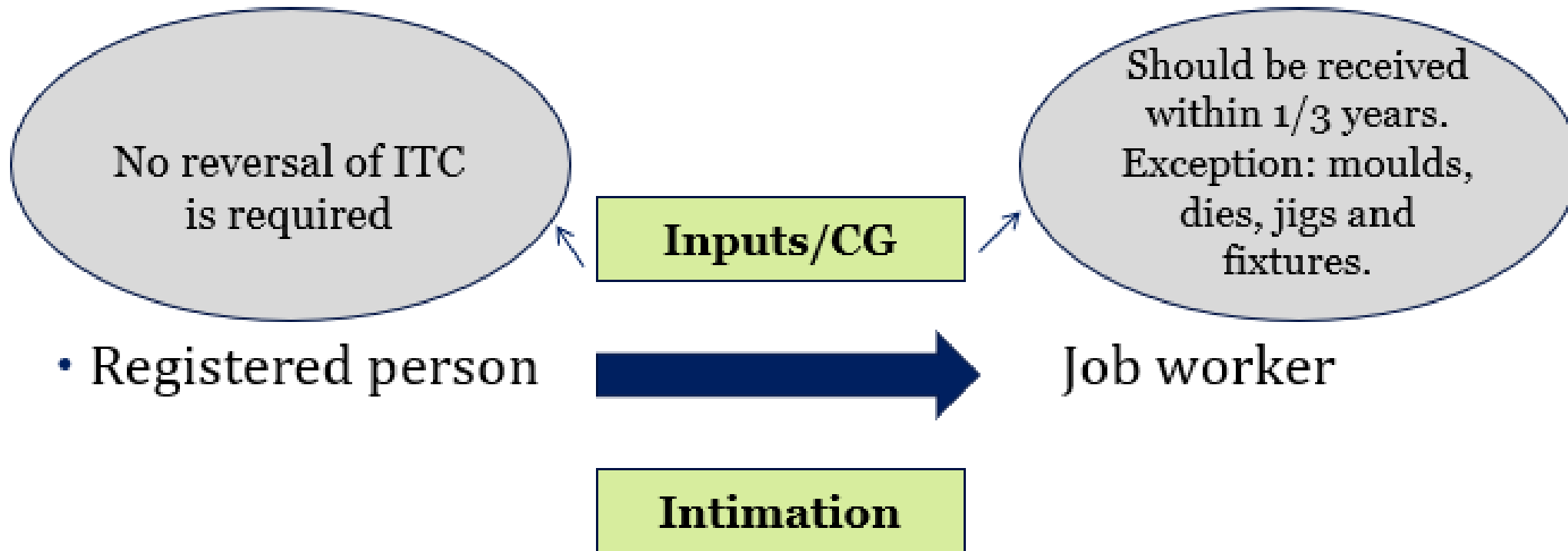
- Processing of raw materials/inputs in any manner
- Results in emergence of new product
- Having distinct name, character and use

- **Difference between job work and manufacture ?**

- **Job Work Vs. Manufacture**



Transfer of goods from principal to job worker



- No Payment of GST on the same.

Job work procedure

- Goods directly sent to job workers premises – ITC can be claimed by the principal.
- Goods shall be sent under the cover of job work challan.
- Principal need to file ITC -04 on quarterly basis giving the details of the goods sent and received from job worker.

Job work procedures

- Deemed Supply: If the inputs / capital goods sent for job work are not received back by the principle within period of 1 year / 3 years respectively, it will be treated as deemed supply on the original date of sending.
- If the job worker is registered, then the waste and scrap generated during the job work may be supplied by the job worker directly from his place of business on tax payment.
- If job worker is un registered, then principal has to pay tax on supply of waste and scrap by declaring the said place as his additional place of business, if job worker is not registered u/s 25.

Rate of Job work under GST

Entry 26-NT 11/2017 CTR

Heading 9988

(Manufacturing services on physical inputs (goods) owned by others)

- Services by way of **job work** in relation to-...
- Services by way of any **treatment or process** on goods belonging to another person, in relation to-...
- **Manufacturing** services on physical inputs (goods) owned by others, other than above.

NT 20/2019 CTR dated 30th Sept, 2019.

Inserted following entries

“(ib) Services by way of job work in relation to diamonds falling under chapter 71 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975);

ic) Services by way of job work in relation to bus body building;

(id) Services by way of job work other than (i), (ia), (ib) and (ic) above;

Confusion: 2 Like Entries

New Entry

(id) Services by way of job work other than (i), (ia), (ib) and (ic) above;-12%

Existing Entry

(IV) Manufacturing services on physical inputs (goods) owned by others, other than (i), (ia), (ib), (ic), (id), (ii), (iia) and (iii) above-18%.

Circular 126/45/2019 Dated 22/11/2019

- It is now clarified that
 - item No. (id) covers only job work services relating to registered person as defined in section 2(68) of CGST Act, - 12%
 - Whereas, item No. (iv) under heading 9988 covers only such services which are carried out on physical inputs (goods) which are owned by persons **other than those registered under the CGST Act. - 18%**

Job Work related aspects

Nature of activities	Goods/Sector	Rate of Tax
Job Work in relation to	Newspaper printing, textiles, printing of books, food products, gold,handicraft etc.	5%
Treatment or process on goods belonging to another person	Printing of goods falling under chapter 48/49, newspaper, books etc.	5%
Job Work in relation to	Bus body building	18%
Job Work	On any goods other than mentioned above	12%
Manufacturing services on goods belonging to other person	On any goods other than mentioned above	18%

E Waybill provisions under GST



Background of Eway bill

- **Pre GST** - Check post at the entry and exit of every state, to prevent Clandestine removal of goods.
- **Post GST** – No Check post
- To have a control on removal of goods, EWB system is implemented.
- **Benefits of EWB**
 - Less documentation- Centralised EWB system, no state wise documentation
 - No waiting time at Check post
- Interstate – w.e.f. 01.04.2018
- Intra State- AP and TP- w.e.f. 15.04.2018

Who? When? How?

Who

- Every Registered person who causes movement of goods.
- (Supply/ Other than / Procurements from Unregistered person)

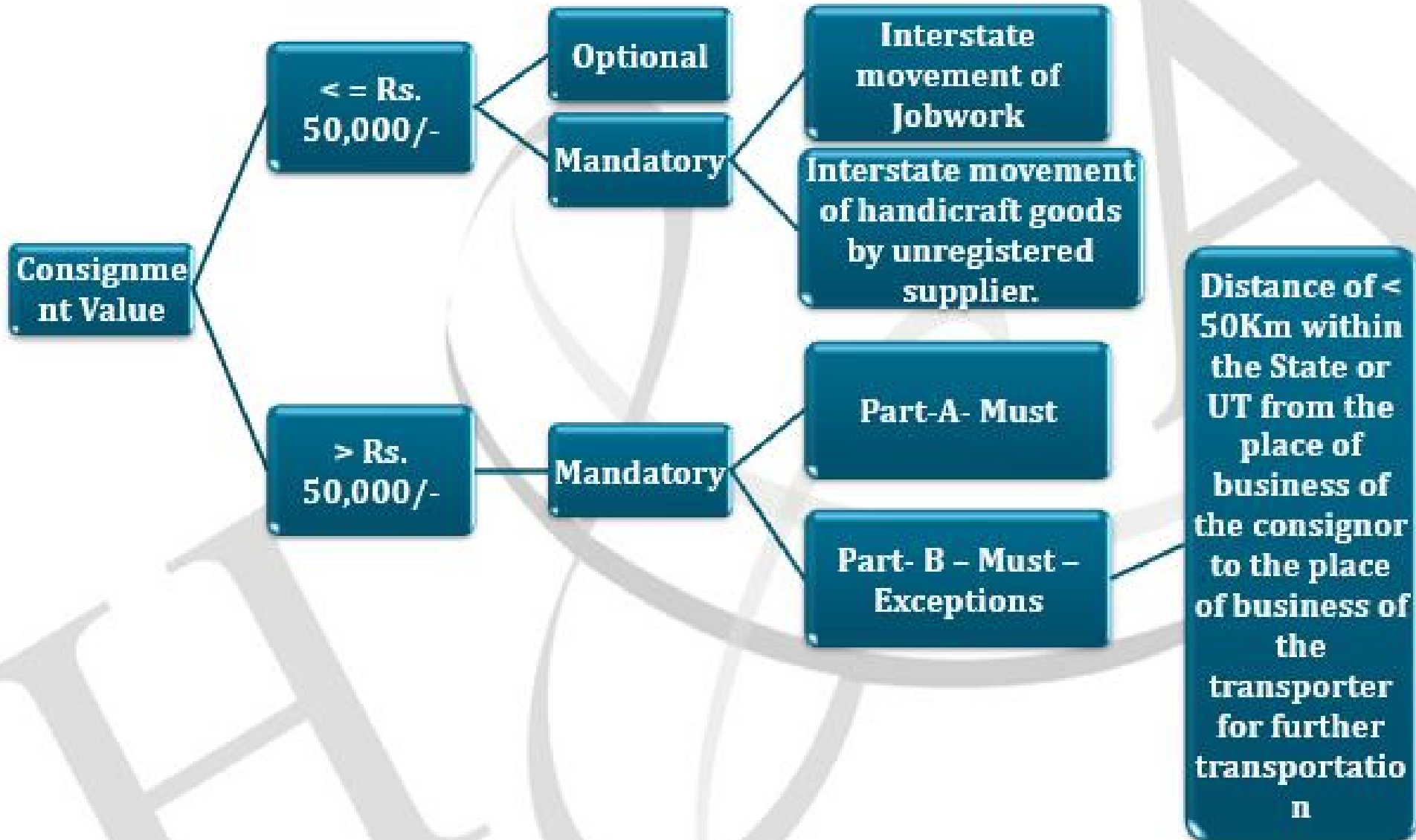
When

- Before commencement of movement of goods.
- Consignment value exceeding Rs. 50,000/-
- Consignment value = To be declared in invoice/ Bill of supply/delivery challan (+) Taxes (-) exempt supplies

How

- Information relating to **Transaction** in Part –A of Form GST EWB-01.
- Information relating to **Transport** in Part –B of Form GST EWB-01.

Consignment value



Reasons other than supply



No E-way bill

- Exempted goods
- If Goods are transported to a weighbridge within 20kms and back to the place of business by being covered under a Delivery Challan
- Goods being transported are specified in Annexure; like LPG for household, currency, used personal and household effects.
- Goods are being transported by a non-motorised conveyance;

No E-way bill

- Goods are being transported from the port, airport, aircargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs
- Movement of goods within such areas as are notified under Rule 138(14)(d) of the Goods and Services Tax Rules of the concerned State. (Power to State Government)
- Goods transported are transit From/ to Nepal/ Bhutan
- Where Government or local authorities transport goods by rail as a consignor
- Goods transported are to/from the Ministry of defence

Smart Usage of EWB

- SMS- for generation, cancellation, updation and assignment of EWB.
- Masters- Clients, Suppliers, Transporters, Products
- JSON file
- Sub users
- Nexus between EWB and GSTR-1
- Consolidated EWB
- Bulk EWB

Job Work

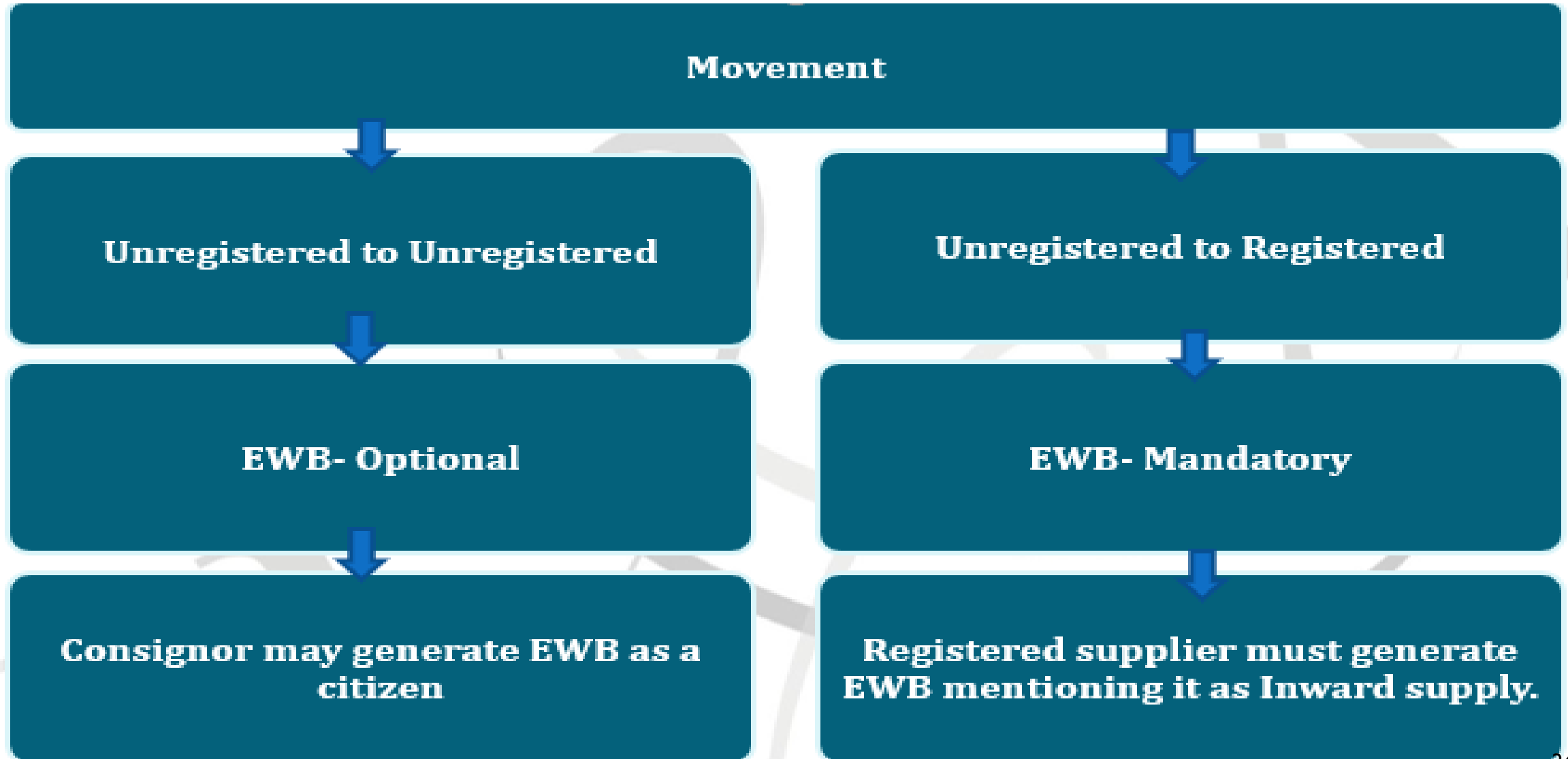
Type of Movement	Status of Job worker	Consignment Value	Whether EWB is must	Who will generate Eway bill
Intra	Registered	< = 50000	Optional	Principal / Jobworker on optional basis
Intra	Unregistered	< = 50000	Optional	Principal on Optional basis
Intra	Registered	> 50000	Must	Principal/ <u>Jobworker</u>
Intra	Unregistered	> 50000	Must	Principal
Inter	Registered	< = 50000	Must	Principal/ Jobworker
Inter	Unregistered	< = 50000	Must	Principal
Inter	Registered	> 50000	Must	Principal/ <u>Jobworker</u>
Inter	Unregistered	> 50000	Must	Principal

- Goods have to be delivered by Job worker on the basis of Delivery challan and not Job work invoice, as that invoice contains only Job work charges.
- Consignment value , when Job worker sends goods is the value of goods (i.e. incl. of Jobwork charges)

Not editable

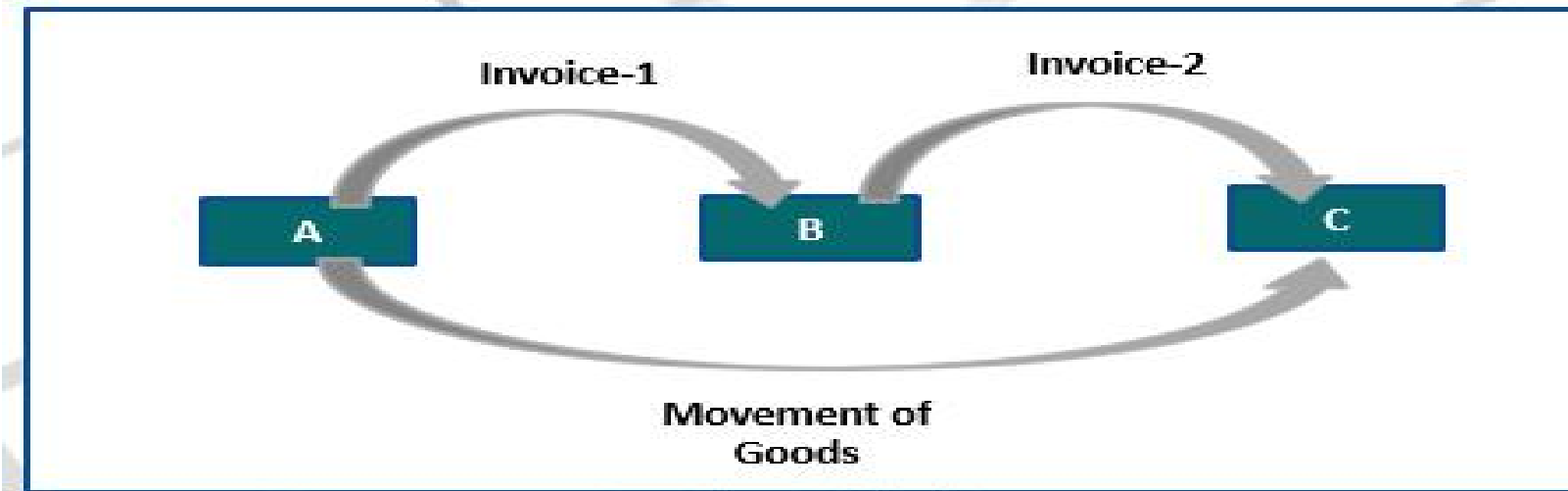
Criteria	Tab Freezed
Supply type - "Inward"	"Bill To" as details of Person generating EWB.
Supply type - "Outward"	"Bill From" as details of Person generating EWB.
"Bill From" & "Bill To"	Tax type (CGST+SGST/ IGST)
Tax rate and Taxable value	Tax amount
Sub Type- Import	Bill From- Other Countries
Sub Type- Export	Bill To- Other Countries

Movement Caused by Unregistered



Bill to ship to

- **Bill to and Ship to – Same GSTIN – Principal POB and Addl POB within the same state**
 - Only 1 EWB
- ✓ **Bill to and Ship to- Different GSTIN**
 - Only 1 EWB
 - If A is generating EWB, then details of Invoice-1 to be given.
 - If B is generating EWB, then details of Invoice -2 to be given.
 - Bill From, Dispatch From, Bill To and Dispatch To, facilities provided must be used.



Multi modal system

➤ **Single Invoice- Multiple Vehicles from starting point to the destination**

- ✓ EWB for every vehicle
- ✓ Original copy of invoice to be raised before dispatch of first consignment, but to be sent with last consignment.
- ✓ Delivery challan giving ref. to original invoice to be raised for every consignment.

➤ **X Ltd transporting goods in a Wagon, then shifted to 10 Containers. How to generate EWB in such a cases**

- ✓ This is the case of Multimodal transport.
- ✓ Update Part- B

THANK YOU

THANK YOU



For any clarification

sudhir@hiregange.com

Practical Approach to GSTR-9C

CA Sudhir VS

Who are liable to get Audit ?

- **Section 35(5)** - Every registered person whose turnover during a financial year exceeds the prescribed turnover limit shall get his accounts audited by a chartered accountant or a cost accountant and shall submit
 - Copy of audited annual accounts,
 - Reconciliation statement under 44 (2) and
 - *Such other documents in such form and manner as may be prescribed ?????*
- **Rule 80(3)** - Every registered person whose aggregate turnover during a financial year exceeds two crore rupees shall get his accounts audited as specified under sub-section (5) of section 35 and he shall furnish
 - A copy of audited annual accounts and
 - A reconciliation statement, duly certified, in FORM GSTR-9C, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner

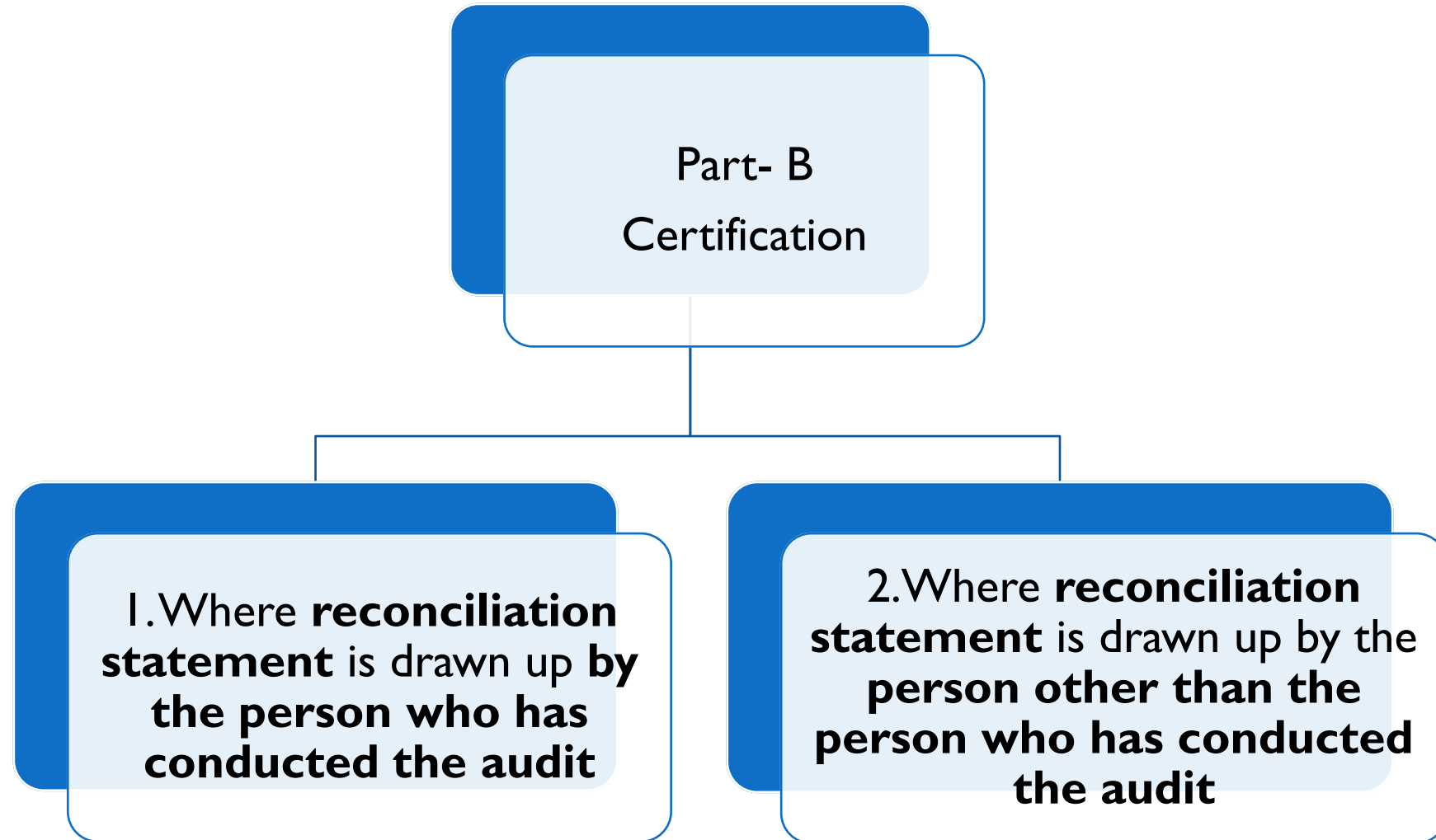
Failure to file return/report

- 1. Due date for filing 9 & 9C:** Due date to file GSTR 9 along with 9C is 31st December, 2018 (Sec 44 (1) of CGST Act, 2017). Extended to 30th June 2019 for FY 2017-18. **Further extended to 31st August 2019 and further extended to 30th November 2019**
- 2. Failure to file the returns:** Section 47 (2) of CGST Act, 2017 - If returns as per Section 44 are not filed within the due date then the tax payer is liable to pay
 - late fee of Rs. 200/- per day (CGST Rs. 100/- and SGST Rs. 100/-)
 - Subject to a maximum amount of 0.50% of turnover in the State
- 3. Failure to file audit report** – Section 122 of CGST/ SGST Act - Rs.50,000/- (Total)

Basic steps in GSTR-9C

1. Start with reconciliation between Books Vs. GSTR-3B Vs. GSTR-1
2. Turnover and ITC to be reconciled for each GSTIN separately
3. Ascertain reasons for differences in Turnover and ITC
4. Additional liabilities, if any, to be discharged. Only in Cash. Funds planning necessary. Delay could result in extra interest & penalty.
5. Extra taxes, if any, to be claimed as refund
6. ITC claimed extra, if any, to be paid back
7. Short claim of ITC - Cost to auditee
8. If needed take expert opinion for interpretational issues

PARTS OF CERTIFICATION



GSTR – 9C

Certification in case where 9C is drawn up by the person who has conducted the audit- summary

- Under this format the same person is responsible to conduct the audit of the books of accounts of the assessee as required under section 35(5) and he is also responsible to draw the reconciliation statement as required under section 44(2).
- The auditor examines the following annual accounts of the assessee i.e. balance sheet, P/L account, cash flow statement for the year and books of accounts maintained.
- On the examination of above documents the auditor is required to provide his comments whether the books maintained by the assessee are;
 - i. As per GST Act and Rules,
 - ii. the balance sheet, P&L account, cash flow statement are in line with the books of accounts
 - iii. All the documents are provided for conducting the audit.

