

# Taxation – III

## (Indirect Taxes – I)

*(B.Com. (Accounting and Finance) Semester V  
Applicable for Oct 2020 & March 2021 Exam.)*

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## Preface

The present book is about the organization operation and growth of the Financial Act and Taxation system in India. A student of BBI often finds that Taxation and Financial policies can be understood much better, and they can be analysed more realistically if he has a good understanding of the actual functioning of the various parts of the financial system and taxation. The purpose of this book is to provide such an understanding of the working of the financial and taxation system.

We are happy to present the book "**Indirect Taxation**" to the students of TYBAF of Mumbai University. In this edition, an effort has been made to incorporate the latest examination questions at relevant places in the book.

This book contains a list of the topics covered in each chapter which will avoid the controversies regarding the exact scope of the syllabus. The text follows the term wise chapter topics pattern prescribed in the syllabus

The numerous illustrations are arranged in ascending order of difficulty containing full solutions to questions asked in various examinations of Mumbai University and Professional Examinations

Exercises contain the theory as well as practical questions

We have preferred to give the text of the section and the rule as it is and thereafter, added the comments with the intention of explaining the subject to the students in a simplified language. While making an attempt to explain in a simplified language, some mistakes of interpretation might have creppin.com

This book is an unique presentation of subject matter in an orderly manner. This is a student friendly book and a tutor at home. We hope the teaching faculty and students community will find this book of great use.

We welcome constructive suggestions for improvement.

We are extremely grateful to Mr. K.N. Pandey of Himalaya Publishing House Pvt. Ltd. for their devoted and untiring personal attention accorded by them to this publication. We gratefully acknowledge the immense contributions and suggestions from various colleges. We gratefully acknowledge our deepest and sincere thanks to:

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- Dr. Chaitali Chakraborty, Principal, Thakur College, and
- Mrs. Janki Nishikant Jha for their inspiration, support and constructive suggestions

**Authors**

## Syllabus & Index

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	<b>Introduction to GST</b> – Genesis of GST in India, Power to tax GST (Constitutional Provisions), Meaning and Definition of GST, Benefits of GST, Conceptual Framework – CGST, IGST,SGST,UTGST, Imports of goods or services or both, Export of goods or services or both, Taxes subsumed and not subsumed under GST.	
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*Note: Relevant Law/Statute/Rules in force and relevant Standards in force on 1st April immediately preceding commencement of Academic Year is applicable for ensuing examination.*

# Paper Pattern

Credit Based Evaluation System

Scheme of Examination

(a) Internal of Assessment – 25%

**25 Marks**

Sr. No.	Particulars	Marks
1.	One periodical class test*	20 Marks
2.	Active participation in routing class instructional deliveries and overall conduct as a responsible learner, mannerism and articulation and exhibit of leadership qualities in organizing related academic activities	05 Marks

(b) Semester end Examinations – 75%

**75 Marks**

1. Question Paper Pattern for Periodical Class Test for Courses at UG Programmes written Class Test

**20 Marks**

Sr. No.	Particulars	Marks
1.	Match the Column/Fill in the Blanks/Multiple Choice Questions ( $\frac{1}{2}$ Marks each)	05 Marks
2.	Answer in one or two lines (Concept based Questions) (1 Mark each)	05 Marks
3.	Answer in Brief (Attempt any two of the three) (5 Marks each)	10 Marks

# Question Paper Pattern

Maximum Marks : 75

Questions to be Set: 05

Duration: 2 <sup>1</sup>/<sub>2</sub> Hrs.

All Question are Compulsory Carrying 15 marks each.