PART – B- CERTIFICATION

I. Certification in cases where the reconciliation statement (FORM GSTR-9C) is drawn up by the person who had conducted the audit:

* I/we have examined the—

(a) balance sheet as on

(b) the *profit and loss account/income and expenditure account for the period beginning fromto ending on, and

(c) the cash flow statement for the period beginning fromto ending on, — attached herewith, of M/s (Name), (Address),(GSTIN).

2. Based on our audit I/we report that the said registered person—

*has maintained the books of accounts, records and documents as required by the IGST/CGST/⟨⟨⟩⟩GST Act, 2017 and the rules/notifications made/issued thereunder

*has not maintained the following accounts/records/documents as required by the IGST/CGST/⟨⟨⟩⟩GST Act, 2017 and the rules/notifications made/issued thereunder:

- 1.
- 2.
- 3.

3. (a) *I/we report the following observations/ comments / discrepancies / inconsistencies; if any:

.....
.....

3. (b) *I/we further report that, -

(A) *I/we have obtained all the information and explanations which, to the best of *my/our knowledge and belief, were necessary for the purpose of the audit/ information and explanations which, to the best of *my/our knowledge and belief, were necessary for the purpose of the audit were not provided/partially provided to us.

(B) In *my/our opinion, proper books of account *have/have not been kept by the registered person so far as appears from *my/ our examination of the books.

(C) I/we certify that the balance sheet, the *profit and loss/income and expenditure account and the cash flow Statement are *in agreement/not in agreement with the books of account maintained at the Principal place of business atand **additional place of business within the State.

4. The documents required to be furnished under section 35 (5) of the CGST Act and Reconciliation Statement required to be furnished under section 44(2) of the CGST Act is annexed herewith in Form No. GSTR-9C.

5. In *my/our opinion and to the best of *my/our information and according to explanations given to *me/us, the particulars given in the said Form No.GSTR-9C are true and correct subject to following observations/qualifications, if any:

(a)

(b)

(c)

Certification in case where 9C is drawn up by the person other than the person who has conducted the audit- summary

This format has to be adopted when 2 distinct auditors have been appointed by the assessee

- ❖ **First Auditor** – To perform the audit of the books of accounts of the company;
- ❖ **Second Auditor** – To duly certify the reconciliation statement drawn under the Form GSTR - 9C.

This format of certification has to be adopted by the auditor who is appointed to duly certify the reconciliation statement of the assessee under GST.

**** (Signature and stamp/Seal of the Auditor)**

Place:

Name of the signatory

Membership No.....

Date:

Full address

II. Certification in cases where the reconciliation statement (FORM GSTR-9C) is drawn up by a person other than the person who had conducted the audit of the accounts:

*I/we report that the audit of the books of accounts and the financial statements of M/s. (Name and address of the assessee with GSTIN) was conducted by M/s. (full name and address of auditor along with status), bearing membership number in pursuance of the provisions of theAct, and *I/we annex hereto a copy of their audit report dated along with a copy of each of :-

(a) balance sheet as on

(b) the *profit and loss account/income and expenditure account for the period beginning fromto ending on,

(c) the cash flow statement for the period beginning fromto ending on, and

(d) documents declared by the said Act to be part of, or annexed to, the *profit and loss account/income and expenditure account and balance sheet.

2. I/we report that the said registered person—

*has maintained the books of accounts, records and documents as required by the IGST/CGST/⟨⟨⟩GST Act, 2017 and the rules/notifications made/issued thereunder

*has not maintained the following accounts/records/documents as required by the IGST/CGST/⟨⟨⟩GST Act, 2017 and the rules/notifications made/issued thereunder:

1.

2.

3.

3. The documents required to be furnished under section 35 (5) of the CGST Act and Reconciliation Statement required to be furnished under section 44(2) of the CGST Act is annexed herewith in Form No.GSTR-9C.

4. In *my/our opinion and to the best of *my/our information and according to examination of books of account including other relevant documents and explanations given to *me/us, the particulars given in the said Form No.9C are true and correct subject to the following observations/qualifications, if any:

(a)

(b)

(c)

.....

**** (Signature and stamp/Seal of the Auditor)**

Place:

Name of the signatory

Membership No.....

Date:

Full address”

PARTS OF RECONCILIATION STATEMENT

Part	Table	Details to be furnished
I	1-4	Basic details of the tax payer
II	5	Reconciliation of Gross Turnover
	6	Analysis of un-reconciled items of Table 5
	7	Reconciliation of Taxable Turnover
	8	Analysis of un-reconciled items of Table 7
III	9	Rate-wise reconciliation of taxes payable with the taxes paid and reported in the annual return [Form GSTR-9]
	10	Analysis of the un-reconciled payment amounts
	11	Additional amount payable on account of un-reconciled differences in turnover
IV	12-13	Reconciliation of Net Input Tax Credit
	14-16	Expense wise reconciliation of Input Tax Credit
V		Auditor's recommendation of additional liability due to non-reconciliation

“FORM GSTR-9C

See rule 80(3)

PART – A - Reconciliation Statement

Pt. I		Basic Details	
1	Financial Year		
2	GSTIN		
3A	Legal Name	< Auto >	
3B	Trade Name (if any)	<Auto >	
4	Are you liable to audit under any Act?	<<Please specify>>	
		(Amount in ₹ in all tables)	
Pt. II		Reconciliation of turnover declared in audited Annual Financial Statement with turnover declared in Annual Return (GSTR9)	
5	Reconciliation of Gross Turnover		
A	Turnover (including exports) as per audited financial statements for the State / UT (For multi-GSTIN units under same PAN the turnover shall be derived from the audited Annual Financial Statement)		
B	Unbilled revenue at the beginning of Financial Year	(+)	
C	Unadjusted advances at the end of the Financial Year	(+)	
D	Deemed Supply under Schedule I	(+)	
E	Credit Notes issued after the end of the financial year but reflected in the annual return	(-)	
F	Trade Discounts accounted for in the audited Annual Financial Statement but are not permissible under GST	(+)	

Inclusions / Exclusions in Part II

- **Important to file all GST returns before audit**
- **Table 5A:**
 - Take total operating plus non operating income
 - Foreign branch? Then take it to branch which is concerned to exclude later
 - If common financials, then based on books of account bifurcate details. Ledgers, MIS etc. to be bifurcated for each GSTIN
 - Turnover of entire FY 2017-18. What is FY for GST?
 - If multiple auditors, becomes challenging. Co-ordinate
- **Table 5B:**
 - Unbilled revenue which is invoiced with GST should be **added**
 - If related to pre-GST, **don't add**
 - Segregate for each GSTIN

Inclusions / Exclusions in Part II

- **Table 5C:**

- Unadjusted advances at year end on which GST paid but not recognised as revenue in financials to be **added**
- Presently goods advance not subject to GST but advance for service, subject to GST
- Advance for exempted income, exports, SEZ, **don't add**
- Advance received and invoiced in same year, **don't add**
- Advance for pre-GST regime, but not adjusted, **don' add**

- **Table 5D:**

- Deemed supply under schedule I to be **added**
- If already part of financials, **don't add**
- Verify fixed asset register, e-way bills, tax invoices

Inclusions / Exclusions in Part II

- **Table 5E:**

- Credit notes issued after 31st March for supplies of current FY but taken in annual return, to be reduced

- **Table 5F:**

- Trade discounts accounted in financials but not allowed in GST to be **added**
- Understand Section 15(3) to check fulfilment of conditions
- For accounting, revenue should be net off trade discounts. If accounted as expenses, then this **addition not** needed

G	Turnover from April 2017 to June 2017	(-)	
H	Unbilled revenue at the end of Financial Year	(-)	
I	Unadjusted Advances at the beginning of the Financial Year	(-)	
J	Credit notes accounted for in the audited Annual Financial Statement but are not permissible under GST	(+)	
K	Adjustments on account of supply of goods by SEZ units to DTA Units	(-)	
L	Turnover for the period under composition scheme	(-)	
M	Adjustments in turnover under section 15 and rules thereunder	(+/-)	
N	Adjustments in turnover due to foreign exchange fluctuations	(+/-)	
O	Adjustments in turnover due to reasons not listed above	(+/-)	
P	Annual turnover after adjustments as above		<Auto>
Q	Turnover as declared in Annual Return (GSTR9)		
R	Un-Reconciled turnover (Q - P)		AT1
6	Reasons for Un - Reconciled difference in Annual Gross Turnover		
A	Reason 1	<<Text>>	
B	Reason 2	<<Text>>	
C	Reason 3	<<Text>>	

Inclusions / Exclusions in Part II

- **Table 5G:**

- Turnover for Apr 17 to June 17 to be **deducted**
- Identify sales / services which liable for pre-GST taxes and add

Eg: In Apr 17 goods mfd in BLR and stock transferred to Chennai on payment of ED. Value is 10 lakh. Goods sold from Chennai in Mar 2018.

- Should turnover be deducted in this sl.no. when doing audit of Bangalore?
- Should it be deducted from Chennai turnover?

Inclusions / Exclusions in Part II

- **Table 5H:**

- Unbilled revenue at end of FY to be **deducted**
- Deduct only if GST not paid and not considered in annual return

- **Table 5I:**

- Unadjusted advances at beginning of FY on which GST not paid to be **deducted**
- **Deduct** only if such advance recognised as revenue in financials
- **Ex:** Advance in Mar 18 considered for payment of GST. In FY 18-19, accounted as revenue. In GSTR-9C of FY 18-19, this amount to be deducted.

Inclusions / Exclusions in Part II

- **Table 5J:**

- Credit note accounted in financials but not allowed in GST to be added
- Consider only if reduced from turnover. If accounted as expenditure, don't add
- - If credit note issue only with tax impact, then don't add

- **Table 5K:**

- Supply of goods by SEZ to DTA to be **deducted**
- **Deduct** only those where DTAs have filed BOE
- Supply of services not covered here

- **Table 5L:**

- - Turnover of composition scheme to be **deducted**

Inclusions / Exclusions in Part II

- **Table 5M:**
 - Adjustment on account of Section 15 to be **added or deducted**
 - **Add** those where taxable value for GST is more than accounted
 - **Deduct** those where taxable value for GST is less than accounted
- **Ex:** Pure agent expense – Financials not accounted as revenue but GST paid and recorded in annual return
- **Ex:** Municipal tax on rented building. Added in GST but not financials
- **Ex:** Transactions with related parties. Ex: Partial recoveries from employees
- **Ex:** GST on construction paid on 2/3 value. In financials, full accounted
- **Table 5N:** Foreign exchange fluctuation to be **added or deducted**
- - Compare GST rate with accounting and realisation rate

Inclusions / Exclusions in Part II

- **Table 50:**
 - Adjustment of turnover due to reason not listed to be **added or deducted**
 - **Add** items which are treated as income for GST
 - **Deduct** items which are not treated as income for GST
 - Items of supply not covered in GSTR-9 and financials but found to be supply, to be reported here
- **Ex:** Interest, duty drawback, dividend to be deducted
- **Ex:** Goods sent on approval but not sold in 6 months, goods not received in 1 year after job work to be added

7 Reconciliation of Taxable Turnover		
A	Annual turnover after adjustments (from 5P above)	<Auto>
B	Value of Exempted, Nil Rated, Non-GST supplies, No-Supply turnover	
C	Zero rated supplies without payment of tax	
D	Supplies on which tax is to be paid by the recipient on reverse charge basis	
E	Taxable turnover as per adjustments above (A-B-C-D)	<Auto>
F	Taxable turnover as per liability declared in Annual Return (GSTR9)	
G	Unreconciled taxable turnover (F-E)	AT 2
8 Reasons for Un - Reconciled difference in taxable turnover		
A	Reason 1	<<Text>>
B	Reason 2	<<Text>>
C	Reason 3	<<Text>>

7B – Value should be net of debit and credit notes. Check exemption notification, conditions fulfillment

7C – Exports + SEZ supplies. Check if conditions such as supply within 90 days, receipt of consideration, LUT execution are fulfilled. Wrong disclosures made in returns could be a reason for difference. Ex: Exports as exempt turnover

7D – Value of only outward supplies to be declared here

Pt. III	Reconciliation of tax paid					
9	Reconciliation of rate wise liability and amount payable thereon					
				Tax payable		
	Description	Taxable Value	Central tax	State tax / UT tax	Integrated Tax	Cess, if applicable
	1	2	3	4	5	6
A	5%					
B	5% (RC)					
C	12%					
D	12% (RC)					
E	18%					
F	18% (RC)					
G	28%					
H	28% (RC)					
I	3%					
J	0.25%					
K	0.10%					
L	Interest					
M	Late Fee					
N	Penalty					
O	Others					
P	Total amount to be paid as per tables above		<Auto>	<Auto>	<Auto>	<Auto>
Q	Total amount paid as declared in Annual Return (GSTR 9)					
R	Un-reconciled payment of amount				PT 1	

10	Reasons for un-reconciled payment of amount					
A	Reason 1	<<Text>>				
B	Reason 2	<<Text>>				
C	Reason 3	<<Text>>				
11	Additional amount payable but not paid (due to reasons specified under Tables 6,8 and 10 above)					
			To be paid through Cash			
	Description	Taxable Value	Central tax	State tax / UT tax	Integrated tax	Cess, if applicable
	1	2	3	4	5	6
	5%					
	12%					
	18%					
	28%					
	3%					
	0.25%					
	0.10%					
	Interest					
	Late Fee					
	Penalty					
	Others (please specify)					
Pt.	Reconciliation of Input Tax Credit (ITC)					

IV			
12	Reconciliation of Net Input Tax Credit (ITC)		
A	ITC availed as per audited Annual Financial Statement for the State/ UT (For multi-GSTIN units under same PAN this should be derived from books of accounts)		
B	ITC booked in earlier Financial Years claimed in current Financial Year	(+)	
C	ITC booked in current Financial Year to be claimed in subsequent Financial Years	(-)	
D	ITC availed as per audited financial statements or books of account		<Auto>
E	ITC claimed in Annual Return (GSTR9)		
F	Un-reconciled ITC		ITC 1
13	Reasons for un-reconciled difference in ITC		
A	Reason 1		<<Text>>
B	Reason 2		<<Text>>
C	Reason 3		<<Text>>

14 Reconciliation of ITC declared in Annual Return (GSTR9) with ITC availed on expenses as per audited Annual Financial Statement or books of account				
	Description	Value	Amount of Total ITC	Amount of eligible ITC availed
	1	2	3	4
A	Purchases			
B	Freight / Carriage			
C	Power and Fuel			
D	Imported goods (Including received from SEZs)			
E	Rent and Insurance			
F	Goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples			
G	Royalties			
H	Employees' Cost (Salaries, wages, Bonus etc.)			
I	Conveyance charges			
J	Bank Charges			
K	Entertainment charges			
L	Stationery Expenses (including postage etc.)			
M	Repair and Maintenance			
N	Other Miscellaneous expenses			

Table 14 – Few important points

1. List is illustrative. All GST paid expenditures to be reported
2. Pre-paid expenditures also required. Refer balance sheet
3. ITC added to cost. Ex: Rent-a-cab. Needs to be disclosed here. Change accounting method for next year.
4. Challenges in multi-location units in segregation
5. If Rule 42 / Rule 43 applicable, then more complication. Unitwise bifurcate

Expenditure type	ITC	12% - Exempt Turnover	Net ITC
Audit fee	5,000	600	4,400
Royalty charges	65,000	7,800	57,200
Stationary	78,000	9,360	68,640
Courier	5,400	648	4,752
Security	14,000	1,680	12,320
Legal consultancy	25,000	3,000	22,000
TOTAL	192,400	23,088	169,312

O	Capital goods		
P	Any other expense 1		
Q	Any other expense 2		
R	Total amount of eligible ITC availed		<<Auto>>
S	ITC claimed in Annual Return (GSTR9)		
T	Un-reconciled ITC		ITC 2
15	Reasons for un - reconciled difference in ITC		
A	Reason 1		<<Text>>
B	Reason 2		<<Text>>
C	Reason 3		<<Text>>
16	Tax payable on un-reconciled difference in ITC (due to reasons specified in 13 and 15 above)		
	Description	Amount Payable	
	Central Tax		
	State/UT Tax		
	Integrated Tax		
	Cess		
	Interest		
	Penalty		

Auditors recommendation – PART V

This consists of the auditor's recommendation on the

- Additional liability to be discharged by the taxpayer due to non-reconciliation of turnover or
- Non-reconciliation of input tax credit
- Recommend if there is any other amount to be paid for supplies not included in the Annual Return
- Any refund which has been erroneously taken which shall be paid back
- Lastly, any other outstanding demands which is recommended to be settled by the auditor shall be declared in this Table.

Pt. V	Auditor's recommendation on additional Liability due to non-reconciliation				
			To be paid through Cash		
Description	Value	Central tax	State tax / UT tax	Integrated tax	Cess, if applicable
1	2	3	4	5	6
5%					
12%					
18%					
28%					
3%					
0.25%					
0.10%					
Input Tax Credit					
Interest					
Late Fee					
Penalty					
Any other amount paid for supplies not included in Annual Return					

	(GSTR 9)					
	Erroneous refund to be paid back					
	Outstanding demands to be settled					
	Other (Pl. specify)					

Verification:

I hereby solemnly affirm and declare that the information given herein above is true and correct to the best of my knowledge and belief and nothing has been concealed there from.

**** (Signature and stamp/Seal of the Auditor)**

Place:

Name of the signatory

Membership No.....

Date:

Full address

Verification by registered person

I hereby solemnly affirm and declare that I am uploading the reconciliation statement in FORM GSTR-9C prepared and duly signed by the Auditor and nothing has been tampered or altered by me in the statement. I am also uploading other statements, as applicable, including financial statement, profit and loss account and balance sheet etc”.



**Best
Practices**

Basic documentation – Best practices

- Assess risk before offering. More risk involved. Convey the intention clearly to auditee on reporting aspects.
- Offer letter to take care of aspects such as scope, management responsibility and limitation. Of course fee + GSTIN covered
- Check and ensure that no conflict in accepting the offer. Ex: Internal auditor/ book keeping not eligible for audit
- Engagement letter (signed by auditor and auditee) [SA 210 – Terms of Audit engagement]
- Appointment letter from auditee
- Management representation letter [SA 580 – Written representation]. Refer Technical guide of ICAI.
- At times where auditor cannot get the documentation from any other sources – due to inherent limitation of audit – MRL to be relied.

Other best practices

- ❑ MRL alone not conclusive evidence but additional confirmation of completeness, accuracy of information provided to us. Transactions with related parties, goods issued as samples cannot be verified
- ❑ Limit the audit to scope of audit as needed in GST provisions
- ❑ Sample size should increase as we need to certify the correctness. Sample size should cover all different transactions
- ❑ Important to have audit program + audit checklist. Team should be clearly briefed about the audit reporting requirements. Sample provided in last slide
- ❑ For observations, have evidence. Observations should not be vague or based on just oral explanations of auditee
- ❑ Quantify to the extent possible. Otherwise, should be part of limitation + MRL

Other best practices

- ❑ Important auditing standards to be applied such as SA 620, SA 320, SA 520, SA 530
- ❑ Have a list of common errors in GST including documentation errors. Industry specific helps a lot
- ❑ Annual return has clause on anti-profiteering. Auditor to check if complied. If not possible, then MRL should be taken to this effect.
- ❑ Check the systems / internal controls to assess the risks involved. Interaction with person in-charge can help auditor in assessing the compliance level
- ❑ Convert the certification assignments to interim audits including certification

Other best practices

- ❑ Auditor if held grossly negligible, then matter can be referred to ICAI. Even the qualified assistant could be held responsible. Communicate.
- ❑ Multilocational units – Following to be taken care
 - Take unitwise trial balance
 - Take access to books of accounts
 - Look for support services + movement of goods using delivery challans / way bills
 - Reconciliation of credits, advance money, unbilled revenues etc. for each registrations
 - Verify ISD mechanism + cross charge including valuation mechanism

Checklist should cover above aspects

Issues needing special attention

- Rule 42 not complied (HSS, Drop shipment etc.)
- Rate of interest [24% or 18%?]
- Payment of interest on gross or net?
- Wrong type of tax payment in forward / reverse charge,
- ITC availed in wrong registrations
- ITC claimed on credit note instead of liability adjustment
- ISD Vs. Cross charges
- ITC on CSR activities, annual day celebrations
- Taxation of Buy 1 Get 1 offers, Free issues, Warranty supplies etc.

Recent amendments

- Person supplying OIDAR services from a place outside India to a person (other than a registered person) in India is not required to furnish Reconciliation Statement in the FORM GSTR 9C

Clarifications issued vide press release dated 3rd July 2019

- **Reverse charge in respect of Financial Year 2017-18 paid during Financial Year 2018-19:** Reverse charge payable in respect of FY 2017-18 paid in FY 2018-19 need not declare in GSTR-9 of FY 2017-18 and if there are any variations in calculation of turnover needs to be reported in GSTR-9C
- **Role of chartered accountant or a cost accountant in certifying reconciliation statement:** Their scope is limited to reconciling the values declared in annual return with the audited annual accounts of the taxpayer
- **Turnover for eligibility of filing of reconciliation statement:** The turnover for the period of July'17 to Mar'18 of all the registrations having same PAN shall exceed 2 crores then all the registrations under same PAN need to file for reconciliation statement separately for each registration.

Recent amendments

- **Treatment of Credit Notes / Debit Notes issued during FY 2018-19 for FY 2017-18:** These can be adjusted in Table 50 of the GSTR-9C.
- **Reconciliation of input tax credit availed on expenses:** The ITC relating to the expenses availed in GSTR-9 shall be reconciled with expenses in audited financial statements in Table 14 of GSTR-9C and the taxpayers can insert any head of expense under Table 14 of GSTR-9C, if required

THANK YOU

THANK YOU



For any clarification

sudhir@hiregange.com

M Jhavar & Associates
CHARTERED ACCOUNTANTS

New GST returns

CORPORATE
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Introduction of New GST Returns

Jul 2019

Proposal of New Returns

28th Meeting of GST Council approved features and format of New GST Returns

Dec 2019

Introduction of New Returns

31st Meeting of GST council introduced new return systems

May 2019

Prototype of New Returns Released

The GST Network shared a prototype of the offline tool.

July 2019

Access to New returns on Trial basis

Users can upload invoices using the Form GST ANX – 1 on trial basis

Mar 2020

Doing away with Existing Returns

New GST Returns to be effective from April 2020.

Introduction

In the 31st GST Council Meet, it was decided that a New Return System under GST would be introduced for taxpayers. This return system will contain simplified return forms, for ease of filing across taxpayers registered under GST. Under this New Return System, there will be one main return GST RET-1 and 2 annexures GST ANX-1 and GST ANX-2. This return will need to be filed on a monthly basis, except for small taxpayers who can opt to file the same quarterly. Small taxpayers are taxpayers with a turnover up to Rs 5 crore in the preceding financial year.

The main return GST RET-1 will contain details of all supplies made, input tax credit availed, and the payment of taxes, along with interest, if any. This return will contain two annexure forms namely GST ANX-1 and GST ANX-2. GST ANX-1 (Annexure of Supplies) is for reporting details of all outward supplies, inward supplies liable to reverse charge, and import of goods and services, that will need to be reported invoice-wise (except for B2C supplies) on a real-time basis. GST ANX-2 (Annexure of Inward Supplies) will report details of all inward supplies. Most of these details will be auto-drafted from the details uploaded by the suppliers in their GST ANX-1. The recipient of supplies will be able to take action on these auto-drafted documents, which will be available to them on a real-time basis.

Determination of Applicability of Returns

For the purpose of Determining which return you will be filing completely depends on a series of test which you need to carry out in following way:

Determination of your Last year Aggregate Turnover and available Returns

On the basis of Aggregate turnover of Previous Financial Year, Option of Monthly filing or Quarterly filing shall be determined

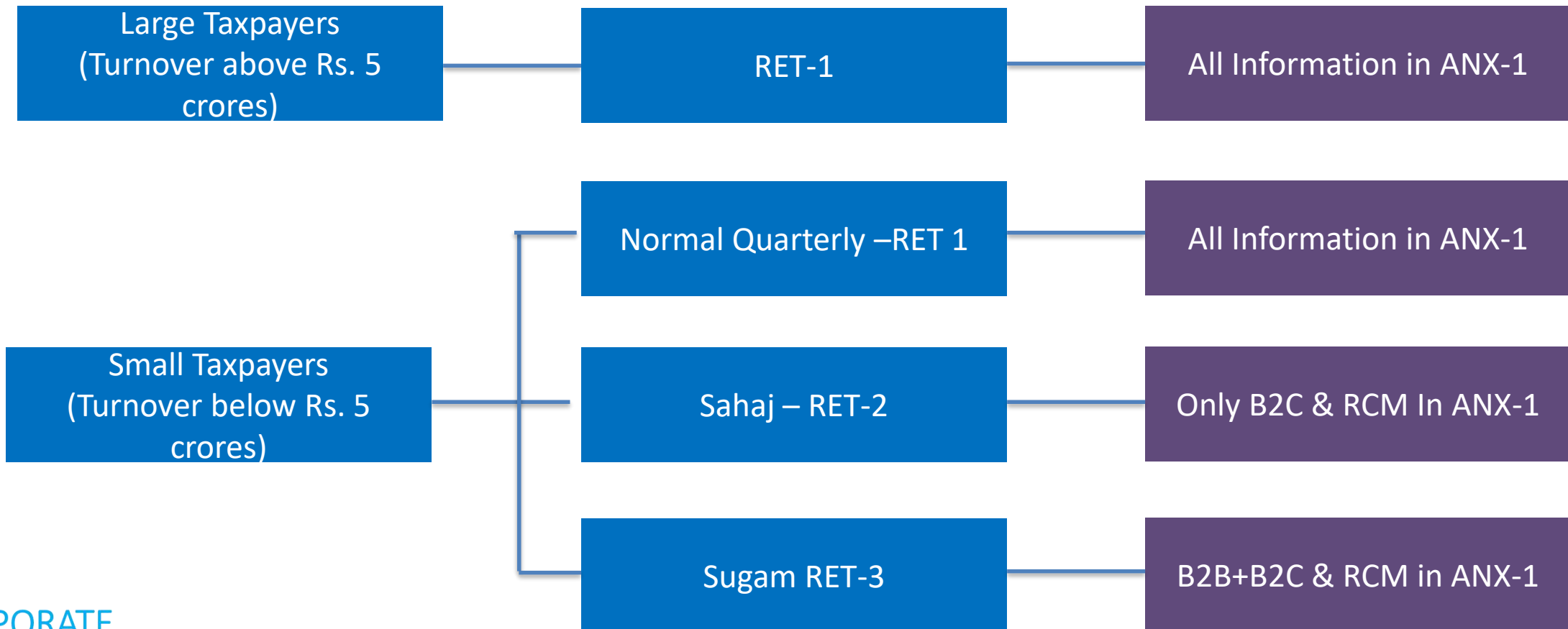
- If your aggregate turnover is above Rs. 5 Crore in the previous FY then there is no option other than to File NORMAL - Monthly Returns i.e Form GST RET - 01
- If your aggregate turnover is Rs 5 crore or less in the previous FY, you have multiple options to choose such as Monthly Filing or Quarterly filing. In case of Quarterly Filing we have multiple options, NORMAL - Quarterly (RET - 01), SAHAJ (GST RET - 02), SUGAM (GST RET - 03)

Turnover	Return (New Form)	Name of Form - Filing Frequency
Turnover Above Rs 5 Crore	Form GST RET - 01	NORMAL - Monthly
Turnover up to Rs. 5 Crore	FORM GST RET - 01	NORMAL - Monthly
	FORM GST RET - 01	NORMAL - Quarterly
	FORM GST RET - 02	SAHAJ - Quarterly
	FORM GST RET - 03	SUGAM - Quarterly

Determination of Applicability of Returns

For the purpose of Determining which return you will be filing depends on the type of Outward & Inward supply is done

Determination of applicable return for the purpose of filing



Determination of Applicability of Returns

Sale/Purchase	Particulars	NORMAL	SAHAJ	SUGAM
Sales	A. NIL Rated, Exempted, Non-GST Supply	Allowed	Allowed	Allowed
	B. Other Supply			
	a) B2C	Allowed	Allowed	Allowed
	b) B2B	Allowed	NA	Allowed
	c) Export	Allowed	NA	NA
	d) SEZ	Allowed	NA	NA
	e) Deemed Export	Allowed	NA	NA
	f) Supplies through E-Commerce Operators	Allowed	NA	NA
Purchases	a) B2B, B2C	Allowed	Allowed	Allowed
	b) RCM – Domestic	Allowed	Allowed	Allowed
	c) RCM – Import of services	Allowed	NA	NA
	d) Import of Goods (+SEZ Unit)	Allowed	NA	NA

Important changes introduced in New GST Returns system

- Harmonized System of Nomenclature (HSN Code) will be needed in order to submit details at a document level as against the HSN summary currently reported
- A user will also get HSN via his GST ANX-2, wherever a supplier was supposed to declare the HSN code
- B2B supplies, liable to reverse charge mechanism need not be shown by the supplier in the GST ANX-1, however, the aggregate figure will need to be shown in GST RET-1
- Inward supplies which are liable to RCM has to be declared in GST ANX-1 at the GSTIN level, by the recipient of supplies.
- The concept of B2C-L has been removed. The turnover limit for quarterly filers (small taxpayers) will be considered as Rs 5 crore versus the present limit of Rs 1.5 crore
- A recipient can report missing invoices at an invoice level (that is when a supplier has not uploaded an invoice in T+2 period).

PROCESS OF DOWNLOADING GST OFFLINE TOOL

Process of Downloading Offline Tool

- Access the GST Portal: www.gst.gov.in
- Go to Downloads > Offline tools > New Returns offline tool (beta) option and click on it.
- Select Download and Proceed
- Unzip the download Zip File which contains GST New Return offline tool.exe
- Open the New returns GST Offline Tool.exe
- Select folder where you intend to install the New Returns GST Offline Tool
- Click Next > Install > finish

Downloading the Offline Tool

The PDF Formats of New returns are available on the GST portal in
Downloads > Proposed Return Documents



Goods and Services Tax

Login

Home

Services ▾

GST Law

Downloads ▾

Search Taxpayer ▾

Help ▾

e-Way Bill System

New Return (Trial) ▾

Offline Tools

Proposed Return documents



Acrobat
Document

New GST Return -
Normal



Adobe Acrobat
Document

New GST Return -
Sahaj



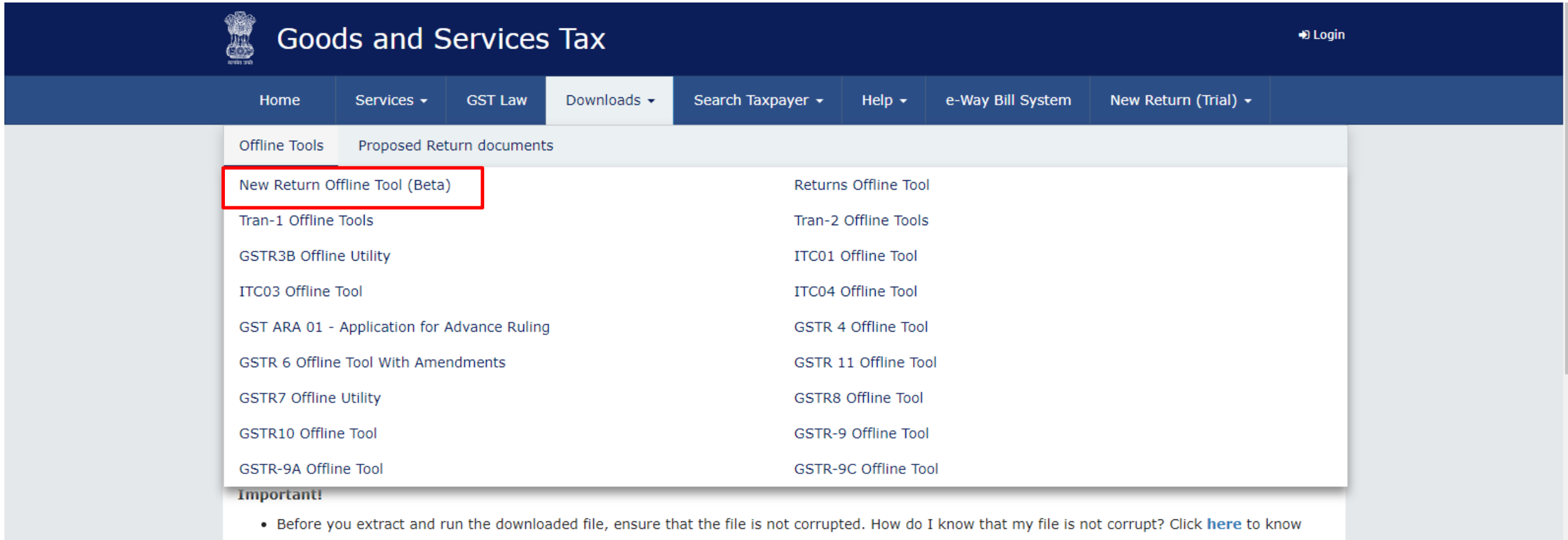
Adobe Acrobat
Document

New GST Return -
Sugam

Downloading the Offline Tool

The Offline Tool of New returns are available on the GST portal. To Download and Open the Offline Tool perform following Steps

- Access GST portal : www.gst.gov.in > Downloads > Offline Tools > New Returns Offline Tool (Beta)



The screenshot shows the GST portal interface. At the top left is the Government of India emblem and the text 'Goods and Services Tax'. On the right is a 'Login' button. Below is a navigation bar with 'Home', 'Services', 'GST Law', 'Downloads', 'Search Taxpayer', 'Help', 'e-Way Bill System', and 'New Return (Trial)'. The 'Downloads' menu is open, showing a list of tools. 'New Return Offline Tool (Beta)' is highlighted with a red box. Other tools include Tran-1, Tran-2, ITC01-04, GSTR 4, 6, 7, 8, 9A, 9C, 10, 11, and 3B. Below the menu is an 'Important!' notice with a bullet point: 'Before you extract and run the downloaded file, ensure that the file is not corrupted. How do I know that my file is not corrupt? Click here to know'.

Note: The Offline tool can be downloaded without Logging into the Portal by clicking on the Download Hyperlink

1. Downloading the Offline Tool

The downloaded folder contains following documents:

- **New Return GST Offline tool (Application)** – Installation file for offline tool
- **ANX – 1 Excel Template** – the Sample template to fill the excel for all tables & import it in offline tool
- **ANX – 1 Section wise CSV files** – To fill the Table specific information and import in Offline Tool
- **Purchase Register Excel Template** – The Template to prepare the purchase register for its easy import into the tool and to match the details with GST ANX-2 downloaded from GST Portal
- **Readme File** and
- **User Manual**

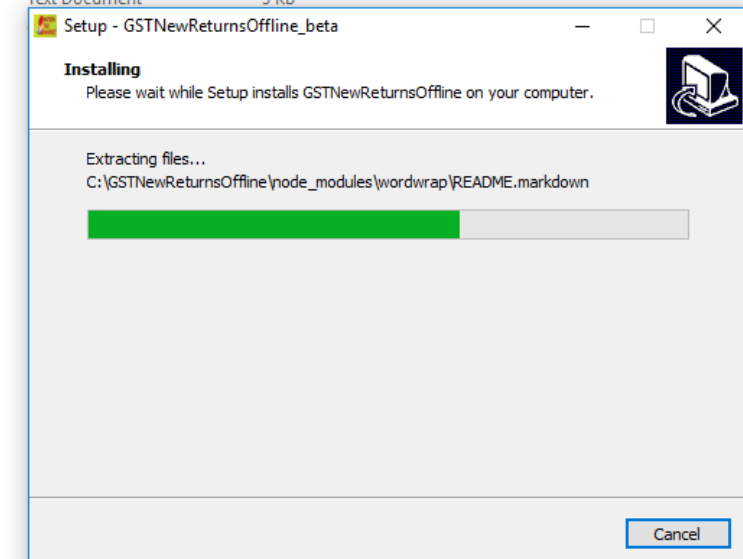
Click on the Application file to install the offline tool.

The Offline Tool can be used to Prepare

- GST ANX – 1
- Take Action in ANX – 2
- Match ANX – 2 with Purchase Register

Name	Date modified	Type	Size
ANX1_Excel_Workbook_Template	7/29/2019 9:55 PM	Microsoft Excel W...	508 KB
FAQs and Manual GST New Return Offlin...	7/29/2019 10:33 PM	Adobe Acrobat D...	5,440 KB
GSTNewReturnsOffline_beta	7/29/2019 4:27 PM	Application	24,789 KB
HSN_SAC_Data	7/26/2019 8:54 PM	Microsoft Excel W...	590 KB
PurchaseRegister_Template V1.0	7/13/2019 8:45 PM	Microsoft Excel W...	1,414 KB
Readme	7/26/2019 9:10 PM	Text Document	3 KB
Section_Wise_CSVs	7/25/2019 5:57 PM	Compressed (zipp...	5 KB

Name	Date modified	Type	Size
ANX1_Excel_Workbook_Template	7/29/2019 9:55 PM	Microsoft Excel W...	508 KB
FAQs and Manual GST New Return Offlin...	7/29/2019 10:33 PM	Adobe Acrobat D...	5,440 KB
GSTNewReturnsOffline_beta	7/29/2019 4:27 PM	Application	24,789 KB
HSN_SAC_Data	7/26/2019 8:54 PM	Microsoft Excel W...	590 KB
PurchaseRegister_Template V1.0	7/13/2019 8:45 PM	Microsoft Excel W...	1,414 KB
Readme	7/26/2019 9:10 PM	Text Document	3 KB
Section_Wise_CSVs	7/25/2019 5:57 PM		



FORM GST ANX - 1

Process Flow for GST ANX-01 Offline Tool

Offline

1. Download and install the "GST New Returns Offline Tool"

2. Add Profile > Enter GSTIN, Select Return Filing Frequency and applicable GST ANX – 1

3. Enter details in GST ANX – 1 using:
a) Import Excel in all tables
b) Import CSV in one table
c) Enter details in all tables

4. Generate JSON file

Online

5. Upload Generated JSON on GST Portal

6. In case of records with error. Download the error JSON File

Offline

7. Correct the error in offline tool

8. Generate JSON file again

Online

9. Upload Generated JSON on GST Portal

10. Details are uploaded in respective tables in GST Portal

11. Preview and download FORM GST ANX - 1

Discussing Form ANX - 1

General Features:

- Registered person can upload the details of invoices any time during the month/quarter latest by 17th of following month (In case of monthly filer) and 22nd of the month following the quarter (in case of Quarterly filer). However, recipient will get credit during a tax period on the basis of the details uploaded by the suppliers up to 10th of the following month.
- Details of invoices uploaded by the supplier will be shown to the recipient on real time basis.
- Tax amount shall be computed by the system based on the taxable value and tax rate.
- Value of supplies and amount of tax shall be reported in whole number or up to 2 decimal points.

Points to be remembered:

- Supplies attracting Reverse charge mechanism will be reported GSTIN wise and amount of tax and taxable value will be net of debit/credit notes and advance paid (on which tax has already been paid at the time of payment of advance)
- All suppliers with annual aggregate turnover of more than 5 crores shall upload HSN level data in relation to exports, imports and SEZ supplies. HSN code shall be atleast 6 digit. (Note: HSN code is optional in case of taxpayers with aggregate turnover of less than 5 crores)
- Where supplies are reported net of debit/credit notes, the values may become negative in some cases and the same may be reported as such (Eg: -100)

Discussing Form ANX - 1

Edit/Amendment of uploaded documents:

- Details of the documents uploaded up to 10th of the following month may be edited by the supplier upto 10th of the following month only if such documents are not accepted by the recipient.
- If a document has been accepted by the recipient, then such document has to be reset/unlocked by the recipient before making any amendments.
- **Supplier Side Amendment:** the return system provides for all editing or amendments from the supplier's side only. The recipient will have the option to reset/ unlock or reject a document but editing of or amendment to the same shall be made by the supplier only. The recipient will have the option to reset/ unlock or reject a document but editing of or amendment to the same shall be made by supplier only.
- **Shifting of Documents:** In certain situations, the particulars of the document may be correct but the document has been reported in the wrong table. Therefore, when such documents are rejected by the recipient, instead of amending the document, a facility of shifting such documents to appropriate table will be provided.
- In case of supplies made to persons other than those filing returns in FORM GST RET – 1/2/3, documents shall be amended by the supplier any time and shall not be dependent upon the action taken by the recipient.

Discussing Form ANX - 1

Transition Points:

- Details of documents of the period prior to introduction of the new returns system can be uploaded in the relevant tables of Form ANX – 1.
- Only those details shall be uploaded which have not been included in the FORM GSTR – 1.
- Following scenarios may arise:
 - **Not reported in GSTR 1 and tax not paid in GSTR 3B:** In this case, document shall be uploaded and tax shall also be paid along with applicable interest except in case of issuance of credit notes.
 - **Not reported in GSTR 1 but tax has been paid in GSTR 3B:** In this case, document shall be uploaded and adjustment of tax accounted for shall be made in table 3C(5) of Form GST RET – 1, but in case of issuance of credit notes, upward adjustment shall be made in table 3A(8) of Form GST RET – 1
 - **Reported in GSTR 1 but tax has not been paid in GSTR 3B:** In this Case, document need not be uploaded in this Form but adjustment of tax shall be made in Table 3A(8) or 3C(5) of Form GST RET – 1, as the case may be

FORM GST ANX - 2

Process Flow for GST ANX-01 Offline Tool

Offline

1. Download and install the "GST New Returns Offline Tool"

2. Enter GSTIN, Financial year and Tax period

3. Open Downloaded Form GST ANX-2 JSON from the GST Portal in offline tool

4. Take Action on Auto-Populated details in table 3A

5. Generate JSON File

Online

6. Upload Generated JSON on GST Portal

7. In case of records with error. Download the error JSON File

Offline

8. Correct the error in offline tool

9. Generate JSON file again

Online

10. Upload Generated JSON on GST Portal

11. Actions are populated against respective tables in GST Portal

11. Preview and download FORM GST ANX - 2



THANK YOU

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CORPORATE

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Reverse charge mechanism under

CA Venkat Prasad

Reverse Charge





**Reverse
Charge
Mechanism**

Coverage

- Understanding the terms
- Section 9(3) & 9(4) of CGST Act
- Services & goods liable under 9(3)/5(3)
- Services & goods liable under 9(4)/5(4)
- Time of supply
- Self- invoicing

Reverse Charge Mechanism

What is Reverse charge mechanism?

- As per Section 2(98), “**reverse charge**” means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both.
- In other words, in the specified cases, the obligation to pay the GST would be on the recipient of goods and/ or services rather than the supplier.

Who is supplier of service?

- As per section 2(105), “**supplier**” in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied.

Reverse Charge Mechanism

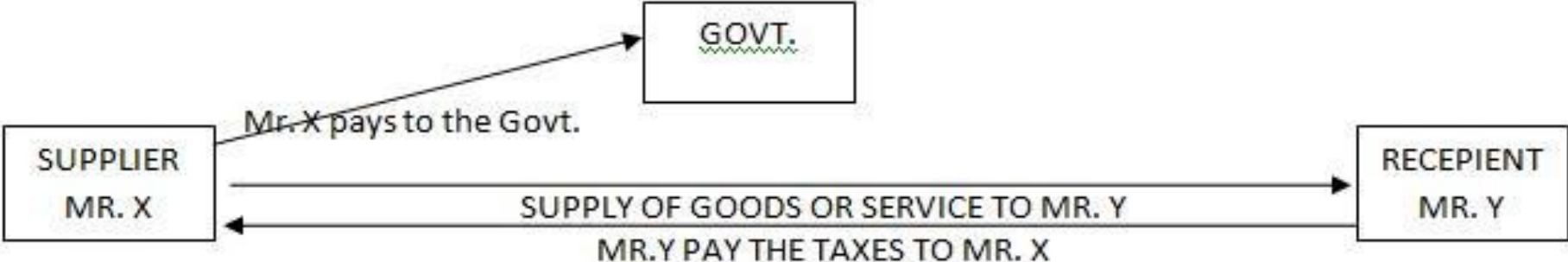
Who is recipient of service?

- As per section 2(93), “**recipient**” of supply of goods or services or both, means—
- (a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;
- (b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and
- (c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,

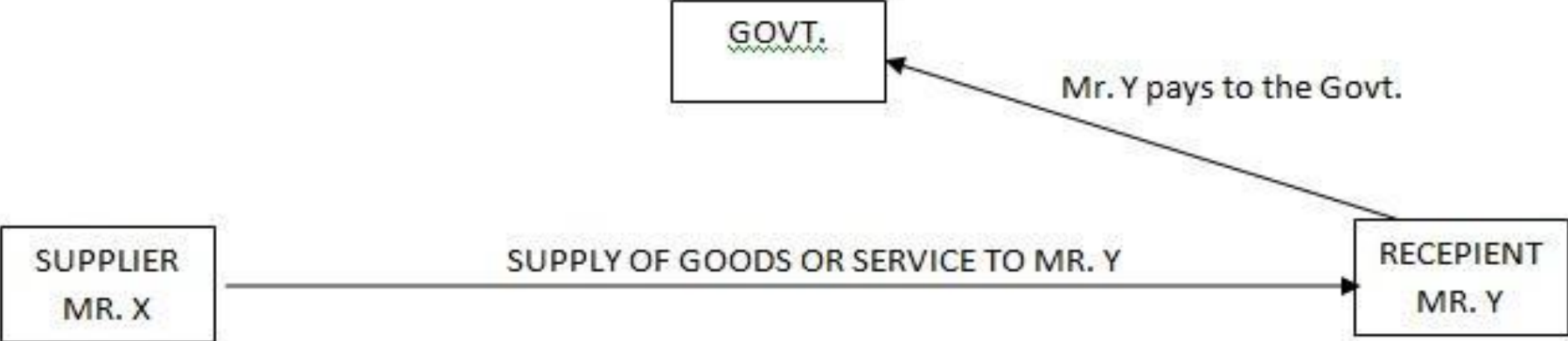
and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied,

Reverse Charge Mechanism

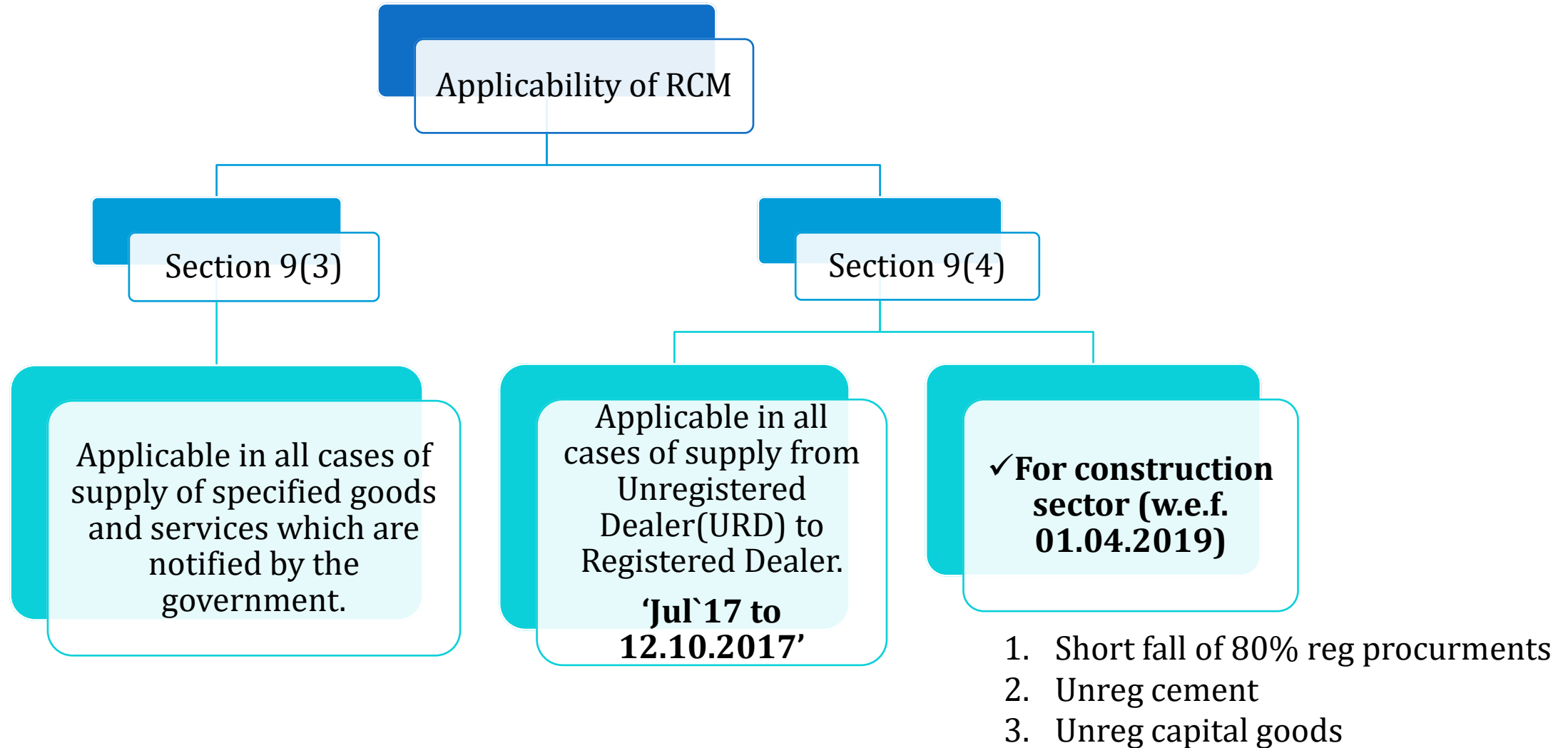
NORMAL CHARGE



REVERSE CHARGE



Reverse Charge Mechanism



Discussion on section 23 and 24 of CGST Act,2017

Section **23** of the CGST Act,2017 deals with persons who are not liable to registration like:

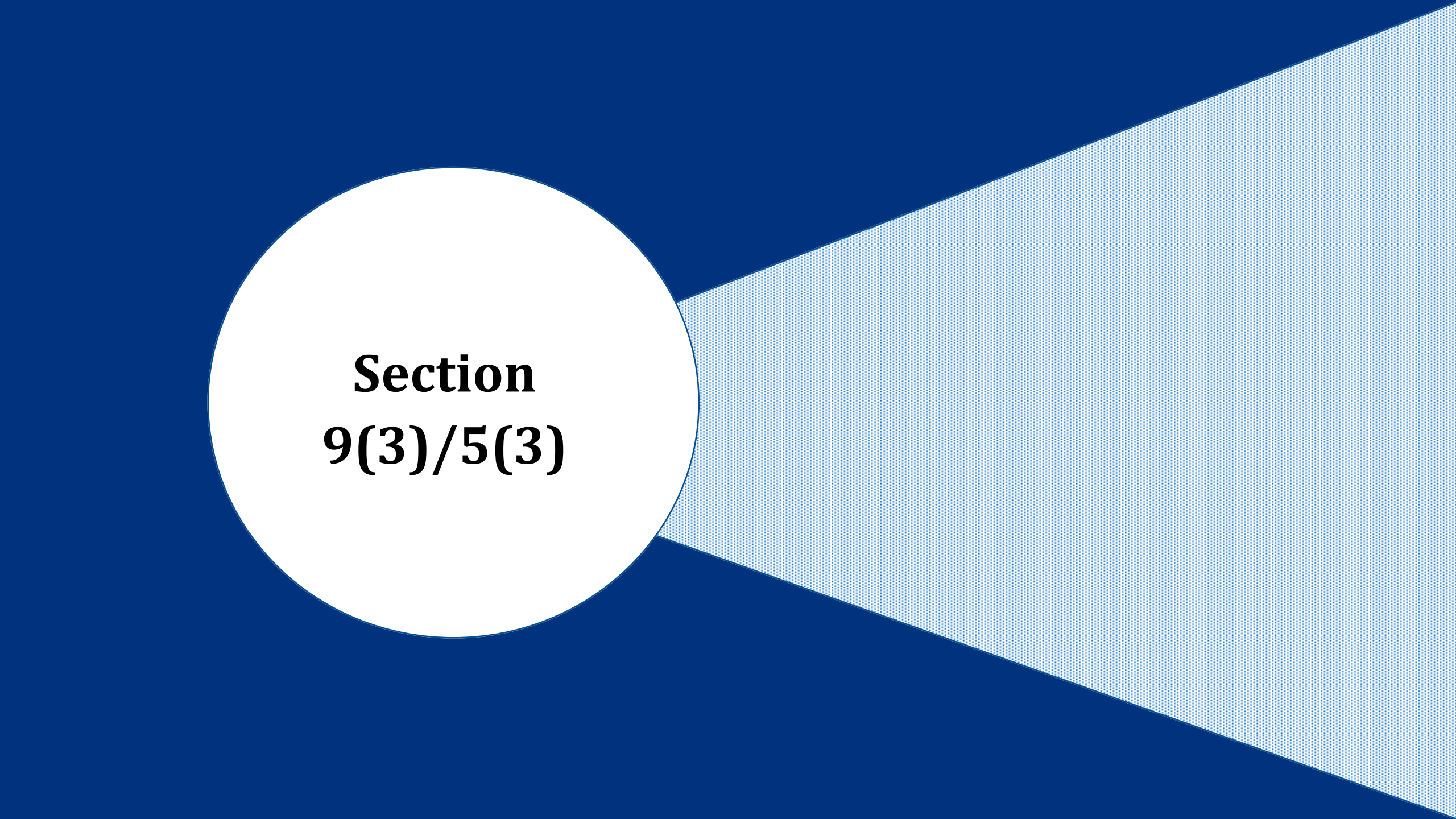
- a) Person exclusively supplying exempt goods or services
- b) An agriculturist, to the extent of supply of produce out of cultivation of land
- c) Specific notified persons

Section **24** deals with compulsory registration which also includes persons paying tax under RCM

So whether a person exclusively supplying exempt goods need to take registration and pay RCM ??