Sr. No.	Particulars	Marks
Q.1	Objective Questions (a) Sub Questions to be asked 10 and to be answered any 08 (b) Sub Questions to be asked 10 and to be answered any 07 (*Multiple choice/True or False/Match the column, Fill in the blanks)	15 Marks
Q.2	Full Length Practical Question OR	15 Marks
Q.2	Full Length Practical Question	15 Marks
Q.3	Full Length Practical Question OR	15 Marks
Q.3	Full Length Practical Question	15 Marks
Q.4	Full Length Practical Question OR	15 Marks
Q.4	Full Length Practical Question	15 Marks
Q.5	(a) Theory Questions (b) Theory Questions OR	08 Marks 07 Marks
Q.5	Short Notes To be asked 05 To be answered 03	15 Marks

**Note:** Full length question of 15 marks may be divided into two sub questions of 08 and 07 marks.

# Chapter 1

## GST IN INDIA – Introduction

### Basics for Taxation

#### BACKGROUND

In any Welfare State, it is the prime responsibility of the Government to fulfil the increasing developmental needs of the country and its people by way of public expenditure. India, being a developing economy, has been striving to fulfil the obligations of a Welfare State with its limited resources; the primary source of revenue being the levy of taxes. Though the collection of tax is to augment as much revenue as possible to the Government to provide public services, over the years it has been used as an instrument of fiscal policy to stimulate economic growth. Thus, taxes are collected to fulfil the socio-economic objectives of the Government.

**What is a tax?** A tax may be defined as a "pecuniary burden laid upon individuals or property owners to support the Government; a payment exacted by legislative authority. A tax "is not a voluntary payment or donation, but an enforced contribution, exacted pursuant to legislative authority".

In simple words, tax is nothing but money that people have to pay to the Government, which is used to provide public services.

#### DIRECT AND INDIRECT TAXES

Taxes are broadly classified into direct and indirect taxes.

**Direct Taxes:** A direct tax is a kind of charge, which is imposed directly on the taxpayer and paid directly to the Government by the persons (juristic or natural) on whom it is imposed. A direct tax is one that cannot be shifted by the taxpayer to someone else. A significant direct tax imposed in India is income tax.

**Indirect Taxes:** If the taxpayer is just a conduit and at every stage the tax incidence is passed on till it finally reaches the consumer, who really bears the brunt of it, such tax is indirect tax. An indirect tax is one that can be shifted by the taxpayer to someone else.

Its incidence is borne by the consumers who ultimately consume the product or the service, while the immediate liability to pay the tax may fall upon another person such as a manufacturer or provider of service or seller of goods.

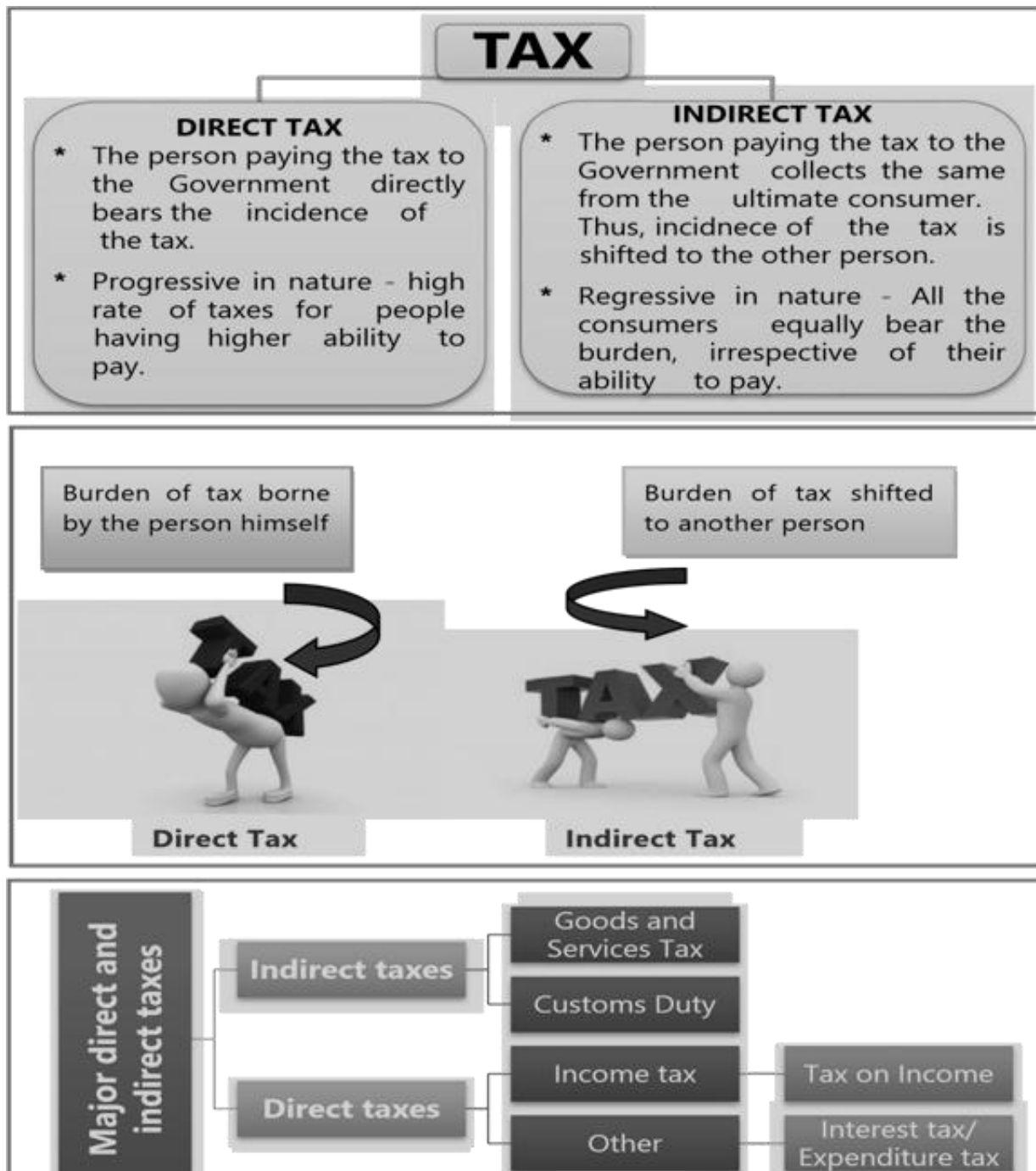
Also called consumption taxes, they are regressive in nature because they are not based on the principle of ability to pay. All the consumers, including the economically challenged bear the brunt of the indirect taxes equally.

Indirect taxes are levied on consumption, expenditure, privilege, or right but not on income or property. Hitherto, a number of indirect taxes were levied in India, namely, excise duty, customs duty, service tax, central sales tax (CST), value added tax (VAT), entry tax, purchase tax, entertainment tax, tax on lottery, betting and gambling, luxury tax, tax on advertisements, etc.

However, indirect taxation in India has witnessed a paradigm shift on July 01, 2017 with usherance into a unified indirect tax regime wherein a large number of Central and State indirect taxes have been amalgamated into a single tax – Goods and Services Tax (GST). The introduction of GST is a very significant step in the field of indirect tax reforms in India. Customs duty will continue in post-GST regime.

Economists world over agree that direct and indirect taxes are complementary and therefore, a rational tax structure should incorporate in itself both types of taxes.

*At Intermediate level, we will study the concept of Goods and Services Tax (GST) - concept of supply, charge of GST, exemptions, basic concepts of time and value of supply, input tax credit, registration, Tax invoice, credit and debit notes, returns and payment. Customs law will be discussed at the Final level.*



## FEATURES OF INDIRECT TAXES

- (i) **An important source of revenue:** Indirect taxes are a major source of tax revenues for Governments worldwide and continue to grow as more countries move to consumption-oriented tax regimes. In India, indirect taxes contribute more than 50% of the total tax revenues of Central and State Governments.