Whether section 24 overrides section 23??

- In such cases, considering the rule of harmonious construction and the rule against redundancy, the person would go out of the scope of Section 23 of the GST Act because he is making certain quantity of taxable supply way of reverse charge mechanism and would fall within the scope of Section 24 of the GST Act for the purpose of registration.
- The above view was ruled in the following AAR's:
 - 2019 (24) G.S.T.L. 788 (A.A.R. - GST) IN RE : Medivision Scan And Diagnostic Research Centre (P) Ltd.-Kerala
 - 2019 (26) G.S.T.L. 546 (A.A.R. - GST) IN RE : Jalaram – Maharashtra



**Section
9(3)/5(3)**

Reverse Charge Mechanism 9(3)/5(3) - Goods

List of Goods on which GST is to be paid under RCM as per Notification No. 4/2017-Integrated Tax (Rate) as amended from time to time

S. No	Description of Goods	Supplier
1	Cashew nuts, not shelled or peeled	Agriculturist
2	Bidi wrapper leaves (tendu)	Agriculturist
3	Tobacco leaves	Agriculturist
4	Silk yarn	Any person who manufactures silk yarn from raw silk or silk-worm cocoons for supply of silk yarn
4A	Raw cotton	Agriculturist
5	Supply of lottery	State Government, Union Territory or any local authority
6	Used vehicles, seized and confiscated goods, old and used goods, waste and scrap	Central Government, State Government, Union territory or a local authority
7	Priority Sector Lending Certificates	Any registered person

Reverse Charge Mechanism-9(3)/5(3)-Services

S.No	Description of Service	Supplier	Recipient	Effective date
1	Any service supplied by any person in non-taxable territory, to any person other than a non-taxable online recipient,	Any person in non-taxable territory	Any person located in the taxable territory	01.07.2017
2	Goods Transport Agency (who has not paid IGST at 12% inserted vide notification No.22/2017 Integrated Tax (Rate) dated 22.08.2017) provided to persons specified in Note 1 (i)	Goods Transport Agency	Received by any person specified in Note1(i) below but excludes persons specified in Note1(ii) below	01.07.2017

Reverse Charge Mechanism-9(3)/5(3)-Services

Note 1

➤ GTA services when received by the following persons RCM will apply:

(a) any factory registered under or governed by the Factories Act, 1948;

(b) any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India;

(c) any co-operative society established by or under any law;

(d) any person registered under CGST/SGST/UTGST Act;

(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.

(g) Casual taxable person

➤ of transport of goods in a goods carriage by road, to,

(a) a Department or Establishment of the Central Government or State Government or Union territory; or

(b) local authority; or

(c) Governmental agencies

Who has taken registration under the CGST Act, 2017 (12 of 2017) only for the purpose of deducting tax under section 1251 and not for making a taxable supply of goods or services.

Reverse Charge Mechanism-9(3)/5(3)-Services

S.No	Description of Service	Supplier	Recipient	Effective date
3	Legal Services provided by advocates or firm of advocates	Advocates or Firm of advocates	Recipient if business entity located in taxable territory	01.07.2017
4	Services supplied by an arbitral Tribunal to business entity.	Arbitral tribunal	Recipient if business entity	01.07.2017
5	Sponsorship services	Any person	Any body corporate or partnership firm	01.07.2017

Reverse Charge Mechanism-9(3)/5(3)-Services

S.No	Description of Service	Supplier	Recipient	Effective date
6	Services provided or agreed to be provided by CG/SG/UT or local authority excluding services mentioned in Note 2	CG/SG/UT or local authority	Recipient if business entity	01.07.2017
6A	Services supplied by Central Government, State Government, Union Territory, or Local Territory by way of renting Immovable property to a person registered under the CGST Act,2017*.	Central Government, State Government, Union Territory, or Local Territory	Any person registered under the CGST Act,2017	25.01.2018

*In Advance Ruling of P.K. Mahapatra – Chattisgarh [2019 (24) G.S.T.L. 465 (A.A.R. - GST)] – It was held that the applicant is liable to pay tax under RCM on royalty paid for **mining/DMF/NMET** *.*

Reverse Charge Mechanism-9(3)/5(3)-Services

Note 2

For the following services received from Government or local authority, no RCM

(1) renting of immovable property, and

(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 Government;

(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.

Reverse Charge Mechanism-9(3)/5(3)-Services

S.No	Description of Service	Supplier	Recipient	Effective date
6B	Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter.	Any person	Promoter	01.04.2019
6C	Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter.	Any person	Promoter	01.04.2019

Reverse Charge Mechanism-9(3)/5(3)-Services

S.No	Description of Service	Supplier	Recipient	Effective date
7	Services by Director to a Company	Director	Recipient if company or body corporate	01.07.2017
8	Service by insurance agent	Insurance Agent	Recipient is a person carrying on insurance business	01.07.2017
9	Service of a recovery agent	Recovery Agent	Recipient if banking co. or a financial institution or a NBFC	01.07.2017
10	Transportation of goods by a vessel from outside India up to customs station of clearance in India, supplied by a person located in non-taxable territory* .	person located in non-taxable territory	Importer located in the taxable territory.	01.07.2017

**In Advance ruling ,Bahl Paper Mills Ltd - Uttrakhand [2018 (14) G.S.T.L. 306 (A.A.R. - GST)], It was ruled that RCM applicable on Ocean freight*

Reverse Charge Mechanism-9(3)/5(3)-Services

S.No	Description of Service	Supplier	Recipient	Effective date
11	Transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original dramatic, musical or artistic works, by an author, music composer, photographer, artist or the like	music composer, photographer, artist or the like	Recipient if music company, producer or like located in taxable territory	Prior to 01.04.2019 the publisher receiving services of author are also included in this notification.
11A	Transfer or permitting the use or enjoyment of a copyright relating to original literary works to a publisher.	Author	Publisher located in the taxable territory	01.10.2019
12	Supply of services by the members of Overseeing Committee to Reserve Bank of India	the members of Overseeing Committee	Recipient if Reserve Bank of India.	13.10.2017

Reverse Charge Mechanism-9(3)/5(3)-Services

S.No	Description of Service	Supplier	Recipient	Effective date
13	Services supplied by individual Direct Selling Agents (DSA's) other than body corporate, partnership or LLP.	individual Direct Selling Agents (DSA's) other than body corporate, partnership or LLP.	A banking company or a NBFC, located in the taxable territory.	26.07.2018
14	Services provided by business facilitator(BF)	business facilitator(BF)	A banking company , located in the taxable territory	01.01.2019

Reverse Charge Mechanism-9(3)/5(3)-Services

S.No	Description of Service	Supplier	Recipient	Effective date
15	Services provided by an agent of business correspondent (BC)	an agent of business correspondent (BC)	A business correspondent, located in the taxable territory.	01.01.2019
16	Security services (services by way of supply of security personnel) provided by other than body corporate. Refer Note 3 for exceptions. (w.e.f. 01.01.2019)	a person other than a body corporate	Any registered person, located in the taxable territory.	01.01.2019

Reverse Charge Mechanism-9(3)/5(3)-Services

Note 3

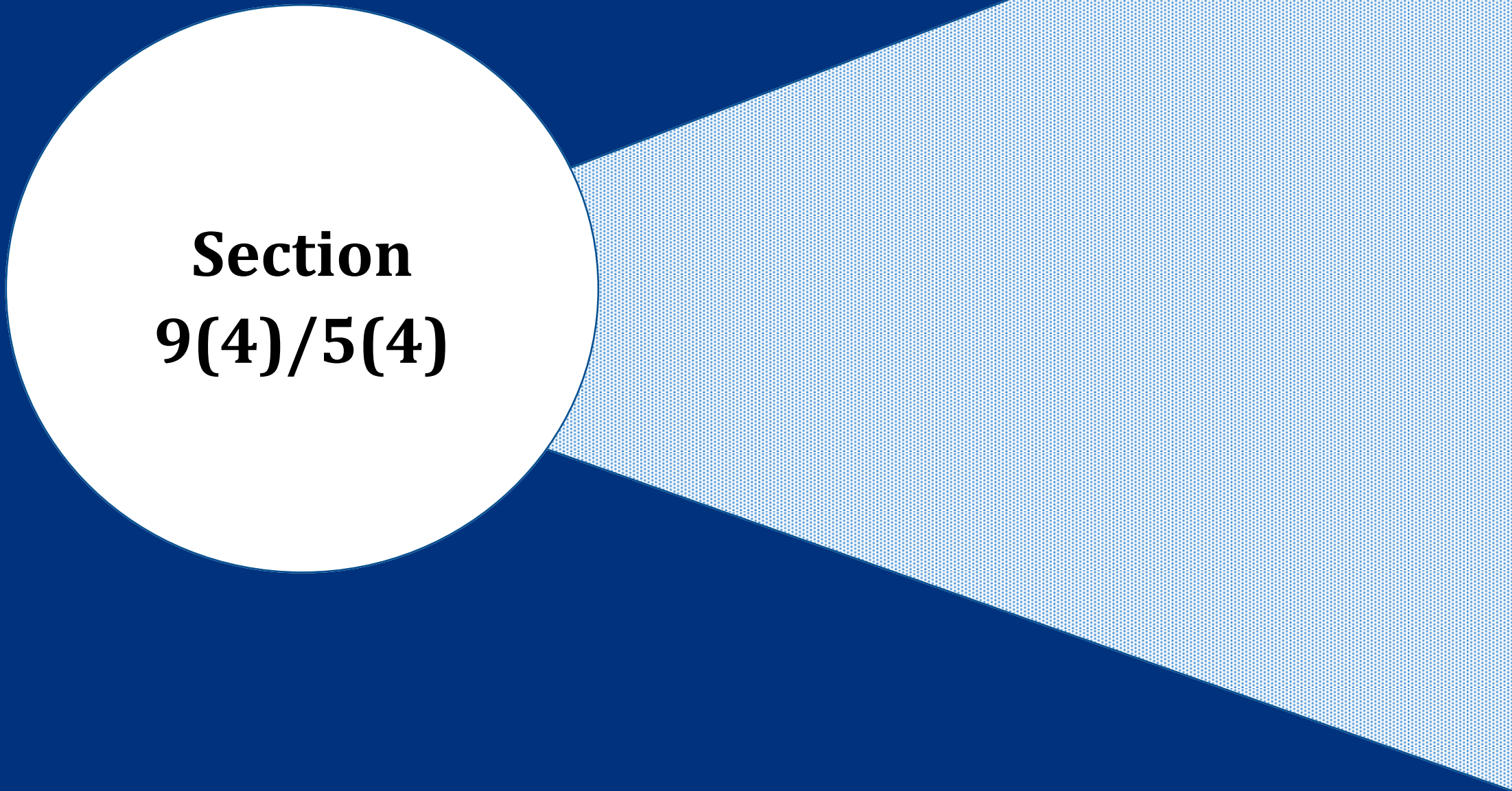
- Security services when provided to the following persons , no RCM :
 - (1) A department or establishment of the Central Government or State Government or Union Territory or
 - (2) local authority or
 - (3) Government agencies which has taken registration under the GST only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services
 - (4) A person registered under composition scheme (as per section 10 of CGST Act)

Reverse Charge Mechanism-9(3)/5(3)-Services

S.No	Description of Service	Supplier	Recipient	Effective date
17	<p>Motor vehicle renting services Here the supplier should be a person other than a body corporate, paying integrated tax at the rate of 5% on renting of motor vehicles with input tax credit only of input service in the same line of business (w.e.f. 01.10.2019)</p>	<p>a person other than a body corporate, paying integrated tax at the rate of 5%</p>	<p>Any body corporate located in the taxable territory.</p>	<p>01.10.2019</p>
18	<p>Services of lending of securities under Securities Lending Scheme, 1997 ("Scheme") of Securities and Exchange Board of India ("SEBI"), as amended. Note 5</p>	<p>SEBI</p>	<p>Borrower</p>	<p>01.10.2019</p>

RCM amendments – Analysis of Renting of motor vehicle

Service Provider	Recipient	Liability
Individual, HUF, Firm	LLP, Company (body corporate- BC)	Under RCM
Individual, HUF, Firm	Individual, HUF, Firm	Under FCM
Company, LLP	Any	Under FCM
Individual, HUF, Firm	Employee of BC (acting as agent of the BC)	Under RCM
Individual, HUF, Firm	Employee of BC (employee availing services on P2P)	Under FCM



**Section
9(4)/5(4)**

RCM on URD purchases – 9(4)/5(4)

Present	Amended	Impact
All supplies received from URD liable to reverse charge. Exemption provided for a limit of Rs. 5000 per RP per day	RCM liability only on such classes of persons or specified categories of goods or services as are notified in this regard.	<ul style="list-style-type: none">- Earlier Notification had rescinded liability only till 30.9.2019- No liability post such date on URD as levy provisions amended- Presently only builders covered in this category

Discussion on Notification No. 05/2019

S. No	Description of Service	Liability of RCM
1	Services supplied by any person by way of transfer of development rights or FSI	By Promoter
2	Long term lease of land (30 years or more) by any person against consideration in the form of up-front amount.	By Promoter

Discussion on Notification No. 05/2019-FAQ's

S. No.	JDA Date	SA Date	Applicability of RCM
1.	01.01.2018	31.03.2019	X
2.	01.03.2019	30.08.2019	Y
3.	01.04.2019	30.09.2019	Y

Notification on RCM – 07/2019

Description	Liability of RCM
Supply of any goods and services (shortfall of 80%) other than capital goods and cement	Recipient of goods and services
Cement	Recipient of goods and services
Capital goods	Recipient of goods and services

Illustration 1:

Sl. No	Name of input goods and services	Percentage of input goods and services received during the financial year	Whether inputs received from registered supplier? (Y/ N)
1	Sand	10	Y
2	Cement	15	N
3	Steel	20	Y
4	Bricks	15	Y
5	Flooring tiles	10	Y
6	Paints	5	Y
7	Architect/ designing/ CAD drawing etc.	10	Y
8	Aluminium windows, Ply, commercial wood	15	Y

- ❑ Here the promoter has procured 80% of the inputs from a registered person but the cement procured by him was from unregistered person and hence he is required to pay GST on cement at the applicable rates on reverse charge basis.

Illustration 2:

Sl. No	Name of input goods and services	Percentage of input goods and services received during the financial year	Whether inputs received from registered supplier? (Y/ N)
1	Sand	10	Y
2	Cement	15	Y
3	Steel	20	Y
4	Bricks	15	Y
5	Flooring tiles	10	Y
6	Paints	5	N
7	Architect/ designing/ CAD drawing etc.	10	Y
8	Aluminium windows, Ply, commercial wood	15	N

- Here the promoter has procured 80% of the inputs from registered supplier and hence not required to pay GST under reverse charge basis.

Notification on RCM - 08/2019

- ❑ The rate applicable to the supply of any goods and services (shortfall of 80%) other than capital goods and cement shall be paid on reverse charge basis shall be @18%.
- ❑ The said entry was added in the Schedule III after the entry 452P in column(1) as 452Q.



**Time of
supply**

Time of supply for goods - section 12(3)

In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely:—

- the date of the **receipt of goods**; or
- the **date of payment** as entered in the books of account of the recipient or the **date on which the payment is debited** in his bank account, whichever is earlier; or
- the **date immediately following thirty days** from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier:

Provided that where it is not possible to determine the time of supply under clause (a) or clause (b) or clause (c), the time of supply shall be the date of entry in the books of account of the recipient of supply

Time of supply for services - section 13(3)

In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earlier of the following dates, namely: –

- ❑ the **date of payment as entered** in the books of account of the recipient or **the date on which the payment is debited** in his bank account, whichever is earlier; or
- ❑ the **date immediately following sixty days** from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier:

Provided that where it is not possible to determine the time of supply under clause (a) or clause (b), the time of supply shall be the date of entry in the books of account of the recipient of supply:

Provided further that in case of supply by associated enterprises, where the supplier of service is located outside India, the time of supply shall be the date of entry in the books of account of the recipient of supply or the date of payment, whichever is earlier



Invoicing

Invoicing

- **In terms of section 31(3)(f) (self-invoice):** A registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 shall issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both.
- **In terms of section 31(3)(g) (payment voucher):** A registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 shall issue a payment voucher at the time of making payment to the supplier

Other Important Aspects in RCM

Particulars	Procedure
Input Tax Credit (ITC)	Input tax credit of the GST paid on the goods and services under reverse charge mechanism shall be available if such goods and/or services are used in the furtherance of business., and subject to Section 17(5)
Registration	All persons procuring goods or services notified under Section 9(3) or Section 9(4) are mandatorily required to obtain GST Registration.
Tax Invoice	Recipient of supply in such cases may issue a consolidated invoice at the end of a month for all the supplies made for unregistered persons.
Records	Every registered person shall keep and maintain an the Accounts/records as may be prescribed
Due date of Payment	GST levied under the Reverse Charge mechanism should be deposited with the Govt by the 20th of the next month

Other Imp. Aspects in RCM- Contd..

Particulars	Procedure
Returns	GST paid under Reverse Charge Mechanism (RCM) would not be auto-populated in the GSTR 2A and these details would be required to be manually furnished in GSTR-2
RCM to be paid in Cash only	Input Tax Credit with the recipient cannot be used for payment of Reverse Charge to the Govt.
Composition Scheme dealers	Even persons registered under the Composition Scheme shall also discharge liability under Reverse Charge. No Credit of RCM is available in such cases.
Advance Payment	RCM is levied on advance payments as well.

THANK YOU

THANK YOU

For any clarification

Venkataprasad@hiregange.com



Refunds under GST

CA SANDEEP KUMAR BAHETI

Refund under GST

Section 54 and 55 of CGST deals with legal and procedural aspects for claiming refund of

- ▶ any tax (which was excess paid);
- ▶ interest paid on such tax or any other amount paid (which was not required to be paid);
- ▶ tax paid on zero rated supply of goods or services or both i.e. against exports and supplies to SEZ
- ▶ tax paid on inputs or input services “used” in the zero rated supply of goods and/or services including exports and supplies to SEZ;
- ▶ tax on the supply of goods regarded as deemed exports;
- ▶ unutilized input tax credit at the end of tax period in cases of –exports- other than when goods are subjected to export duty & the supplier avails drawback of central tax or claims refund of integrated tax paid on such supplies.

Refund under GST

- ▶ unutilized input tax credit at the end of tax period in cases of input tax rate being higher than output tax rate, other than NIL rated or fully exempted.
- ▶ Supply which is not provided, either wholly or partially and for which invoice has not been issued or refund voucher has been issued.
- ▶ CGST and SGST paid for transaction HELD to be Inter-state transaction or IGST paid for transaction HELD to be Intra state transaction
- ▶ Refund to Casual Taxable Person/ Non Resident Taxable Person (subject to furnishing all returns for the period of currency of registration)
- ▶ Refund to Inward Supplies to UN and agencies

Refund under GST

Some Other circumstances where refund may be granted but are **not covered** by section 54 may be as

- ▶ Refund of duty/tax under old law
- ▶ Refund in case of International Tourist
- ▶ Refund of Provisionally paid tax
- ▶ Refund of Compensation Cess or Excess or Erroneous Deduction
- ▶ Refund on Inward Supplies to Canteen Stores Department
- ▶ Refund due to order of Appellate Authority/Court
- ▶ Refund of Central share in CGST & IGST in hilly areas
- ▶ Refund of tax under Seva Bhoj Yojna
- ▶ Refund of taxes paid on inward supply of indigenous goods by retail outlets established at departure area of the international airport beyond immigration counters when supplied to outgoing international tourist against foreign exchange

Relevant Section/ Rules (CGST)

▪ Sections

- 54. Refund of tax
 - 55. Refund in certain cases
 - 56. Interest on delayed refunds
 - 57. Consumer Welfare Fund
 - 58. Utilisation of Fund
- ## ▪ Other Relevant Sections
- 33. Tax to be indicated in tax invoice
 - 57. Consumer Welfare Fund
 - 49. Payment of tax, interest, penalty etc.
 - 39. Furnishing of returns
 - 77. Tax wrongfully collected and paid

▶ Rules

- ▶ 89. Application for refund of tax, interest, penalty, fees or any other amount
- ▶ 90. Acknowledgement
- ▶ 91. Grant of provisional refund
- ▶ 92. Order sanctioning refund
- ▶ 93. Credit of the amount of rejected refund claim
- ▶ 94. Order sanctioning interest on delayed refunds
- ▶ 95. Refund of tax to certain persons
- ▶ 96. Refund of integrated tax paid on goods or services exported out of India
- ▶ 96A. Refund of integrated tax paid on export of goods or services under bond or Letter of Undertaking
- ▶ 97. Consumer Welfare Fund
- ▶ 97A. Manual filing and processing

Relevant section and Definition

- ▶ Section 2(5)- Export of goods
- ▶ Section 2()-Export of services
- ▶ Section 16 of IGST Act- Zero rated supply
- ▶ Zero rated supply 16(1)- export of goods and services & supply to SEZ developer and SEZ unit
- ▶ Section 16(2)-ITC-zero rated supplies including exempt supply
- ▶ Sec 16(3)-refund can be claimed
 - ▶ Supply- without payment of taxes-LUT/bond
 - ▶ Supply with payment of tax

Sec-54: Refund of tax

(1) Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application before the expiry of two years from relevant date in such form and manner as may be prescribed:

Provided that a registered taxable person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions as per sub-section (6) of section 49 may claim such refund in return furnished under section 39 in such manner as may be prescribed.

(2) A specialized agency of United Nations Organization or any Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries or any other person or class of persons as notified under section 55, entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund, in such form and manner prescribed, before the expiry of six months from the last day of the quarter in which such supply was received

Sec-54: Refund of tax

(3) Subject to the provisions of sub-section (10), a registered person may claim refund of any unutilized input tax credit at the end of any tax period:

▶ Provided that no refund of unutilized 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:

▶ Provided Further that no refund of unutilized input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty.