- (ii) **Tax on commodities and services:** It is levied on commodities at the time of manufacture or purchase or sale or import/export thereof. Hence, it is also known as commodity taxation. It is also levied on provision of services.
- (iii) **Shifting of burden:** There is a clear shifting of tax burden in respect of indirect taxes. For example, GST paid by the supplier of the goods is recovered from the buyer by including the tax in the cost of the commodity.
- (iv) **No perception of direct pinch:** Since, value of indirect taxes is generally inbuilt in the price of the commodity, most of the time the tax payer pays the same without actually knowing that he is paying tax to the Government. Thus, tax payer does not perceive a direct pinch while paying indirect taxes.
- (v) **Inflationary:** Tax imposed on commodities and services causes an all-round price spiral. In other words, indirect taxation directly affects the prices of commodities and services and leads to inflationary trend.
- (vi) **Wider tax base:** Unlike direct taxes, the indirect taxes have a wide tax base. Majority of the products or services are subject to indirect taxes with low thresholds.
- (vii) **Promotes social welfare:** High taxes are imposed on the consumption of harmful products (also known as 'sin goods') such as alcoholic products, tobacco products etc. This not only checks their consumption but also enables the State to collect substantial revenue.
- (viii) **Regressive in nature:** Generally, the indirect taxes are regressive in nature. The rich and the poor have to pay the same rate of indirect taxes on certain commodities of mass consumption. This may further increase the income disparities between the rich and the poor.

## BENEFITS OF GST

GST is a win-win situation for the entire country. It brings benefits to all the stakeholders of industry, Government and the consumer. It will lower the cost of goods and services, give a boost to the economy and make the products and services globally competitive.

The significant benefits of GST are discussed hereunder:

- **Creation of unified national market:** GST aims to make India a common market with common tax rates and procedures and remove the economic barriers thus paving the way for an integrated economy at the national level.
- **Mitigation of ill effects of cascading:** By subsuming most of the Central and State taxes into a single tax and by allowing a set-off of prior-stage taxes for the transactions across the entire value chain, it would mitigate the ill effects of cascading, improve competitiveness and improve liquidity of the businesses.
- **Elimination of multiple taxes and double taxation:** GST has subsumed majority of existing indirect tax levies both at Central and State level into one tax i.e., GST which is leviable uniformly on goods and services. This will make doing business easier and will also tackle the highly disputed issues relating to double taxation of a transaction as both goods and services.
- **Boost to 'Make in India' initiative:** GST will give a major boost to the 'Make in India' initiative of the Government of India by making goods and services produced in India competitive in the national as well as international market.
- **Buoyancy to the Government Revenue:** GST is expected to bring buoyancy to the Government Revenue by widening the tax base and improving the taxpayer compliance.



## Introduction to GST

### WHAT IS GST/CONCEPT OF GST

Before we proceed with the finer nuances of Indian GST, let us first understand the basic concept of GST.

- GST is a value added tax levied on manufacture, sale and consumption of goods and services.
- GST offers comprehensive and continuous chain of tax credits from the producer's point/service provider's point up to the retailer's level/consumer's level thereby taxing only the value added at each stage of supply chain.
- The supplier at each stage is permitted to avail credit of GST paid on the purchase of goods and/or services and can set off this credit against the GST payable on the supply of goods and services to be made by him. Thus, only the final consumer bears the GST charged by the last supplier in the supply chain, with set-off benefits at all the previous stages.
- Since, only the value added at each stage is taxed under GST, there is no tax on tax or cascading of taxes under GST system. GST does not differentiate between goods and services and thus, the two are taxed at a single rate.

### NEED FOR GST IN INDIA

excise duty and value added tax (VAT) on intra-State sale of goods. However, the VAT dealer on his subsequent intra-State sale of goods charged VAT (as per prevalent VAT rate as applicable in the respective State) on value comprising of (basic value + excise duty charged by manufacturer + profit by dealer). Further, in respect of tax on services, service tax was payable on all 'services' other than the Negative list of services or otherwise exempted.