▶ Provided also that no refund of input tax credit shall be allowed if the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies .

Sec-54: Refund of tax

▶ (4) The application shall be accompanied by—

(a) such documentary evidence as may be prescribed to establish that a refund is due to the applicant; and

(b) such documentary or other evidence (including the documents referred to in section 33) as the applicant may furnish to establish that the amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund is claimed was collected from, or paid by, him and the incidence of such tax and interest had not been passed on to any other person:

Provided that where the amount claimed as refund is less than two lakh rupees, it shall not be necessary for the applicant to furnish any documentary and other evidences but, he may file a declaration, based on the documentary or other evidences available with him, certifying that the incidence of such tax and interest had not been passed on to any other person.

Sec-54: Refund of tax

(5) If, on receipt of any such application, the proper officer is satisfied that the whole or part of the amount claimed as refund is refundable, he may make an order accordingly and the amount so determined shall be credited to the Fund referred to in section 57.

(6) Notwithstanding anything contained in sub-section (5), the proper officer may, in the case of any claim for refund on account of zero-rated supply of goods or services or both made by registered persons, other than such category of registered persons as may be notified by the Government on the recommendations of the Council, refund on a provisional basis ninety percent of the total amount so claimed, excluding the amount of input tax credit provisionally accepted, in such manner and subject to such conditions, limitations and safeguards as may be prescribed and thereafter make an order under sub-section (5) for final settlement of the refund claim after due verification of documents furnished by the applicant.

Sec-54: Refund of tax

(7) The proper officer shall issue the order under sub-section (5) within sixty days from the date of receipt of application complete in all respects.

(8) Notwithstanding anything contained in sub-section (5), the refundable amount shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to—

(a) refund of tax paid on zero rated supplies for **export** of goods or services or both or on inputs or input services used in making such zero rated supplies for **exports**;

(b) refund of unutilized input tax credit under sub-section (3);

(c) refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued;

(d) refund of tax in pursuance of section 77;

(e) the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or

(f) the tax or interest borne by such other class of applicants as the Government may, on the recommendation of the Council, by notification, specify.

Sec-54: Refund of tax

(9) Notwithstanding anything to the contrary contained in any judgment, decree, order or direction of the Appellate Tribunal or any Court or in any other provisions of this Act or the rules made thereunder or in any other law for the time being in force, no refund shall be made except in accordance with the provisions of sub-section (8).

(10) Where any refund is due under the said sub-section(3) to a registered person who has defaulted in furnishing any return or who is required to pay any tax, interest or penalty, which has not been stayed by any Court, Tribunal or Appellate Authority by the specified date, the proper officer may—

Sec-54: Refund of tax

(11) where an order giving rise to a refund is the subject matter of an appeal or further proceedings or where any other proceedings under this Act is pending and the Commissioner is of the opinion that grant of such refund is likely to adversely affect the revenue in the said appeal or other proceeding on the account of malfeasance or fraud committed, he may, after giving the taxable person an opportunity of being heard, withhold the refund till such time as he may determine.

(12) where a refund is withhold under Sub-Sec(11), the taxable person shall notwithstanding anything contained in Sec 56, be entitled to interest at such rate not exceeding Six per cent, as may be notified on the recommendations of the council, if as a results of the appeal or further proceedings he becomes entitled to refund.

Sec-54: Refund of tax

(13) Notwithstanding anything contained to the contrary contained in the Sec, the amount of advance tax deposited by the casual taxable person or a non-resident taxable person under Sub-Section(2) of Sec27 shall not be refunded unless such person has, in respect of the entire period for which the certificate of the registration granted to him had remained in force, furnished all the returns required under Sec39.

(14) Notwithstanding anything contained in this Sec, no refund under Sub-Section (5) or Sub-Section (6) shall be paid to an applicant if the amount is less than one thousand rupees.

Relevant Date

In Case of	Relevant Date
Export by Sea/Air	The date on which the ship or the aircraft in which such goods are loaded, leaves India
Export by Land	The date on which such goods pass the frontier
Export by Post	The date of dispatch of goods by the Post Office concerned to a place outside India
Deemed Export	The date on which the return relating to such deemed exports is furnished
Export of Service	The date of– (i) Receipt of payment in convertible foreign exchange, where the supply of services had been completed prior to the receipt of such payment; or (ii) Issue of invoice, where payment for the services had been received in advance prior to the date of issue of the invoice

Relevant Date

Order/judgement	The date of communication of such order or judgment or decree or direction
Refund of unutilised ITC	Due date furnishing the return u/s 39 for the period in which such claim for refund arises
Provision payment of tax	The date adjustment of tax after final assessment
Other case	The date of payment of tax

Note: This limit will not apply where tax / interest / or any other amount has been paid under protest or otherwise.

Who can claim Refund?

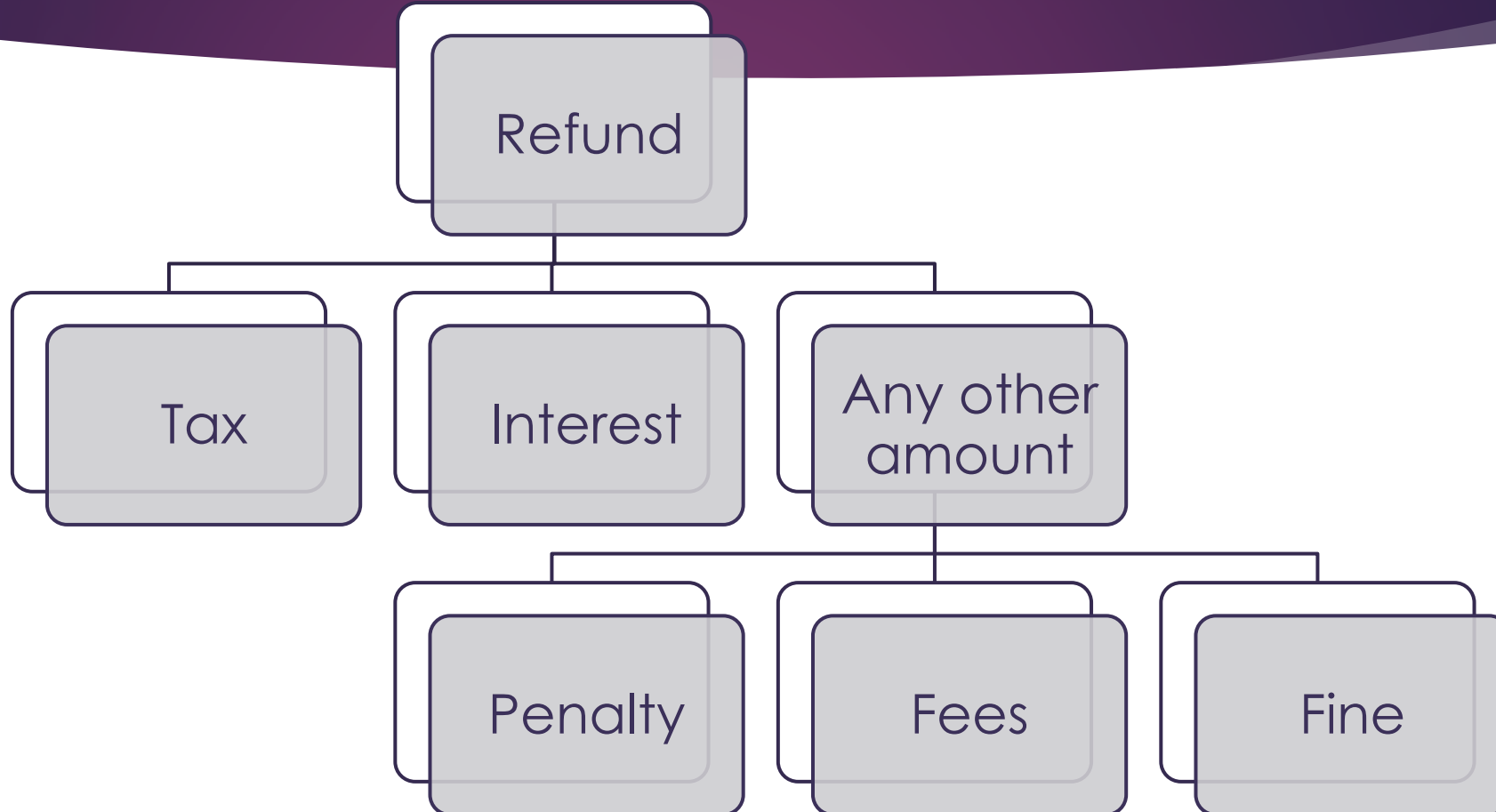
A registered person may claim refund of any unutilized input tax credit at the end of any tax period. Refund can be claimed in the following cases:-

- Export of goods or services
- Supplies to SEZs units and developers
- Deemed exports
- Refund of taxes on purchase made by UN or embassies etc.
- Refund arising on account of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court
- Refund of accumulated Input Tax Credit on account of inverted duty structure
- Finalization of provisional assessment

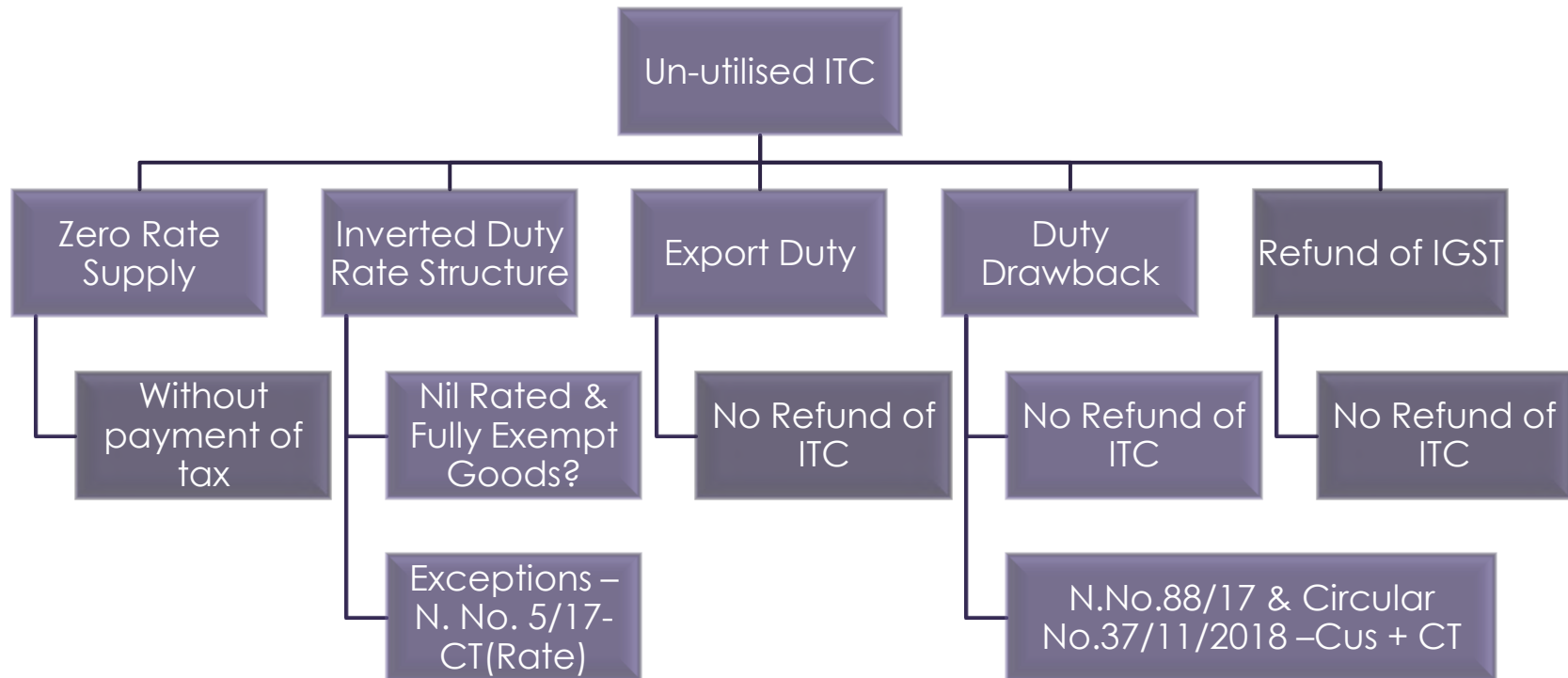
Who can claim Refund?

- ▶ Refund of pre-deposit
- ▶ Excess payment due to mistake
- ▶ Refunds to International tourists of GST paid on goods in India and carried abroad at the time of their departure from India
- ▶ Refund on account of issuance of refund vouchers for taxes paid on advances against which, goods or services have not been supplied
- ▶ Refund of CGST & SGST paid by treating the supply as intrastate supply which is subsequently held as inter-State supply and vice versa

WHAT CAN BE APPLIED FOR REFUND



WHEN IS REFUND OF UN-UTILISED INPUT TAX GIVEN



Forms for Refund

FORM GST RFD-01	Refund Application.
FORM GST RFD-02	Acknowledgement.
FORM GST RFD-03	Notice of Deficiency on application for refund.
FORM GST RFD-04	Provisional Refund Sanctioned Order.
FORM GST RFD-05	Payment Advice.
FORM GST RFD-06	Refund sanctioned/Rejection order.
FORM GST RFD-07	Order to complete adjustment of sanction order (part A)- withheld (Part B)
FORM GST RFD-08	Show cause notice for rejection of refund application.
FORM GST RFD-09	Reply to SCN
FORM GST RFD-10	Refund u/s 55-UN etc
FORM GST RFD-10B	Duty Free shop

Refund on exports

Export of	Export Under	Refund Form
Export of Goods	On payment of IGST	Shipping Bill
	Under Bond or LUT	GST RFD-01
Export of Services	On the payment of IGST	GST RFD-01
	Under Bond or LUT	GST RFD-01

Export with payment of IGST

- The exporter has option to pay IGST on exports and then claim refund of the same.
- The exporter charges IGST on the invoice for export at the applicable rate.
- There is no need to file refund application (GST RFD-01) separately for export of goods and services.
- The shipping Bill filed by the exporter is the refund claim in itself.
- ▶ The law specifies that shipping bill is to be considered a as refund claim on satisfying following two conditions.
- ▶ The person in charge of conveyance file- export goods should file an export manifest or export report and
- ▶ The applicant should have filed the return GSTR-3B appropriately. A refund is initiated on filing table 6A in Form GSTR1.

Export with payment of IGST

- ▶ The details required in this table are as follows:
- ▶ Invoice date
- ▶ Port code
- ▶ Shipping bill no./bill of export no.
- ▶ Shipping bill date/bill of export date
- ▶ Total invoice value and taxable value
- ▶ GST payment ('With Payment of Tax' needs to be selected)

Export with payment of IGST

- ▶ On the filing the above document- confirmation from system designated by customs
- ▶ Processing of refund by customs authorities
- ▶ Claim can be withheld-on request form JC or proper officer
- ▶ Intimation to applicant and JC
- ▶ Part B of RFD-7
- ▶ Refund entitlement-JC will process & RFD-06
- ▶ Payment of IGST to Bhutan
- ▶ Restriction u/s 96(10)- Deemed export, Merchant export, AA, EPCG

Export of Goods with Payment of IGST

Goods & Services Tax (GST) | U X | Inbox (162) - pisseysnihari@gm X | (1) WhatsApp X | +

https://refund.gst.gov.in/refunds/auth/trackInvStatus

Skip to Main Content | A+ | A-

Good

Dashboard

Dashboard

GSTIN/UI

36AAXFM

Track status

Financial Year

Select

SEARCH

FOR INTELLIGENCE

36AAXFM8351M17B

English

Export Ledger

Export Ledger

Net IGST Balance: ₹ -65,146.59

Net CESS Balance: ₹ 0.00

Data displayed as on **18/01/2020**

[DOWNLOAD AS CSV](#)
[DOWNLOAD TRANSACTION AS CSV](#)
[CLOSE](#)

Return Period	Return Type	Credit/Debit	IGST Amount (₹)	CESS Amount (₹)
11-2018	R3B	Credit	0.00	0.00
11-2018	R1	Debit	0.00	0.00
10-2018	R1	Debit	44,424.72	0.00
10-2018	R3B	Credit	0.00	0.00
09-2018	R1	Debit	0.00	0.00
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Export of Goods with Payment of IGST

Goods & Services Tax (GST) | U X | Inbox (162) - pisseysrihari@gm X | (1) WhatsApp X | +

https://refund.gst.gov.in/refunds/auth/trackInvStatus

GSTIN/URN/Temporary ID : 36AAACD Legal Name : Trade Name : PVT LTD

Track status

Financial Year 2019-20

SEARCH

Search Results

Data of valid processing.

Export Ledger

Month	Code	Type	Amount	Total
10-2019	R3B	Credit	0.00	0.00
09-2019	R1	Debit	142,111.30	0.00
09-2019	R3B	Credit	142,111.29	0.00
08-2019	R3B	Credit	0.00	0.00
07-2019	R1	Debit	0.00	0.00
07-2019	R3B	Credit	0.00	0.00
06-2019	R1	Debit	0.00	0.00
06-2019	R3B	Credit	0.00	0.00
05-2019	R1	Debit	0.00	0.00
04-2019	R1	Debit	0.00	0.00
05-2019	R3B	Credit	0.00	0.00

Particulars	Count	Total IGST Amount (₹)	Total CESS Amount (₹)
Total invoices processed from table 6A	2	142,111.30	0.00
Invoices transmitted to ICEGATE	2	142,111.30	0.00
Invoices not transmitted to ICEGATE ¹ (SB/Port Code details are either missing or			

Top

15:27 18-01-2020

Refund with payment of Duty-final processed

Goods & Services Tax (GST) | U X | Inbox (162) - pisseysihari@gmail.com X | (1) WhatsApp X | +

https://refund.gst.gov.in/refunds/auth/trackInvStatus

Track status of invoice data shared/to be shared with ICEGATE

[View Export Ledger](#)

Financial Year: 2019-20 | Month: September

SEARCH

Search Result based on Financial Year : 2019-20 & Month: SEPTEMBER

Details to be transmitted/partially transmitted to ICEGATE as below:

Data of valid export invoices provided in the return period has been transmitted/partially transmitted by the GST System to ICEGATE for further processing.

Particulars	Count	Total IGST Amount (₹)	Total CESS Amount (₹)
Total invoices processed from table 6A	2	142,111.30	0.00
Invoices transmitted to ICEGATE	2	142,111.30	0.00
Invoices not transmitted to ICEGATE ¹ (SB/Port Code details are either missing or Port Code is incorrect)	0	0.00	0.00
Invoices rejected by ICEGATE ²	0	0.00	0.00

¹ Invoices are not transmitted to ICEGATE due to missing SB/Port Details or incorrect Port code. You can view details by clicking on error count and "Download Failed Invoices" button to download details of failed invoices.

Recommended Action: You can amend these errors in Table 9A of subsequent month GSTR-1 by making appropriate corrections and the record shall be

Top

15:25 18-01-2020

Refund with payment of Duty-final processed

29

GSTIN/UID/Temporary ID : 36AAACE Legal Name : Trade Name : PVT LTD

Track status

Financial Year 2019-20

SEARCH

Search Results

Data of valid processing.

Export Ledger

Net IGST Balance: ₹ 0.00
Net CESS Balance: ₹ 0.00
Data displayed as on 18/01/2020

DOWNLOAD AS CSV DOWNLOAD TRANSACTION AS CSV CLOSE

Return Period	Return Type	Credit/Debit	IGST Amount (₹)	CESS Amount (₹)
01-2019	R3B	Credit	0.00	0.00
12-2018	R3B	Credit	0.00	0.00
11-2018	R3B	Credit	0.00	0.00
10-2018	R1	Debit	0.00	0.00
09-2018	R1	Debit	0.00	0.00

Particulars	Count	Total IGST Amount (₹)	Total CESS Amount (₹)
Total invoices processed from table 6A	2	142,111.30	0.00
Invoices transmitted to ICEGATE	2	142,111.30	0.00
Invoices not transmitted to ICEGATE ¹ (SB/Port Code details are either missing or			

Export with payment of IGST: Export of Services

- ▶ A separate refund application in RFD-01 is required.
- ▶ Such taxpayer needs to login to the GST portal and selecting Services > Refunds > Application for Refund > Export of Services with payment of tax > RFD-01.
- ▶ The details relating to the export of services will need to be uploaded using the offline utility.
- ▶ The amount of refund and the bank account number in which the refund is to be credited will also need to be provided.
- ▶ On successful filing, an Application Reference Number (ARN) will be generated, which can be used to track the status of the refund application.

Export Under Bond or LUT without payment of Tax

31

- ▶ **Transactions for which LUT/Bond can be Used:**
- ▶ Zero rated supply to SEZ without payment of IGST.
- ▶ Export of goods to the country outside India without payment of IGST.
- ▶ Providing services to a client in country outside India without payment of IGST.
- ▶ **Format of LUT/Bond RFD-11**
- ▶ **Form for LUT:- can be submitted online**
- ▶ Registered name
- ▶ Address
- ▶ GST NO.
- ▶ Date of Furnishing
- ▶ Signature, date and place.
- ▶ Details of Witnesses (Name, address and Occupation)

Refund Formula

▶ In case of Accumulated ITC -

- ▶ Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC ÷ Adjusted Total Turnover
 - ▶ Where, "Net ITC" means 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

Supplies to Special Economic Zone

- ▶ These are the areas having different economic laws that the rest of the country regarding duties and taxes.
- ▶ Supplies to the SEZ unit or SEZ developers have been accorded the status of inter-state supplies under the IGST Act.
- ▶ Supplies to SEZ- with payment and without payment of tax
- ▶ Declaration and endorsement

Refund procedures for Export of Services and Supplies to SEZ

34

- ▶ The option to pay IGST and claim a refund is always available. In this case, the refund claim has to be filed in Form *GST RFD-01*.
- ▶ For exporters of services, the following are also required to be filed along with the refund claim:
 - ▶ I. A Statement containing Number and Date of Invoices; and
 - ▶ II. Bank Realisation Certificates / Foreign Inward Remittance Certificates
- ▶ The supplier of goods or services to an SEZ are required to file the following along with the refund claim:
 - ▶ I. A Statement containing Number and Date of Invoices; and
 - ▶ II. Proof of Receipt of goods or services which is authorised by the specified officer of SEZ
 - ▶ III. Details of payment made
 - ▶ IV. The declaration that the SEZ or developer of SEZ has not claimed the input tax credit of the taxes paid by the supplier
- ▶ FORM GSTR-3B for a given tax period, certain registered persons committed errors in declaring the export of services on payment of integrated tax or zero-rated supplies made to a Special Economic Zone developer or a Special Economic Zone unit on payment of integrated tax.

Inverted Tax Structure

- ▶ The term 'Inverted Tax Structure' refers to a situation where the rate of tax on inputs purchased (i.e. GST Rate paid on inputs received) is more than the rate of tax (i.e. GST Rate Payable on outward supplies) on outward supplies.
- ▶ NO refund for Inverted Duty on Input service and Capital goods.
- ▶ Stores and spares, for capital goods, the expenditure on which has been charged as a revenue expense

Refund in case of Inverted Duty Structure

36

- ▶ A registered person may claim a refund of unutilized ITC on account of Inverted Duty Structure at the end of any tax period where the credit has accumulated on account of rate of tax on **inputs** being higher than the rate of tax on output supplies.
- ▶ Output supplies are 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.
- ▶ If the goods exported out of India are subject to export duty.
- ▶ If supplier claims refund of output tax paid under IGST Act.
- ▶ If the supplier avails duty drawback or refund of IGST on such supplies.
- ▶ **Tax period:** A tax period is a period for which return is required to be furnished.
- ▶ The supplier who supplies goods at the concessional rate is also eligible for refund on account of inverted tax structure.

Formula for calculation of refund: Inverted Duty Structure

- ▶ **Maximum Refund Amount** = (Turnover of inverted rated supply of goods and services X Net input tax credit / Adjusted total turnover) – Tax payable on such inverted rated supply of goods and services
- ▶ Net ITC shall mean input tax credit availed on inputs during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both.
- ▶ From the above, it is important to note that it does not specifically mention inputs having higher GST rate than output supplies.
- ▶ Therefore, for the purpose of calculating refund claim on account of inverted duty structure, entire credit of inputs can be considered.

Refund of ITC unutilized: Inverted Duty Structure

38

- ▶ GSTR 1 and GSTR-3B has to be filed for the relevant tax period for which you want to file refund application of the accumulated ITC.
- ▶ RFD-01 has to be filed within 2 years from the end of financial year in which such claim for refund arises.

Deemed Export

- ▶ **The supply of goods and services to the following would be treated as Deemed Export under GST-**
 1. Supply of goods by a registered person against Advance Authorization/DFIA.
 2. Supplies made to an Exporter Oriented undertaking (EOU) or Hardware Technology Park unit, Software Technology Park unit, Biotechnology Park unit.
 3. Supply of capital goods by a registered person against Export promotion capital goods Authorization.
 4. Supply of gold by a bank or Public sector undertaking against Advance Authorization as per Customs Law.

Refund of GST paid on deemed exports: Procedure

- ▶ **Documentary Evidence required to claim a refund:**
- ▶ In case the supplier is claiming a refund of tax paid on deemed exports, the following details/ documents must be produced:
- ▶ A statement containing Invoice-wise details of deemed export supplies made by the supplier.
- ▶ Acknowledgement by jurisdiction tax officer of AA or EPCG holder that the said deemed export supplies have been received OR in case of EOU/ EHTP/ STP/ BTP/ Copy of tax invoice signed by the recipient that said deemed export supplies have been received.
- ▶ Undertaking by the recipient that no ITC has been claimed.
- ▶ Undertaking by the recipient that it shall not claim a refund in respect of such supplies.
- ▶ In case of deemed exports, the invoice will be uploaded as a normal B2B invoice in Tables 4A, 4B, 4C, 6B, 6C – B2B invoices

Procedure for Refund

- ▶ All the following Old Circular based on **manual processing** of refund application have been rescinded. However, applications filed before 26-09-2019 shall be dealt as per old Circulars only. Applications filed on after 26-09-2019 shall be processed electronically only.
- ▶ RFD-01 shall be submitted instead of RFD-01A and supporting documents / Undertakings/ invoices also to be submitted electronically along with each type of refund application is provided In Annexure A and Annexures shall not exceed 5MB.

Procedure for Refund

- ▶ Time of generating of ARN is deemed time for filling refund application and period of issuing acknowledgement or deficiency memo with 15 days or calculation of interest after 60 days from the date of receipt of refund application is computed accordingly.
- ▶ Application is automatically transmitted to jurisdictional officer. In case of assignment to wrong officer, it shall be re assigned by Commissioner or officer authorized by him to correct officer, within 3 working days. No deficiency memo shall be issued by officer for incorrect assignment.
- ▶ Migrated cases not assigned shall get transmitted to officer who held jurisdiction before GST. This officer shall process the refund application till issued to refund order RFD-06 or payment order RFD-05.

Procedure for Refund

- ▶ In case of assignment of migrated cases post ARN generation and issue of deficiency memo by officer who held jurisdiction before GST, the fresh refund application pursuant to deficiency memo shall be transmitted to newly assigned jurisdictional proper officer only and shall be processed by such jurisdictional officer only
- ▶ Refund sanction Final/ Provisional (RFD-06/RFd-04) for both CGST and SGST shall be done by single jurisdictional Central/State officer. Payment order under all tax heads (RFD-05) shall be done by single Central/State officer and **all Pending returns to be filed before application.**
- ▶ GST Council has decided to grant refund of provisionally accepted ITC subject to undertaking that ITC shall be paid back along with interest if it is found subsequently which:
 - a. Supplier fails to pay tax charged as per section 16(2)
 - b. Matching of Invoices resulting final acceptance of ITC is not done as per section 42(2). Such availment of ITC will be subject to restriction imposed under sub-rule (4) in rule 36 of the CGST rules
- ▶ Refund applications for different tax periods (monthly /quarterly) may be clubbed to apply for consolidated refund application without spreading over different financial years. For claiming refund of unutilized ITC on exports, supplies to SEZ and inverted duty refund shall be applied chronologically only.

Procedure for Refund

- ▶ Deficiency Memo/Acknowledgment to be issued in 15 days only. No deficiency memo shall be issued after issue of acknowledgment
- ▶ After issue of deficiency memo there shall be auto re credit to electronic credit ledger. No PMT-03 or undertaking for non -filing of appeal is required at this stage.
- ▶ Fresh Refund application filed pursuant to deficiency memo
- ▶ Fresh application pursuant to deficiency memo to be filed within 2 years from relevant period only and there shall be no extension only because original application was filed within said 2 years.

Procedure for Refund

- ▶ Where refund is granted provisionally, and final refund is reduced then issue SCN in RFD-08 for
 - a. Rejection of ineligible ITC
 - b. Recovery of Erroneously refunded amount with interest and penalty After hearing according to principles of natural justice, issue
 1. **RDF-06** for Final refund amount
 2. **PMT-03** for [re-credit of debit amount-Final Refund Amount] subject to undertaking that appeal shall not be filed against refund order. If appeal is made there shall be no recredit

Procedure for Refund

- ▶ **DRC-07** for recovery of provisionally granted wrong amount/Ineligible ITC plus interest plus penalty.
- ▶ Alternately **DRC 03** may be filed.
- ▶ Where appeal is made, and refund is granted then apply for refund under category “On Account of Assessment/Provisional Assessment/ Appeal/ Any other order”
- ▶ Mismatch between 3B and GSTR-1 may be resolved following system of adjustment provided in Circular 26/2017.

Procedure for Refund

- ▶ Disbursal of refund amount shall be done through PFMS after validating bank details provided in refund application.
- ▶ Interest on delayed disbursal @ 6% on the refund amount starting from the date immediately after the expiry of sixty days from the date of receipt of application (ARN) till the date of refund of such tax (i.e. date of credit in bank account) shall have to be paid to the applicant.
- ▶ Tax authorities have been advised to issue the final sanction order in FORM GST RFD-06 and the payment order in FORM GST RFD-05 within 45 days of the date of generation of ARN, so that the disbursement is completed within 60 days.
- ▶ Adjustment of refund amount against any outstanding demand under the existing law can be done.

Procedure for refund

- a. 2A relating to period for which Invoice carrying ITC pertain to be uploaded
- b. 2A to be treated evidence of accountal of tax on invoices being claimed by recipient. Submission of invoices accounted in 2A not to be insisted
- c. List of Invoices not appearing in 2A for which refund is being claimed to be provided in Annexure B along with declaration of eligibility and subject to restrictions of ITC not exceeding 20% of invoices appearing in 2A as per Notification No. 49/2019-Central tax.- Now 10%
- d. Invoices not uploaded in 2A and declared eligible in Annexure B to be self-certified and to be uploaded along RFD-01
- e. Formula under Rule 89(4) and 89(5) to be applied on consolidated amount of tax heads and not to be applied on each tax head separately.

Procedure for refund

- ▶ Quantum of refund of Unutilized ITC= Minimum of [Refund as per Formula, Credit ledger Balance at the end of period after filing 3B for the period for which refund is claimed, Credit ledger Balance at the time of filing refund]
- ▶ Refund of Unutilized ITC on Compensation Cess to be computed separately and Debit to be made from Cess balance only.
- ▶ Where inward supply e.g. coal is subject to Cess, but final product say aluminum is not subject to Cess, refund for unutilized ITC of Cess for export may be claimed but at the same if IGST is paid on exports, then Cess can be utilized for payment of such IGST.
- ▶ Further Cess reversed in 3B and treated as expense cannot be claimed as refund. However, if subsequently reversal is restored back and accounting entry is also reversed, then refund can be claimed

Procedure for refund

- ▶ Where ITC lapsed on inverted rate structure for July 17 to July 18 is reversed and portal restricts refund to ITC claimed reduced by ITC reversed for earlier periods, then ITC may be claimed as refund under “Any other”. Credit ledger to debited through DRC 03 after calculation and verification by officer.
- ▶ In respect of cases of refund on inverted rate structure for inward supplies post 31-7-18, it has been advised to debit the credit ledger through DRC 03 instead of

Annexure- A: Documents Required

Sl.No.	Type of Refund	Declaration/Statement/Undertaking/Certificates to be filled online	Supporting documents to be additionally Uploaded
1	Refund of unutilized ITC on account of exports without payment of Tax	Declaration under second and third proviso to section 54(3)	Copy of GSTR-2A of the relevant period
		Undertaking in relation to sections 16(2)(c) and section 42(2)	Statement of invoices (Annexure-B)
		Statement 3 under rule 89(2)(b) and rule 89(2)(c)	Self-certified copies of invoices entered in Annexure-B whose details are not found in GSTR-2A of the relevant period
		Statement 3A under rule 89(4)	BRC/FIRC in case of export of services and shipping bill (only in case of exports made through non-EDI ports)
2	Refund of tax paid on export of services made with payment of Tax	Declaration under second and third proviso to section 54(3)	Copy of GSTR-2A of the relevant period
		Undertaking in relation to sections 16(2)(c) and section 42(2)	Statement of invoices (Annexure-B)
		Statement 2 under rule 89(2)(c)	Self-certified copies of invoices entered in Annexure-A whose details are not found in GSTR-2A of the relevant period
			Self-declaration regarding non-prosecution under sub-rule (1) of rule 91 of the CGST Rules for availing provisional refund 3

Annexure-A: Documents Required

Sl.No	Type of Refund	Declaration/Statement/Undertaking/Certificates to be filled online	Supporting Documents to be additionally uploaded
3	Refund of unutilized ITC on account of Supplies made to SEZ units/developer without payment of tax	Declaration under third proviso to section 54(3)	Copy of GSTR-2A of the relevant period
		Statement 5 under rule 89(2)(d) and rule 89(2)(e)	Statement of invoices (Annexure-B)
		Statement 5A under rule 89(4)	Self-certified copies of invoices entered in Annexure-B whose details are not found in GSTR-2A of the relevant period
		Declaration under rule 89(2)(f)	Endorsement(s) from the specified officer of the SEZ regarding receipt of goods/services for authorized operations under second proviso to rule 89(1)
		Undertaking in relation to sections 16(2)(c) and section 42(2)	
		Self-declaration under rule 89(2)(l) if amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) Otherwise.	

Annexure-A: Documents Required

4	Refund of tax paid on supplies made to SEZ units/developer with payment of tax	Declaration under second and third proviso to section 54(3)	Endorsement(s) from the specified officer of the SEZ regarding receipt of goods/services for authorized operations under second proviso to rule 89(1)
		Declaration under rule 89(2)(f)	Self-certified copies of invoices entered in Annexure-A whose details are not found in GSTR-2A of the relevant period
		Statement 4 under rule 89(2)(d) and rule 89(2)(e)	Self-declaration regarding non-prosecution under sub-rule (1) of rule 91 of the CGST Rules for availing provisional refund
		Undertaking in relation to sections 16(2)(c) and section 42(2)	
		Self-declaration under rule 89(2)(l) if amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) Otherwise	
5	Refund of ITC unutilized on account of accumulation due to inverted tax structure	Declaration under second and third proviso to section 54(3)	Copy of GSTR-2A of the relevant period
		Declaration under section 54(3)(ii)	Statement of invoices (Annexure-B)
		Undertaking in relation to sections 16(2)(c) and section 42(2)	Self-certified copies of invoices entered in Annexure-B whose details are not found in GSTR-2A of the relevant period
		Statement 1 under rule 89(5)	
		Statement 1A under rule 89(2)(h)	
		Self-declaration under rule 89(2)(l) if amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) Otherwise	

Annexure-A: Documents Required

6	Refund to supplier of tax paid on deemed export Supplies.	Statement 5(B) under rule 89(2)(g)	Documents required under Notification No. 49/2017-Central Tax dated 18.10.2017 and Circular No.14/14/2017-GST dated 06.11.2017
		Declaration under rule 89(2)(g)	
		Undertaking in relation to sections 16(2)(c) and section 42(2)	
		Self-declaration under rule 89(2)(l) if amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) Otherwise	
7	Refund to recipient of tax paid on deemed export Supplies	Statement 5(B) under rule 89(2)(g)	Documents required under Circular No. 14/14/2017-GST dated 06.11.2017
		Declaration under rule 89(2)(g)	
		Undertaking in relation to sections 16(2)(c) and section 42(2)	
		Self-declaration under rule 89(2)(l) if amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) Otherwise	

Annexure-A: Documents Required

8	Refund of excess payment of Tax	Statement 7 under rule 89(2)(k)	
		Undertaking in relation to sections 16(2)(c) and section 42(2)	
		Self-declaration under rule 89(2)(l) if amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) Otherwise	
9	Refund of tax paid on intra-state supply which is subsequently held to be an inter-state supply and vice versa	Statement 6 under rule 89(2)(j)	
		Undertaking in relation to sections 16(2)(c) and section 42(2)	

Annexure-A: Documents Required

10	Refund on account of assessment / provisional assessment / appeal / any other order	Undertaking in relation to sections 16(2)(c) and section 42(2)	Reference number of the order and a copy of the Assessment / Provisional Assessment / Appeal / Any Other Order
		Self-declaration under rule 89(2)(l) if amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) Otherwise	Reference number/proof of payment of predeposit made earlier for which refund is being claimed
11	Refund on account of any other ground or reason	Undertaking in relation to sections 16(2)(c) and section 42(2)	Documents in support of the claim
		Self-declaration under rule 89(2)(l) if amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) Otherwise	

Annexure-B

57

Sr. No.	GSTIN of the Supplier	Name of the Supplier	Invoice Details			Type	Central Tax	State Tax/ Union Territory Tax	Integrated Tax	Cesses	Eligible for ITC	Amount of eligible ITC	Whether invoice is included in GSTR-2A Y/N
			Invoice No.	Date	Value								
1	2	3	4	5	6	7	8	9	10	11	12	13	14
			Inputs/ Input Services/ capital goods								Yes/No/Partially		

Refund Amount to be debited to Electronic Credit Ledger

- ▶ As per Rule 89(3), where the application relates to refund of input tax credit, the electronic credit ledger shall be debited by the applicant by an amount equal to the refund so claimed. As per **Circular 59/33/2018 dated 4-09-2018**, the amount to be debited to electronic credit ledger is least of the following:
 - a) Amount calculated as per Rule 89(4) or 89(5)
 - b) The balance in the electronic credit ledger of the claimant at the end of the tax period for which the refund claim is being filed after the return for the said period has been filed; and
 - c) The balance in the electronic credit ledger of the claimant at the time of filing the refund application.

Rule 96-Refund of integrated tax paid on goods or services exported out of India

- ▶ refund of integrated tax paid on the services exported out of India shall be dealt with in accordance with the provisions of rule 89 and the application for refund shall be filed in FORM GST RFD-01. [Rule 96(9)]

- ▶ **Shipping Bill Deemed to be application**

The shipping bill filed by an exporter of goods shall be deemed to be an application for refund of integrated tax paid on the goods exported out of India.

Rule 96A - Refund of integrated tax paid on export of goods or services under bond or Letter of Undertaking

- ▶ 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 in **FORM GST RFD-11** to the jurisdictional Commissioner (vide circular no 2/2/2017-GST the power has been delegated to Deputy/Assistant Commissioner).

Rule 92-Order sanctioning refund

- ▶ As per notification 39/2017-Central Tax and further modified by notification 10/2018-Central Tax dated 23-01-2018, state tax officers have been authorized to act as proper officer for the purpose of section 54 and 55 for the sanction of refund. Regarding refund of IGST paid on exports, State officer have been authorized to deal refund of IGST on export of service but can't deal IGST refund on export of goods. All other types of refunds can be dealt by state tax officer for the purpose of S. 54 & 55 of CGST

Rule 93-Credit of the amount of rejected refund claim

- ▶ Where any amount claimed as refund is rejected under rule 92, 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. A refund shall be deemed to be rejected, if the appeal is finally rejected or if the claimant gives an undertaking in writing to the proper officer that he shall not file an appeal. Also, where any deficiencies have been communicated in FORM GST RFD-03, the amount debited under sub-rule (3) of rule 89 shall be re-credited to the electronic credit ledger.

Refund U/s-55

Refund can be filed by following:

1. A specialized agency of the United Nations Organization or
 2. Any Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947,
 3. Consulate or Embassy of foreign countries or
 4. Any other person or class of persons as notified under section 55.
- ▶ Refund should be claimed within 6 months from the end of quarter in which such supply received. Vide **Notification No. 20/2018 – Central Tax dated 28th March, 2018**, time limit got extended to 18 months

Transitional Provisions

Pending refund claims to be disposed off under existing law – Sec 142(3)

Refund claim of CENVAT Credit, duty, tax, interest and any other amount due under existing law

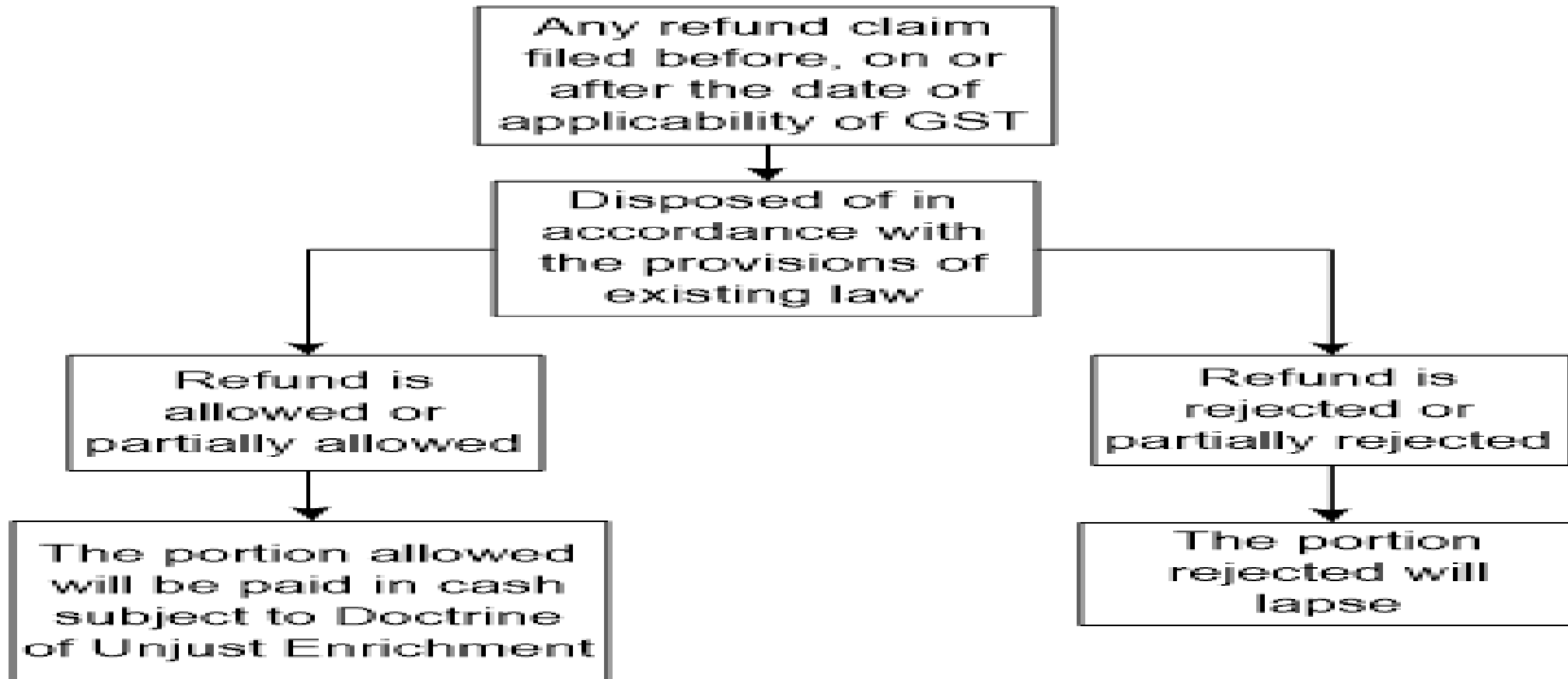
Application to be filed before the appointed day

Refund proceeding will be in terms of existing law other than Section 11B (2) of Central Excise Act, 1944

Eligible refund to be paid in cash and if fully or partially rejected; balance to lapse

Refund of balance of CENVAT credit carried forward under CGST Act shall not be allowed

Pending refund claims to be disposed off under existing law – Sec 142(3)



Refund claims filed in respect of goods / services exported and services not provided – Sec 142(4) and (5)

- ▶ **Goods / services exported** before / after appointed day and claim of refund of duty/ tax paid under existing law filed after appointed day
 - Disposed of in accordance with existing law
 - In case claim of refund rejected partly/ fully, amount rejected will lapse
 - No refund allowed in cases where the same amount had been c/f as CENVAT credit under this Act as on the appointed day
- ▶ **Services not provided**, however tax deposited under existing law and claim of refund filed after appointed day
 - Disposed of under existing law
 - Any amount that accrues eventually will be paid in cash

Claim of CENVAT Credit to be disposed off under the existing law – Sec 142(6)

Proceedings of appeal revision, review or reference relating to claim of CENVAT credit will be disposed of in accordance with existing law;

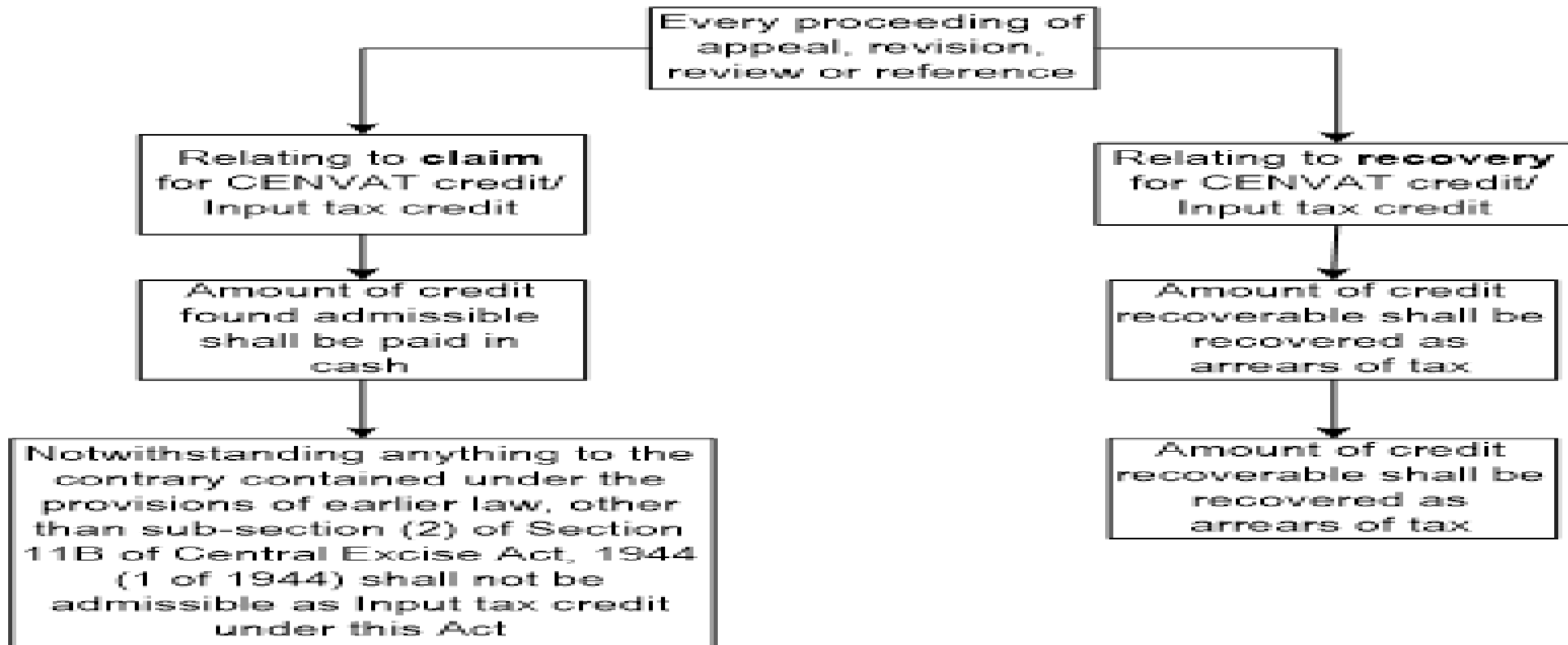
Inadmissible Credit to be recovered as arrears of tax under GST law, unless recovered under existing law

Not eligible for claim of input tax credit under GST law

Admissible CENVAT credit to be refunded in cash

No refund if credit is carried forward under the CGST Act

Claim of CENVAT Credit to be disposed off under the existing law – Sec 142(6)



Finalization of proceedings relating to output duty / tax liability – Sec 142(7)

- ▶ Proceeding of appeal revision, review or reference relating to any output duty or tax liability initiated before appointed date disposed of in accordance with existing law
- ▶ Any amount payable to be recovered as arrears of tax under GST law, unless recovered under existing law
- ▶ Not eligible for claim of input tax credit under GST law
- ▶ Admissible amount to the claimant to be refunded in cash
- ▶ Amount rejected, if any, not admissible as input tax credit

Treatment of the amount recovered or refunded in pursuance of assessment or adjudication proceedings – Sec 142(8)

Assessment or adjudication proceedings instituted under existing law against recovery of tax, interest or penalty whether before, on or after the appointed day

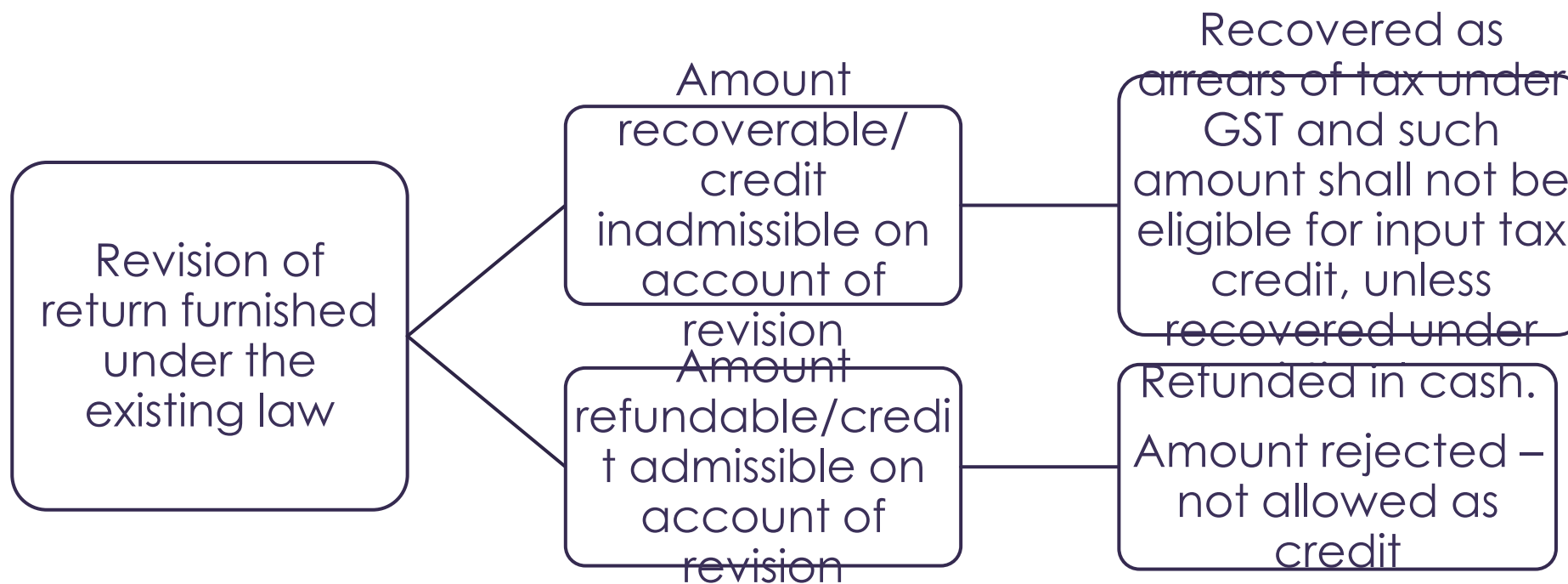
Amount recoverable to be recovered as arrears of tax under GST law, unless recovered under existing law

Not eligible for claim of input tax credit under GST law

Amount becoming refundable to be refunded in cash

Amount rejected, if any, not allowed as input tax credit

Treatment of amount recovered or refunded pursuant to revision of return – Sec 142(9)



Thank You

- CA Sandeep Kumar Baheti
- Sandeep_baheti1982@yahoo.co.in
- 9032422477



Refund Process Under GST

CA Javvaji Vamshi Krishna

28-12-2019

What would u get...?