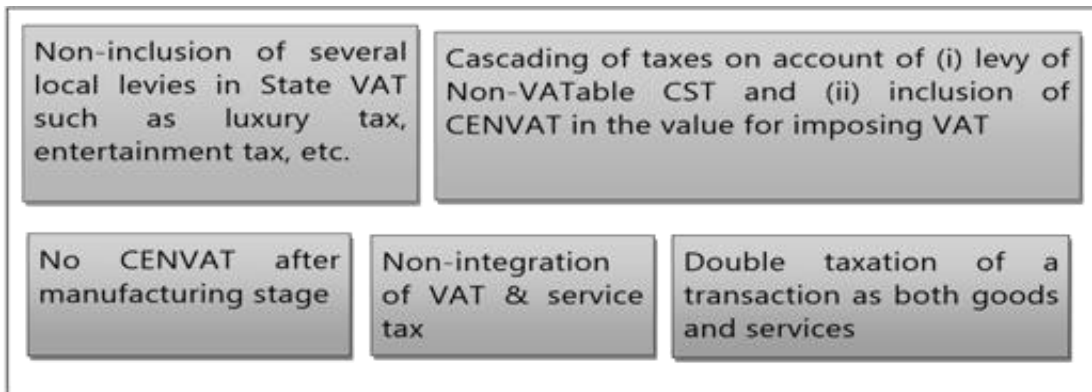
- The earlier indirect tax framework in India suffered from various shortcomings. Under the earlier indirect tax structure, the various indirect taxes being levied were not necessarily mutually exclusive.

To illustrate, when the goods were manufactured and sold, both central excise duty (CENVAT) and State-Level VAT were levied. Though CENVAT and State-Level VAT were essentially value added taxes, set off of one against the credit of another was not possible as CENVAT was a central levy and State Level VAT was a State levy.

- Moreover, CENVAT was applicable only at manufacturing level and not at distribution levels. The erstwhile sales tax regime in India was a combination of origin based (Central Sales Tax) and destination based multipoint system of taxation (State-Level VAT).

Service tax was also a value added tax and credit across the service tax and the central excise duty was integrated at the central level.

- Despite the introduction of the principle of taxation of value added in India - at the Central level in the form of CENVAT and at the State level in the form of State VAT - its application remained piecemeal and fragmented on account of the following reasons:



## **GST - A cure for ills of existing indirect tax regime**



- A comprehensive tax structure covering both goods and services viz. Goods and Service Tax (GST) addresses these problems. Simultaneous introduction of GST at both Centre and State levels has integrated taxes on goods and services for the purpose of set-off relief and ensures that both the



cascading effects of CENVAT and service tax are removed and a continuous chain of set-off from the original producer's point/ service provider's point upto the retailer's level/ consumer's level is established.

In the GST regime, the major indirect taxes have been subsumed in the ambit of GST. The erstwhile concepts of manufacture or sale of goods or rendering of services are no longer applicable since the tax is now levied on "Supply of Goods and/or services".