- Various circumstances of GST refunds
- Procedure in General
- System checks – How to handle
- Clarifications
 - w.r.t. Process
 - w.r.t. Provisions

Various circumstances of Refunds

Various circumstances of Refunds under GST

• Tax paid on

- Export of Goods / services
- Supplies to SEZ Unit/SEZ Developer
- Deemed exports
 - to supplier
 - to the recipient;
- Intra-State supply which is subsequently held to be inter-State supply and vice versa;

• Unutilized input tax credit on account of

- Exports without payment of tax;
- Supplies made to SEZ Unit/SEZ Developer without payment of tax;
- Accumulation due to inverted tax structure (*Including supplies to merchant exporters*);

• Others

- Refund of excess balance in the electronic cash ledger;
- Refund on account of assessment/provisional assessment/appeal/any other order;
- “**any other**” ground or reason
 - Refund of advance
 - Special category persons – UNOs, Embassies, Casual/non-resident taxable persons ..etc
 - Refund of excess payment of tax;
 - Etc

Refund of unutilized ITC

- Zero rated = $\text{Net ITC} * (\text{Zero-WOP} / \text{Total})$
- IDS = $\text{Net ITC} * (\text{IDT} / \text{Total}) - \text{Tax on IDT}$

No refund shall be granted if the total refund amount is less than Rs.1000/-

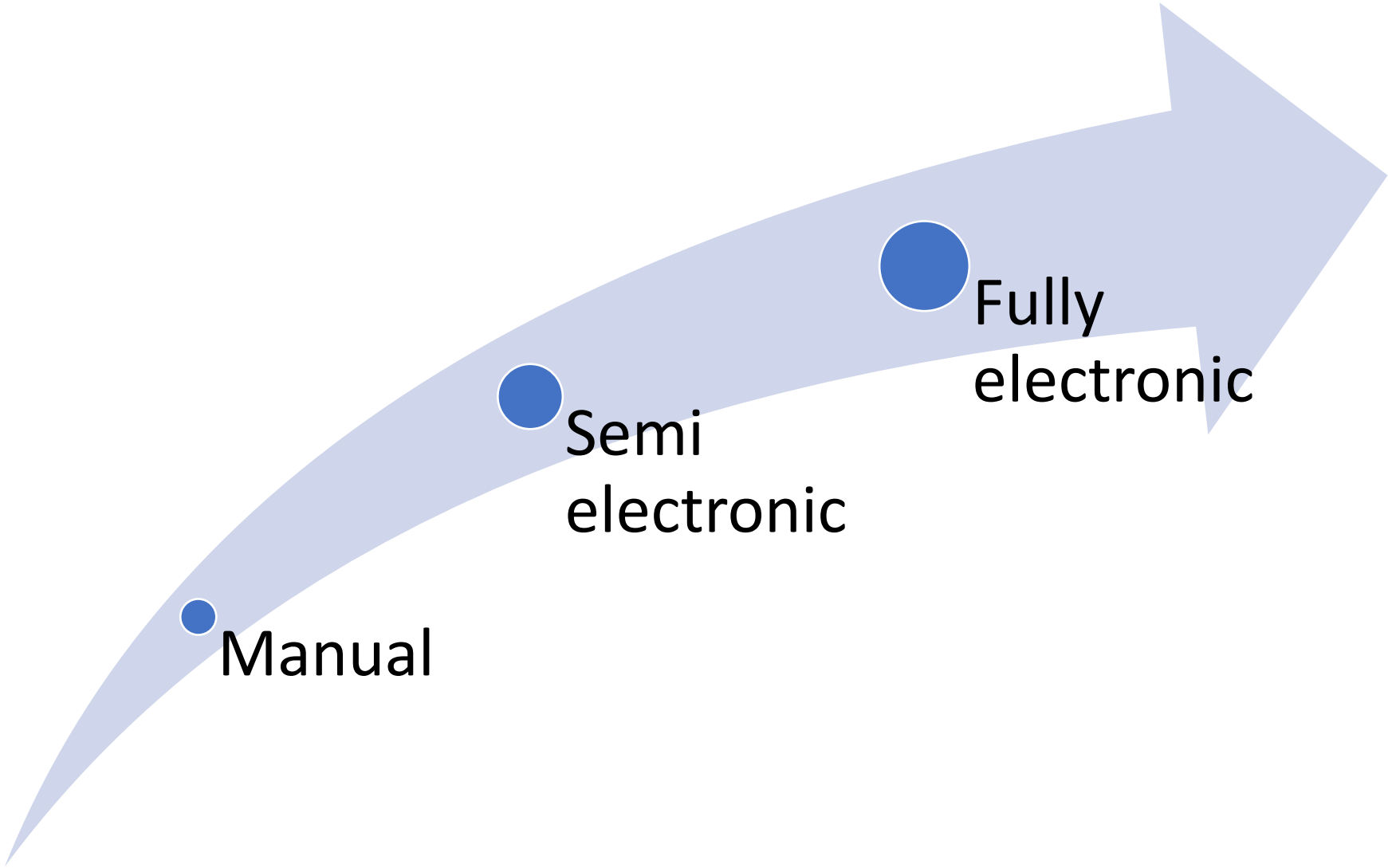
Time limit

- 2 years from Relevant date

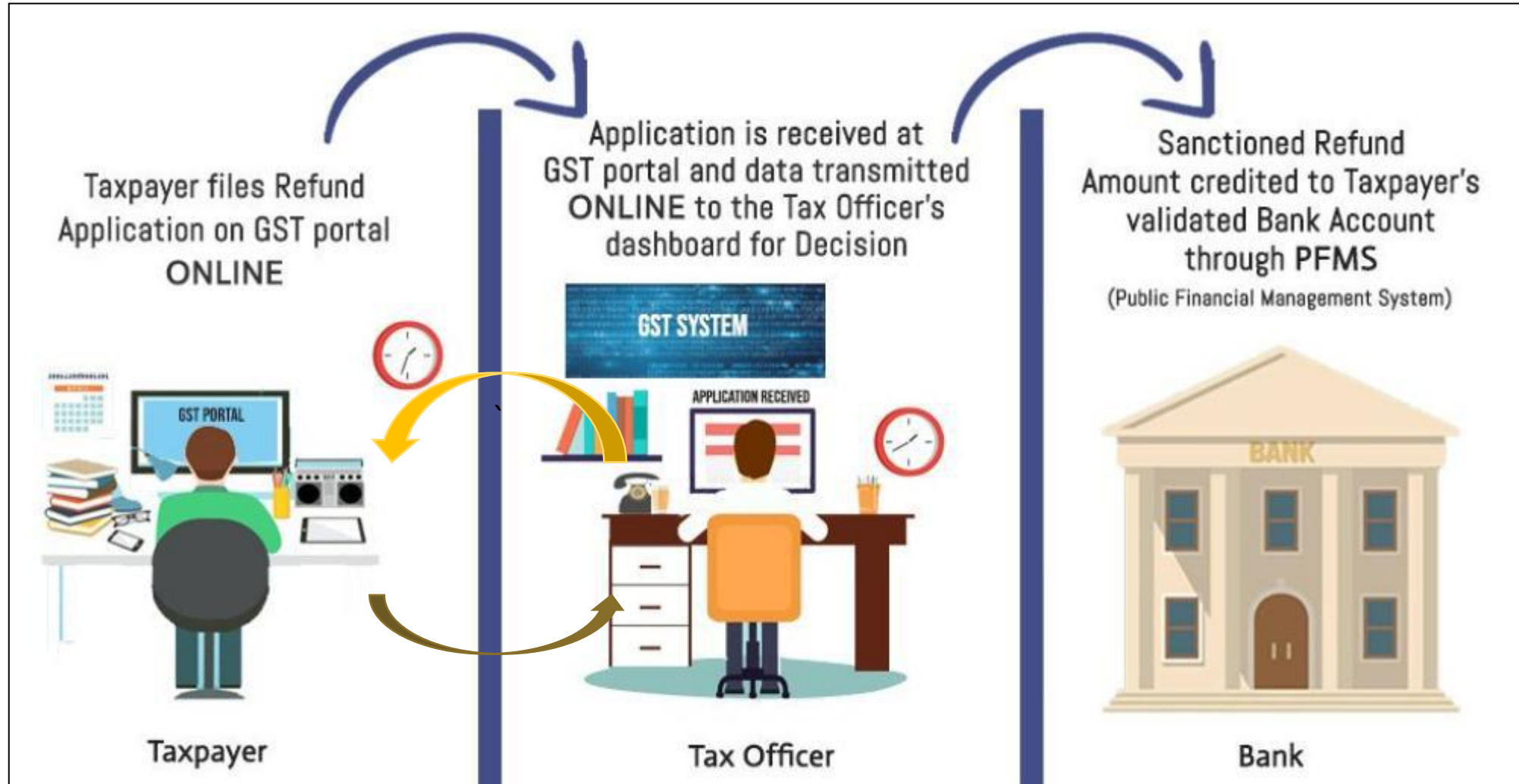
Type of Refund	Relevant date
Export of Goods	
By Sea / Air	Dt. on which the ship/aircraft leaves India – SB
By Land	Dt. on which such goods cross the frontier
By Post	Dt. of dispatch by PO to a place outside India
Export of Service, if the amount is received	
After completion of service	Dt. of receipt of payment
Before completion of service	Dt. of issue of invoice
Deemed exports	Dt. on which relevant returns were filed
Order/Judgement/Court decree...etc –	Dt. of communication of the same
Tax paid on provisional basis	Dt. of adjustment of tax
Persons other than suppliers	Dt. of receipt of goods by such person
Any other case	Dt. of payment of tax

Procedure in General

Evolution of Refund process



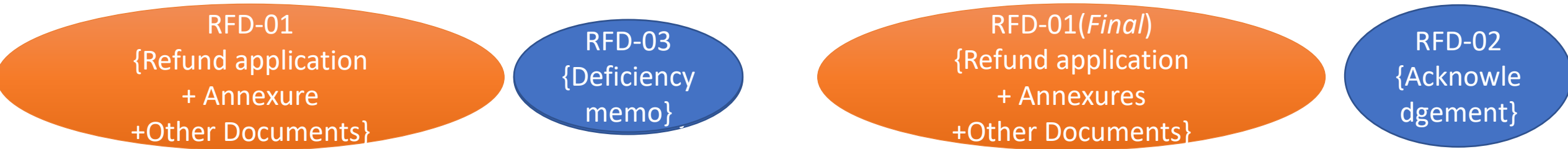
Process flow



PC: GSTN

Steps in Refund Process

Step-I: Application & Acknowledgement

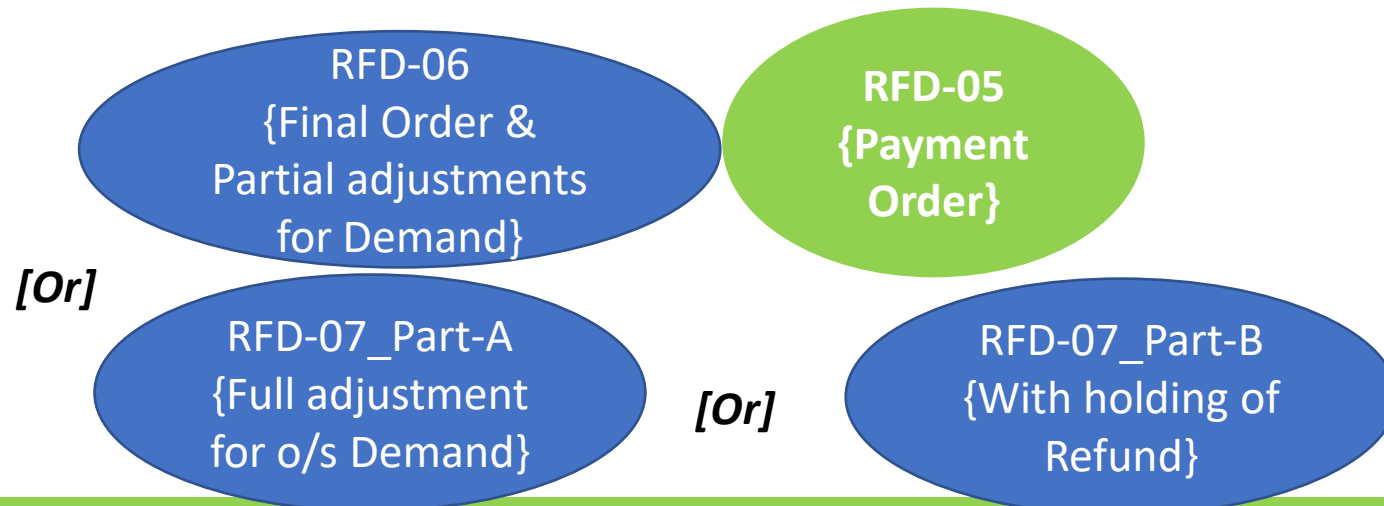


Step-II : Provisional Refund – Only for Zero rated

Step-III : Scrutiny of the info. & Proposal for rejection, if any



Step-IV : Final Order



- Orange boxes, Tax payer's communication
- Remaining boxes – Department's communication

Handling the priest - GSTN



Select the Refund type:



• Indicates Mandatory Field

<input type="radio"/>	Refund of Excess Balance in Electronic Cash Ledger	CREATE
<input type="radio"/>	Refund of ITC on Export of Goods & Services without Payment of Tax	CREATE
<input type="radio"/>	On account of supplies made to SEZ unit/ SEZ developer (without payment of tax)	CREATE
<input type="radio"/>	Refund on account of ITC accumulated due to Inverted Tax Structure	CREATE
<input type="radio"/>	On account of Refund by Recipient of deemed export	CREATE
<input type="radio"/>	Refund on account of Supplies to SEZ unit/ SEZ Developer (with payment of tax)	CREATE
<input checked="" type="radio"/>	Export of services with payment of tax	CREATE
<input type="radio"/>	Tax paid on an intra-State supply which is subsequently held to be inter-State supply and vice versa	CREATE
<input type="radio"/>	On account of Refund by Supplier of deemed export	CREATE
<input type="radio"/>	Any other (specify)	CREATE
<input type="radio"/>	Excess payment of tax	CREATE

From:

To:

Financial Year •

Month •

Month •

Select

- Select
- 2019-20
- 2018-19
- 2017-18

Select

Select

©

network

Site Last Updated on 10-12-2019


Designed & Developed by GSTN

RA

ew Return (T

CEGATE

<input type="radio"/>	Refund of ITC on Export of Goods & Services without Payment of Tax	CREATE
<input checked="" type="radio"/>	On account of supplies made	CREATE
<input type="radio"/>	Refund on account of ITC a	CREATE
<input type="radio"/>	On account of Refund by Re	CREATE
<input type="radio"/>	Refund on account of Suppl	CREATE
<input type="radio"/>	Export of services with pay	CREATE



Information

Do you want to file a nil refund for the selected periods?



Goods and Services Tax

Goods and Services Tax

+ Full Screen

+ Exit Full Screen

Create File To Upload

to Inverted tax Structure (clause (ii) of proviso to section 54 (3))
(Amount in Rs)

Total Inward SGST					Total Taxable Value	Total Outward IGST	Total Outward CGST	Total Outward SGST
31500.00					1091250.00	33000.00	24750.00	24750.00

Inward supplies		Details of invoices of outward supplies issued				Tax paid on outward supplies		
State/Union Territory Tax	Type of Outward Supply*	Type of Document*	No*	Date* (dd-mm-yyyy)	Taxable Value*	Integrated Tax	Central Tax	State/Union Territory Tax
	11700 B2B	Invoice/Bill of Entry	ITS/17-18/001	04-01-2018	344310	17216		
	19800 B2B	Invoice/Bill of Entry	ITS/17-18/002	29-01-2018	159440	159		
	B2B	Invoice/Bill of Entry	ITS/17-18/003	15-02-2018	312500	15625		
	B2B	Invoice/Bill of Entry	ITS/17-18/004	25-02-2018	275000		24750	24750

Read Me

RFD_STMT01A





In case uploaded data fails validation, an error report will be created on the or

Upload invoice details of Supplies made to SEZ unit/ SEZ developer

CLICK HERE TO UPLOAD

VALIDATE STATEMENT

PROCEED

DELETE STATEMENT

VALIDATE STATEMENT

PROCEED

VALIDATE STATEMENT

PROCEED

Note: In the below table, the Refund amount claimed should not be more than the sum of Integrated Tax and Cess mentioned in Zero-rated supplies of GSTR-3B item i.e., 3.1(a+b+c) respectively, filed for the given periods.

Refund Claimed (in ₹)

Head	Integrated Tax (₹) •	Central Tax (₹)	State/UT Tax (₹)	CESS (₹) •	Total (₹) •
TAX	₹0.00			₹0.00	0.00

[Click to view Electronic Liability Ledger](#)

Note: You may view the Electronic Liability Register that displays your liabilities/ dues of Returns and other than Returns. Hence, you may save this Refund Application and navigate to the dashboard to settle the dues first, or may proceed here to file the application. Please note that the recoverable dues shall be deducted from the gross amount to be paid from the Refund Amount claimed in the refund application received, by the Refund Processing Officer while processing the Refund.

CESS	0.00	0.00	₹0.00
Total	327,000.00	202,000.00	0.00

[Click to view Electronic Liability Ledger](#)

Note: You may view the Electronic Liability Register that displays your liabilities/ dues of Returns and other than Returns. Hence, you may save this Refund Application and navigate to the dashboard to settle the dues first, or may proceed here to submit the application.

Please note that the recoverable dues shall be deducted from the gross amount to be paid from the Refund Amount claimed in the refund application received, by the Refund Processing Officer while processing the Refund.

Bank Account Number

Select Account Number*

Select ▼

Note: In case you want refund in another preferred bank account which is not appearing in the drop down list, please add that bank account by filing amendment of registered (non-core) form. Please be informed that, the disbursement of refund amount will be credited to the mentioned account here.

Important Message

1. Once you fill the details in relevant Tables, Please save the form to proceed to Submit. Please **correct any errors** occurred during save before proceeding to file.
2. The Electronic Credit ledger balance visible here is your current balance.
3. Application can be saved at any stage of completion for a maximum time period of 15 days. If the same is not submitted within 15 days from the date of form creation, the saved draft will be purged from the GST database.

Undertaking*

I hereby undertake to pay back to the Government the amount of refund sanctioned along with interest in case it is found subsequently that the requirements of clause (c) of subsection (2) of section 16 read with sub-section (2) of section 42 of the CGST/SGST Act have not been complied with in respect of the amount refunded.

Whether you have submitted the bond/ undertaking (FORM GST RFD- 11)



Note: Please make sure you have a validated statment and all the data filled to enable submit button

BACK

SAVE

PREVIEW

SUBMIT

Pre-requisites

System check	How to address?
<ul style="list-style-type: none">• Sales data – GSTR-1• Input data – GSTR-2A• Zero rated turnover• Adjusted total turnover• Total tax paid for the period• ITC availed• Eligible Refund calculation• Claim of eligible refund	<ul style="list-style-type: none">• Sales register and it's reconciliation with GSTR-1• Input register with<ul style="list-style-type: none">• 2A reconciliation and• Classification of Input/Capex/Service• Reconciliation of Sales & Input registers with GSTR-3B• GSTR-2A downloaded from portal• Self certified copies of Invoices not in GSTR-2A• Details of FIRC/BRC/ICAs received against the export of service <p>Statement – 1 , 1A, 2, 3, 3A, 5, 5A can be prepared on the basis of above information</p> <p><i>{Refer Annexure-A of Circ. 125/44/2019-GST for docs of each type of refund}</i></p>

Tracking the status of applications filed

Dashboard > Services > User Services > My Applications

My Applications

Application Type • From Date To Date • indicates mandatory fields

REFUNDS 01/10/2019 24/12/2019

SEARCH NEW APPLICATION

ARN/RFN	Form No.	Form Description	Date of Filing	Status
AA3610116644B	GST RFD-01	REFUNDS	24/10/2019	Refund Sanctioned
AA36101145677	GST RFD-01	REFUNDS	22/10/2019	Refund Application filed
AA36101145669	GST RFD-01	REFUNDS	22/10/2019	Refund Application filed
AA36101145586	GST RFD-01	REFUNDS	22/10/2019	Refund Application filed

Reference No.	Action By
361010016644B	Taxpayer
36101000000000	Tax Officer
36111000000700	Taxpayer
36111000175000	Tax Officer
36111000000000	Tax Officer
36101001000256	Tax Officer
ZA20121900000000	Taxpayer
ZT36121900000000	Tax Officer
ZW36121900000000	Tax Officer

7	19/12/2019	Reply submitted by tax payer (GST RFD-09)	ZA20121900000000	Taxpayer
8	20/12/2019	Refund Sanction/Rejection Order Issued (GST RFD-06)	ZT36121900000000	Tax Officer
9	20/12/2019	Payment Advice Issued (GST RFD-05)	ZW36121900000000	Tax Officer

Clarifications - Procedure

General

- No physical submissions
- Need not to submit copies of invoices in GSTR-2A
- File all GSTR-1s and GSTR-3Bs
- Ineligibility of claim < 1000, for each of the tax i.e. CGST, SGST & IGST
- Up to 30-6-19, the tax paid validation - total of 3.1(a, b & c) shall be considered
- LUT not filed prior to exports – Can be condoned
- LUT not required if the export of export of Non-GST/Exempted supplies, applicant not eligible for export benefits
- Export conditions w.r.t. time lines were not complied – Can be condoned

Period of application for refund

- Chronological filing – For refund of ITC
- Filing period – Monthly/Quarterly/Yearly - Flexible
- Quarterly return filers – In multiples of quarters
- Period not required in few cases –
 - Excess cash balance,
 - Intra-state head as Inter..etc

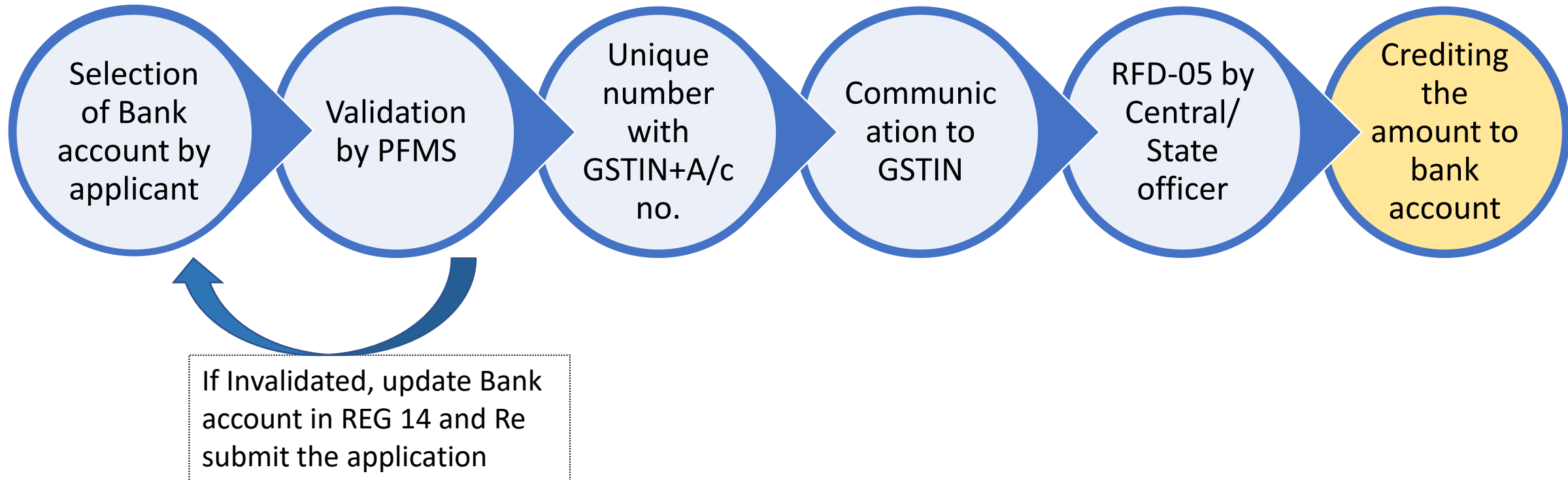
Deficiency memo

- No deficiency memos for incorrect allocations
- After issuing DM,
 - Cash/ITC shall be credited back
 - Fresh refund application
 - New ARN
- Fresh ARN - No DM for new issues
- No DM after Ack.
- **The fresh applications should also be filed within 2 years from relevant date**