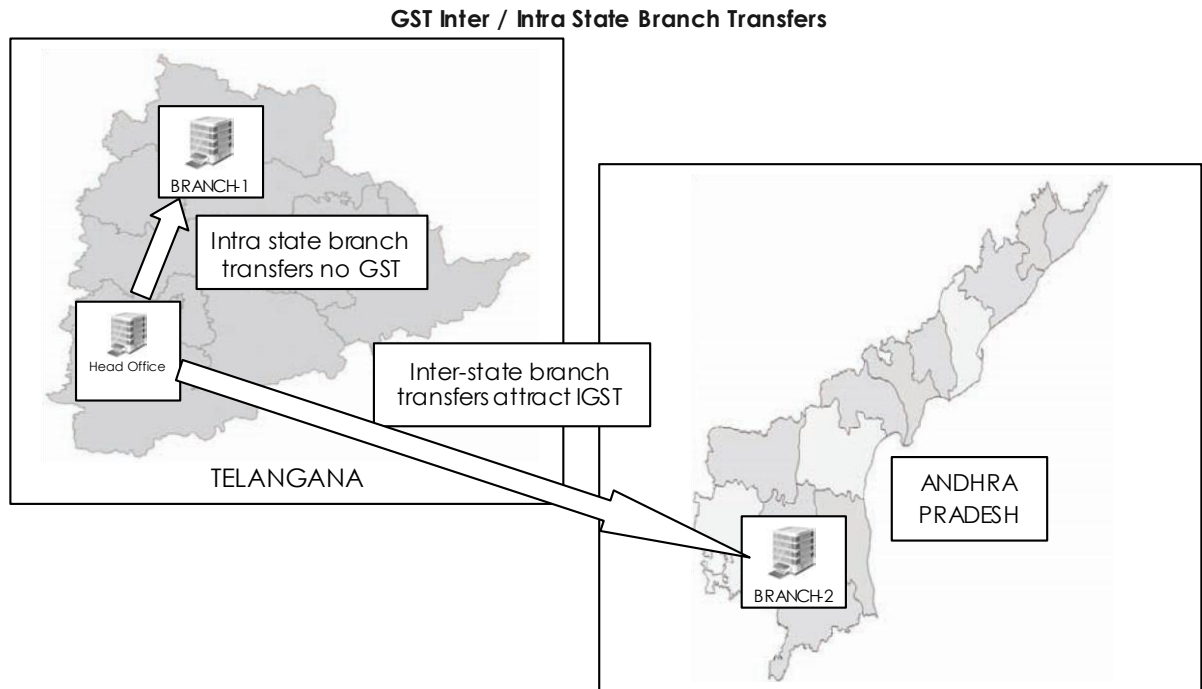
## **INTER-STATE VS INTRA-STATE STOCK TRANSFERS**

Intra-state stock transfer is taxable only when entity has more than one registration in one state. For example, Factory located in Tamil Nadu and warehouse is also located in the same state (i.e. Tamil Nadu) however, registered separately under GST, transfers between them treated as supply. Hence, CGST plus SGST will be levied.

Inter-State stock transfer is taxable. It means IGST will be levied.

**ILLUSTRATION 1**

*Ganesh Trading has head office in Telangana and two branches (i.e. Branch office -I in Telangana and Branch office -II in Andhra Pradesh). Stock transfers between Head office and Branch office within the same state where no separate registrations, GST is not levied. Whereas stock transfers between Head office and Branch office at inter state level, IGST will be levied.*



**Conclusion:**

From the above it is evident that revenue of inter-State sale will not accrue to the exporting State and the exporting State will be required to transfer to the Centre the credit of SGST/UTGST used in payment of IGST.

The Centre will transfer to the importing State the credit of IGST used in payment of SGST/UTGST.

The inter-state adjustment will be made by central clearing agency, hence assesseees will not be concerned with such adjustment at all.

**ILLUSTRATION 2:**

*Mr. C of Chennai supplied goods/services for ₹ 20,000 to Mr. M of Madurai. SGST and CGST rate on supply of goods and services is 9% each. IGST rate is 18%. Find the following:*

*(a) Total price charged by Mr. C. (b) Who is liable to pay GST?*

**Answer:**

<i>Particulars</i>	<i>Value in (₹)</i>
<i>Supply of goods/services</i>	<i>20,000</i>
<i>Add: CGST 9%</i>	<i>1,800</i>
<i>Add: SGST 9%</i>	<i>1,800</i>
<i>(a) Total price charged by Mr. C from Mr. M for local supply of goods or services. (b) Mr. C is liable to pay GST.</i>	<i>23,600</i>

**Note:**

- (1) Location of supplier and place of supply both within the same State of Tamil Nadu. Therefore, CGST & SGST applicable.
- (2) The CGST & SGST charged on Mr. M for supply of goods/services will be remitted by Mr. C to the appropriate account of the Central and State Government respectively.

**ILLUSTRATION 3:**

Mr. M of Madurai supplied goods/services for ₹ 24,000 to Mr. S of Selam. Mr. M purchased goods/services for ₹ 23,600 (inclusive of CGST 9% and SGST 9%) from Mr. C of Chennai. Find the following: (a) Total price charged by Mr. M for supply of goods/services and (b) Who is liable to pay GST. (c) Net liability of GST.

**Answer:**

Particulars	Value in (₹)
Value charged for supply of goods/services	24,000
Add: CGST 9%	2,160
Add: SGST 9%	2,160
(a) Total price charged by Mr. M from Mr. S for local supply of goods/services. (b) Mr. M is liable to pay GST.	28,320

Particulars	CGST (₹)	SGST (₹)
Output tax	2,160	2,160
Less: Input Tax Credit (ITC)	(1,800)	(1,800)
(c) Net tax liability of Mr. M	360	360

**Note:**

- (1) By giving input tax credit, Government is not loser of revenue.

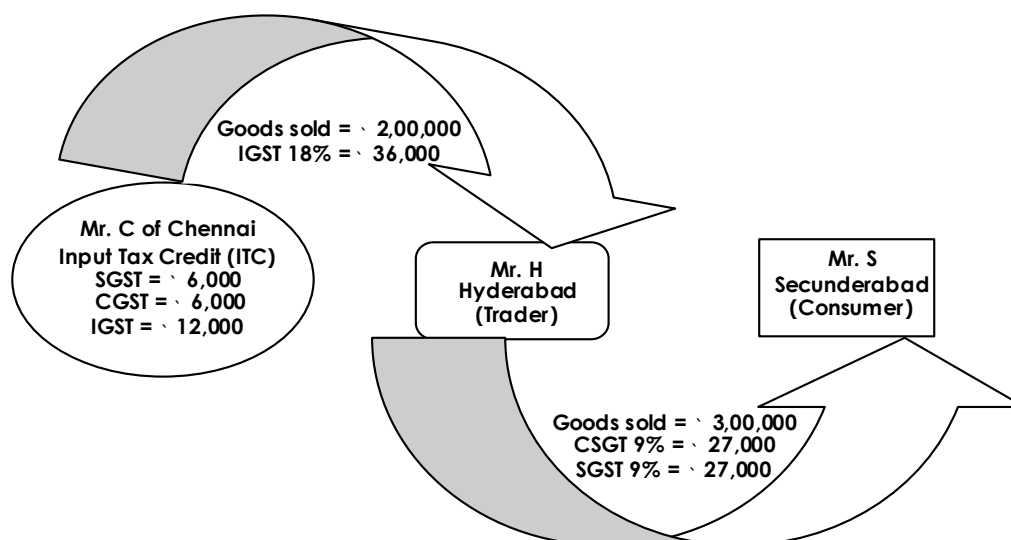
Particulars	Revenue to Central Government (₹)	Revenue to State Government (₹)
Supply of goods/services by Mr. C to Mr. M	1,800	1,800
Add: supply of goods/services by Mr. M to Mr. S	360	360
<b>Total</b>	<b>2,160</b>	<b>2,160</b>

**Inter-State supply of goods or services or both:**

**ILLUSTRATION 4:**

Mr. C of Chennai purchased goods at intra state as well as at inter state level by paying SGST ₹ 6,000, CGST ₹ 6,000 and IGST ₹ 12,000. Subsequently Mr. C sold these goods to Mr. H of Hyderabad (Trader) for ₹ 2,00,000 (IGST applicable @18%). Thereafter Mr. H of Hyderabad sold these goods to Mr. S of Secunderabad (Consumer) for ₹ 3,00,000 (CGST & SGST @18%). Find the Net GST liability of Mr. C and Mr. H. Also find net revenue to the State and Central Government.