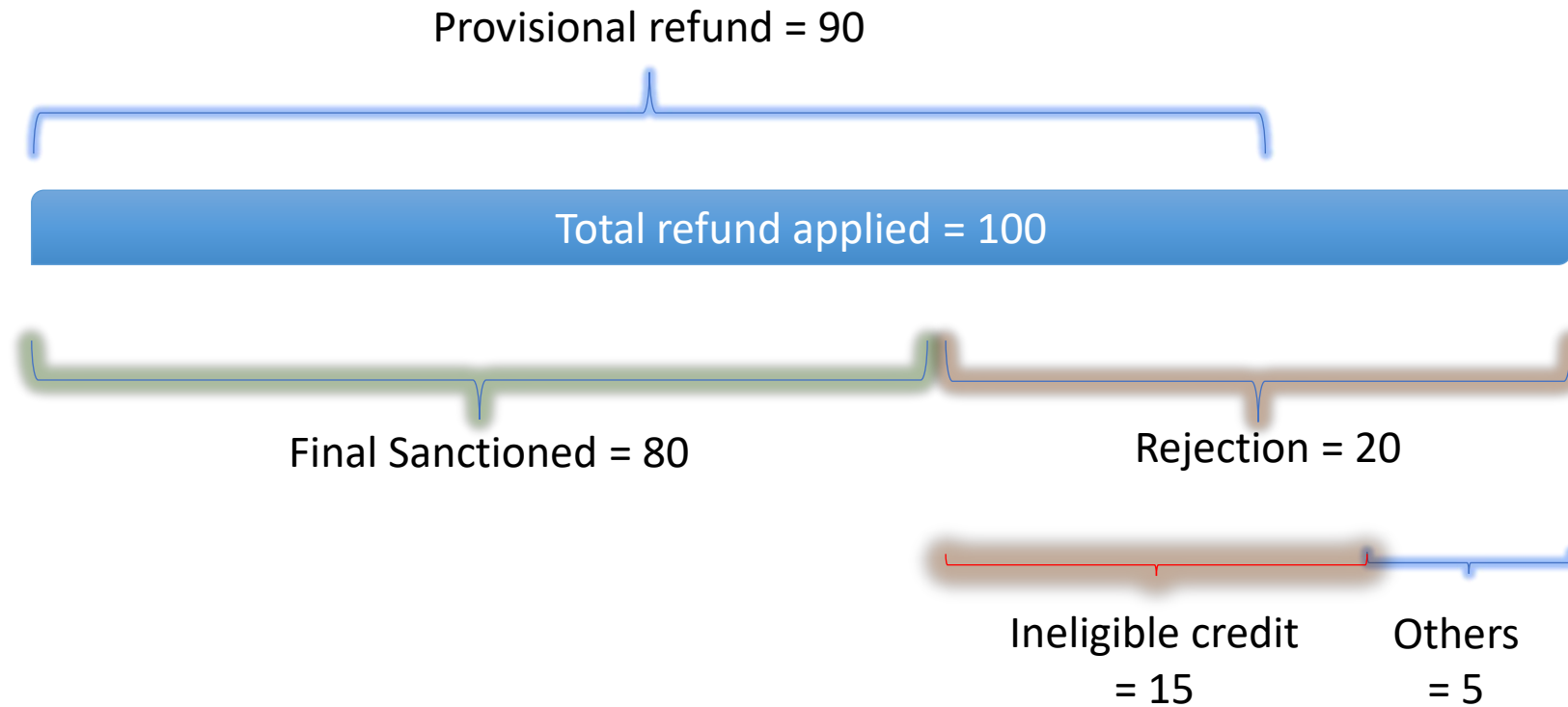
Provisional refund for Exports

- Officer expects in **partial rejection** - 90% of the eligible refund
- No Provisional order - if Final order issued within 7 days
- No adjustments under **Sec 54(10)/(11)**
- Provisional refund > Final amount sanctioned – SCN for rejection & recovery

Disbursal of refunds – PFMS (Public Financial Management System)



Rejection of Refund of ITC



- Officer shall issue SCN in RFD-08 under Sec 54
 - for rejection - Any reason
 - for recovery - Ineligible credit and Provisional > Final
- Applicant – DRC-03 or Final order and entering the ineligible credit as liability through DRC-07
- Declaration on appeal & Recredit to the credit ledger
- Appeal – Recredit after final order

Clarifications - Provisions

Exports – Issues & Clarifications

Issue	Clarification
Declaration for non-prosecution to be filed for every refund application?	Not required as the same is pre-rquisite for applying LUT
Realization of convertible forex mandatory for export of Goods	Not required
Miss Match between the invoice value with the value in shipping bill	Consider the shipping bill value for turnover

Refund of ITC – Issues & Clarifications

Issue	Clarification
Rule 36(4) – Inv/DN/CN in 2A+20%/10% to be followed to arrive Net ITC?	Yes. (May not be applicable for prev. periods)
How the eligible refund to be calculated <ul style="list-style-type: none"> i. On Total of C,S&IGST? or separately? ii. Any other validations? 	<ul style="list-style-type: none"> i. Total of CGST, SGST & IGST – System computed. ii. Further restriction of available balance in credit ledger is applied separately.
Any specific Order to be followed for claiming the refund?	Exhaust IGST, C&SGST in Equal prop.n, Bal C/SGST Eg.: Total refund 150, balance in credit ledgers of IGST 50, CGST 50 and SGST 100 – Claim $50+50*2$ or If CGST is only 20, then claim - $50+20*2+60S$
ITC on Invoices of prev. period availed in the relevant period isn't eligible for refund?	Eligible, “Net ITC” def.n says the credit availed during relevant period..

Refund of ITC – Issues & Clarifications

Issue	Clarification
ITC on Indirect material also form part of Net ITC?	Def.n of “Net ITC” and “Inputs” doesn’t make any distinction b/w direct and Indirect material
ITC on Stores and Spares charged to revenue expenses should be treated as Inputs / Capital goods?	Def.n of “Capital goods” covers only those goods which are capitalized
ITC on exempted goods is also eligible for refund?	ITC is eligible on all zero-rated supplies, even if the same are exempted Def.n of “Net ITC” has not excluded any such amounts
Credit of Cess is also eligible for refund?	Yes, in case of zero-rated supplies – Circular 45/19/2018_30*May-18.

Refund of ITC_IDS – Issues & Clarifications

Issue	Clarification
ITC on Services and Capital goods eligible for refund?	No, the “Net ITC” def.n covers only Inputs
ITC on inputs at the same / lower rate of tax than the sales are also eligible for refund?	Yes, No such restrictions in the “Net ITC” def.n
Supply to merchant exporter @ 0.1%, supplier can claim refund?	Yes

Other Issues & Clarifications

Issue	Clarification
Eligibility of transitional credit for claiming of refund	No, the “Net ITC” def.n covers only credit availed during the relevant period
Person availing duty drawback under customs is eligible for claiming refund of accumulated ITC or not?	Eligible, Ineligibility is only for the cases where drawback if GST had been availed

Export of Goods with payment of tax

Procedure

- The shipping bill (SB) files shall be treated as application for refund
- The GSTN shall transmit the entries in Table 6A, to Customs
- Customs-EDI in turn validates the
 - Correctness of SB details in GSTR-1
 - The amount of tax paid as per SB & GSTR-3B
 - The status of the EGM
- If all the details are matching, amount shall be credited to the bank accounted provided in GST reg.n

Note:

- The status of transmission to ICEGATE can be tracked in below path:
“Login> Services> Refunds> Track status of to ICEGATE”



THANK YOU

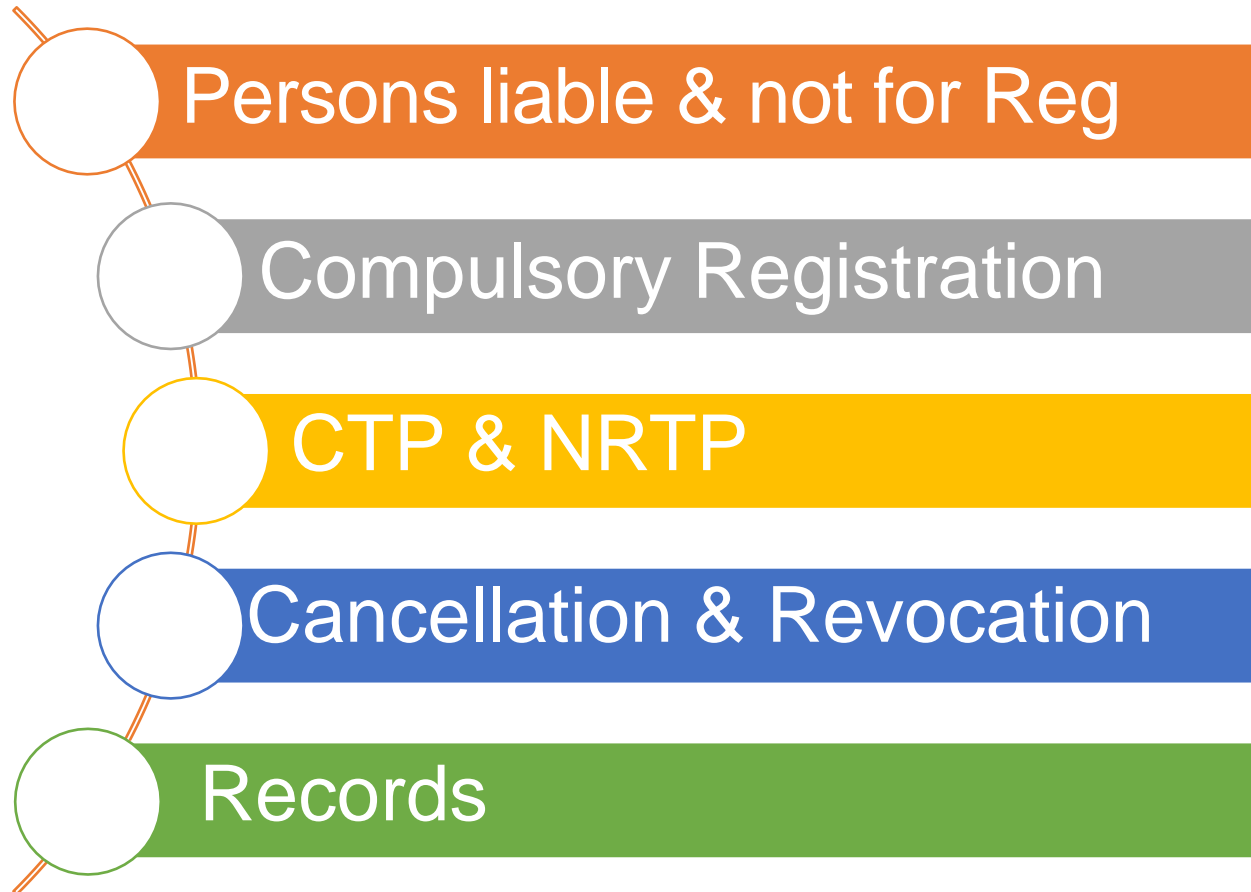
For the opportunity and support

Vamshi Krishna Javvaji

vamshi@cajvn.in

REGISTRATION, REVOCATION & RECORDS

CA. K Sriram



REGISTRATION

Section 22

- Every supplier shall be liable to be registered under this Act **in the State** or Union territory, other than special category States, **from** where he makes a taxable supply of goods or services or both, if his **aggregate turnover** in a financial year exceeds **twenty lakh rupees**
- Where person makes taxable supplies of goods or services or both from any of the special category States, he shall be liable to be registered if his aggregate turnover in a financial year exceeds **ten lakh rupees**. (At the request of any special category state the said limit can be enhanced to 20 Lakh rupees)
- The State can make a request to the council to enhance the aggregate turnover from twenty lakh rupees to such amount not exceeding forty lakh rupees in case of supplier who is engaged exclusively in the supply of goods, subject to such conditions and limitations, as may be notified.
- A person shall be considered to be engaged exclusively in the supply of goods even if he is engaged in exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount

Section 22

- **It is important to note that registration is required ‘in’ the State ‘from which’ taxable supplies are made.** Registration is not required ‘in’ the State ‘to’ which taxable supplies are made. i.e Place of business vs Place of supply
- How do we determine “from” which state the taxable supply is made.
- Place of business is defined U/s 2(85) and Location of supplier of services is defined under 2(71) , in case of goods no such definition exists

(85) “place of business” includes—

- (a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or
- (b) a place where a taxable person maintains his books of account; or
- (c) a place where a taxable person is engaged in business through an agent, by whatever name called;

Section 22



Location of supplier 2(71)

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

Section 22



Fixed establishment 2(50)

The following three elements are critical to determine whether a place is a 'fixed establishment':

- (a) Having a sufficient degree of permanence;
- (b) Having a structure of human and technical resources; and
- (c) Other than a registered place of business.

Section 22



Issues for consideration

Mr. A located in TG owns properties in states of AP MH & UP should he obtain registration in 3 states

Renting service is business which is 'ordinarily carried out' from the POB of the Landlord and not from the POS where the Property is situated.

Mr. A located in TG in addition to above provides for maintenance services by deploying his staff at the location of premises and additional consideration is collected for same

Aggregate Turnover



- 6) “aggregate turnover” means the aggregate value of **all taxable supplies** (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), **exempt supplies, exports of goods** or services or both and inter-State supplies of persons having the **same Permanent Account Number**, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess; of supplies on which tax is levied on reverse charge basis and the value of inward supplies.

Inclusion of non-operational income for threshold limit

In case a person is earning interest income from Fixed Deposit Receipts of 15 Lakhs and a rental income from renting of immovable property of 6 Lakhs, is he required to take registration?

Business FD vs Personal savings FD

Table A: Supply of Goods (only)

Threshold of Rs.40 lacs

Andhra Pradesh	Delhi	Himachal Pradesh	Madhya Pradesh	Rajasthan
Arunachal Pradesh	Goa	Jammu and Kashmir *	Maharashtra	Tamil Nadu
Bihar	Gujarat	Jharkhand	Odisha	Uttar Pradesh
Chhattisgarh	Haryana	Karnataka	Punjab	West Bengal

Threshold of Rs.20 lacs

Assam	Sikkim
Kerala	Telangana
Meghalaya	Tripura
Puducherry	Uttarakhand

Threshold of Rs.10 lacs

Manipur
Mizoram
Nagaland

Table B: Supply of Goods and Services

Threshold of Rs.20 lacs

Andhra Pradesh	Delhi	Himachal Pradesh	Madhya Pradesh	Rajasthan
Arunachal Pradesh	Goa	Jammu and Kashmir *	Maharashtra	Tamil Nadu
Bihar	Gujarat	Jharkhand	Odisha	Uttar Pradesh
Chhattisgarh	Haryana	Karnataka	Punjab	West Bengal

Threshold of Rs.20 lacs

Assam	Sikkim
Kerala	Telangana
Meghalaya
Puducherry	Uttarakhand

Threshold of Rs.10 lacs

Manipur
Mizoram
Nagaland
Tripura

* *change awaited*

Limit of 40 lakhs applicable only for goods



- U/s 22(1), a person would be eligible if he is exclusively supplying goods
- A person is considered to be 'exclusively supplying goods' even if he is engaged in exempted supply of services by way of extending deposits, loans or advances where consideration is in form of interest or discount. Further, with the explanation substituted on 23 Jan 2018 at the end of rule 43 (made applicable to rule 42 and 43) 'interest on accepting deposits or extending loans or advances' will NOT be considered as 'exempt supplies'.

Succession & Amalgamation



- If a registered taxable person transfers business on account of succession or otherwise, to another person as a going concern, the transferee, or the successor, as the case may be, shall be liable to be registered with effect from the date of such transfer or succession.
- In a case of transfer pursuant to sanction of a scheme or an arrangement for amalgamation or, as the case may be, de-merger of two or more companies by an Order of a High Court, the transferee shall be liable to be registered with effect from the date on which the Registrar of Companies issues a certificate of incorporation giving effect to such Order of the High Court.

Persons not liable for registration



- (a) any person **engaged exclusively in the business of supplying goods or services** that are not liable to tax or wholly exempt

It essentially permits any person whose 'entire' supply consists of 'exempt supplies', to be excluded from obtaining registration

Even if small value of supplies is taxable, then exempt supplies will be included to determine if aggregate turnover has exceeded the exemption threshold under section 22 for attracting registration.

- (b) An agriculturist, to the extent of supply of produce out of cultivation of land.

If an agriculturist undertakes supplies which are not linked to the cultivation of land, he will fall within the provisions of sections 22 and may have to take registration in respect of such supplies.

COMPULSORY REGISTRATION



- Person engaged in following are mandatorily require to take registration irrespective of threshold limit:-
 - Interstate taxable supply
 - Casual Taxable supply
 - **Person require to pay tax under Reverse Charge**
 - E-commerce Operator specified u/s 8(4)
 - Non resident Taxable Persons
 - Person who is require to deduct tax (TDS)
 - Person who is require to collect tax (TCS)
 - Person acting as agent
 - Input Service Distributor
 - E-commerce Operator [other than covered by Sec. 8(4) and who required for TCS]
 - Every e-commerce operator
 - Peron supplying online information and database access or retrieval services from a place outside India to a person in India, other than a registered taxable person
 - Such other person or class of persons as may be notified by Central Govt or a State Govt.

COMPULSORY REGISTRATION - Exemptions



Category of Persons

- i) Persons making any inter-State taxable supply

Exemption

Inter State supplies of taxable services (*Notification No. 10/2017–Integrated Tax, dated 13.10.2017 amended vide Notification No. 3/2019-Integrated Tax, dated 29-Jan-2019, w.e.f. 1-Feb-2019*) and handicraft goods except when their turnover exceeds threshold limit

Exports below 20 lakhs ???

- ii) Casual taxable persons - jewellers

Circular

Circular No.10/10/2017-GST, dated 18.10.2017 has been issued to clarify that in the given case, Supplier is not able to ascertain the actual supplies beforehand and ascertainment of tax liability is a mandatory requirement for registration as a casual taxable person and hence, he is not required to get registered as a casual taxable person.

- iii) Persons who are required to pay tax under reverse charge

Exemption :Person having exclusively RCM turnover

Sec 23 vs 24



Section 23 v. Section 24:

Section 24 overrides sections 22(1) and accordingly persons enumerated under sections 24 are required to obtain compulsory registration irrespective of whether their turnover exceeds the threshold limit specified under sections 22(1).

Sec 24 does not specifically override sections 23. In case there is a conflict between sections 23 and sections 24, the issue is which provision will prevail.

Consider a scenario where a hospital is providing health care services which are exempt from GST. The turnover of the hospital is ` 10 Crores. The hospital has imported certain services from outside India worth ` 5 Lakhs. The impact of sections 22, 23 and 24 are provided below:

Sec 23 vs 24



Provison	Impact
Sec 22	Not Liable to register since they are NOT providing any taxable supply and it is a pre-requisite u/s. 22(1) to take registration in that State from where a person makes TAXABLE SUPPLY of goods or services, provided aggregate turnover exceeds ` 20/10 lakhs.
Sec 23	Not required to register since they deal exclusively in exempt supplies
Sec 24	Mandates registration since liable to pay tax under reverse charge on import of services.



Separate Registrations

Concept of business vertical removed, separate registrations can be obtained for each location of business

Situation	Pre-Amendment	Post-Amendment
Business 1 – IT Software Services Business 2 – Employee Training Services Location – Common Office	Separate registration possible since the tax payer has separate business vertical	Separate registration not possible since the businesses are operating from a common location
Business 1 – Hotel Business 2 – Hotel Location – Separate Locations	Separate registration not possible since the tax payer has single business vertical	Separate registration possible since businesses are located at different locations

CANCELLATION OF REGISTRATION



- Cancellation
 - Assessee can file cancellation application in FORM REG-14 or officer in his own motion can cancel the registration having regard to the circumstances like
 - ✓ Business discontinued, transferred, demerged, disposed of
 - ✓ Change in constitution of business
 - ✓ Person no longer liable to registered
 - ✓ Person has not furnished returns for a continuous period of 6 months
 - ✓ Person paying tax u/s 8 has not furnished returns for three consecutive tax periods.
 - ✓ Any person who has taken voluntary registration and has not commenced business within Six months from the date of registration.
 - ✓ does not conduct any business from the declared place of business
 - ✓ issues invoice or bill without supply of goods or services in violation of the provisions of this Act, or the rules made thereunder;

CANCELLATION OF REGISTRATION



Rule 22 of the CGST Rules, 2017, provides for process of cancellation of registration and includes the following:

- Cancellation can be done by Proper Officer *suo moto* or on application made by the registered person;
- Retrospective cancellation in case of fraud, wilful misstatement or suppression of fact;
- Liability to pay tax before the date of cancellation will not be affected;
- Cancellation under CGST Act will be deemed cancellation under SGST Act and *vice-versa*

ITC ON STOCK AND CAPITAL GOODS



- Where the registration is cancelled, the registered taxable person shall pay an amount equivalent to the credit of input tax in respect of inputs held in stock
- on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher.
- The payment can be made by way of debit in the electronic credit or electronic cash ledger.
- The taxable person shall pay an amount equal to the input tax credit taken on the said capital goods reduced by the prescribed percentage points or the tax on the transaction value of such capital goods whichever is higher

SUSPENSION OF REGISTRATION



- Suspension

The registration shall be deemed to be suspended from the date of submission of the application

A registered person, whose registration has been suspended, shall not make any taxable supply during the period of suspension and shall not be required to furnish any return under section 39.

The suspension of registration shall be deemed to be revoked upon completion of the proceedings by the proper officer under rule 22 and such revocation shall be effective from the date on which the suspension had come into effect.

REVOCACTION OF CANCELLATION OF REGISTRATION

- Any registered taxable person, whose registration is cancelled,, may apply to proper officer for revocation of cancellation of the registration within 30 days from the date of service of the cancellation order.
- The proper officer may in prescribed manner and within prescribed period, by an order, either revoke cancellation of the registration, or reject the application for revocation for good and sufficient reasons.
- The proper officer shall not reject the application for revocation of cancellation of registration without giving a show cause notice and without giving the person a reasonable opportunity of being heard.
- Revocation of cancellation under CGST will be a deemed revocation under SGST and *vice-versa*.

REVOCACTION OF CANCELLATION OF REGISTRATION

- Any registered taxable person, whose registration is cancelled,, may apply to proper officer for revocation of cancellation of the registration within 30 days from the date of service of the cancellation order.
- The proper officer may in prescribed manner and within prescribed period, by an order, either revoke cancellation of the registration, or reject the application for revocation for good and sufficient reasons.
- The proper officer shall not reject the application for revocation of cancellation of registration without giving a show cause notice and without giving the person a reasonable opportunity of being heard.
- Revocation of cancellation under CGST will be a deemed revocation under SGST and *vice-versa*.

REVOCAION OF CANCELLATION OF REGISTRATION



Revocation in case of non filing of returns

- In case of registration is cancelled due to non filing of returns
- No application for revocation shall be filed, if the registration has been cancelled for the failure to furnish returns, unless such returns are furnished and any amount due as tax, in terms of such returns, has been paid along with any amount payable towards interest, penalty and late fee in respect of the said returns.

Records



35. (1) Every registered person shall keep and maintain, at his principal place of business,
as mentioned in the certificate of registration, a true and correct account of—

- (a) production or manufacture of goods;
- (b) inward and outward supply of goods or services or both;
- (c) stock of goods;
- (d) input tax credit availed;
- (e) output tax payable and paid; and
- (f) such other particulars as may be prescribed:

Provided that where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business:

Provided further that the registered person may keep and maintain such accounts and other particulars in electronic form in such manner as may be prescribed.

Records



- Account of goods / services imported or exported
- Supplies liable for RCM with relevant documents
- Invoices / BOS / DC / CN / DN / Self invoices
- Receipt vouchers / payment vouchers / refund vouchers
- Stock details of inward, issue, outward, lost, stolen, destroyed, written off or disposed as gift, free sample, scrap / wastage to be kept
- Name, complete address of suppliers and customers
- Complete details of places including documents where goods are stored. If not maintained, goods in such places are deemed to be supplied
- Entry in registers / accounts / documents - Not to be erased, effaced or overwritten
- Incorrect entries - Score out under attestation
- Manufacturer to maintain monthly production accounts with quantitative details of production, waste etc.
- Service providers to maintain details of **goods used in services**
- Any manual book to be serially numbered

Electronic record requirements

- If electronic, maintain log of every entry edited / deleted
- If records are electronic, then authentication by digital signature
- Proper back up needed
- On demand, password of files, files, explanation for codes to be provided
- Detailed record of stock to be maintained at godowns / warehouse as well

Exemption to Central Government / State Government

A *proviso* is inserted to Section 35(5) to extend exemption from audit of books of accounts to the Central Government, State Government, local authority whose books of accounts are subject to audit by the Comptroller and Auditor General of



Thank you !!!!

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