Answer:



Particulars of Mr. C of Chennai	Value in (₹)	ITC ALLOWED
Output tax IGST	36,000	
Less: Input Tax Credit (ITC)		
IGST	(12,000)	1 <sup>st</sup> IGST
CGST	(6,000)	2 <sup>nd</sup> CGST
SGST	(6,000)	3 <sup>rd</sup> SGST
Net tax paid to Central Government by Mr. C	12,000	

Since, dealer has used SGST of Tamil Nadu to the extent of ₹6,000/- in payment of IGST, Tamil Nadu State (i.e. exporting State) has to transfer ₹6,000/- to the credit of the Centre.

IGST of ₹36,000/- is availed as credit by Telangana buyer (i.e. Mr. H of Hyderabad).

Particulars of Mr. H of Hyderabad	CGST (₹)	SGST (₹)	ITC ALLOWED
Output tax	27,000	27,000	
Less: Input Tax Credit (ITC)			
IGST	(27,000)	(9,000)	1 <sup>st</sup> IGST
2 <sup>nd</sup> CGST			
3 <sup>rd</sup> SGST			
Net tax paid to State Government by Mr. H	Nil	18,000	

Since, dealer has used IGST of ₹9,000/- to pay the SGST of Telangana State, the Centre has to transfer ₹9,000/- to the Telanaga State (i.e importing State).

Revenue to the Centre = ₹36,000 – 9,000 = ₹27,000 (i.e. 9%)

Revenue to the State = ₹18,000 + 9,000 = ₹27,000 (i.e. 9%)

Total Revenue to the Government = 18% (One Nation -One Tax)

**ILLUSTRATION 5:** Mr. A registered person under GST located in Tamil Nadu, sold goods worth ₹ 10,000 after manufacture to Mr. C of Chennai. Subsequently, Mr. C sold these goods to Mr. H of Hyderabad for ₹ 17,500. Mr. H being a trader finally sold these goods to customer Mr. S of Secunderabad for ₹ 30,000.  
**Applicable rates of CGST= 9%, SGST=9% and IGST=18%.**  
**Find the net tax liability of each supplier of goods and revenue to the government.**

**Answer:**

Since, Mr. A supplied goods to Mr. C in Tamil Nadu itself, it is an intra-state sale and both CGST @ 9% and SGST @ 9% will apply.

Mr. C of Chennai supplied goods to Mr. H of Hyderabad. Since, it is an interstate sale, IGST@18% will apply.

Mr. H of Hyderabad (Telangana) supplied goods to Mr. S of Secunderabad (Telangana). Once again it is an intrastate sale and both CGST @ 9% and SGST @ 9% will apply.

Statement showing Net tax liability of Mr. A and revenue to Government:

Particulars	Value in (₹)	CGST in (₹)	SGST in (₹)	IGST in (₹)	Remarks
Mr. A to Mr. C	10,000	900	900	Nil	Value addition ₹ 10,000
Less: ITC	Nil	Nil	Nil	Nil	
Net liability of Mr. A		900	900	Nil	
		Revenue to Centre ₹ 900	Revenue to Tamil Nadu ₹ 900		

Statement showing net tax liability of Mr. C and revenue to the Government

Particulars	Value in (₹)	CGST in (₹)	SGST in (₹)	IGST in (₹)	Remarks
Mr. C to Mr. H	17,500	Nil	Nil	3,150	
Less: ITC		(900)	(900)	(1,800)	1st CGST
					[2 nd SGST ]
Net liability of Mr. C		Nil	Nil	1,350	Value added ₹ 7,500 x 18%

Since, Mr. C a dealer has used SGST of Tamil Nadu to the extent of ₹ 900/- in payment of IGST, Tamil Nadu State (i.e. exporting State) has to transfer ₹ 900/- to the credit of the Centre.

Tamil Nadu (exporting state) revenue = ₹ 0 (i.e. 900 -900)

Total revenue to the Centre = ₹ 3,150

(i.e. ₹ 1,350 + 900 received from Tamilnadu + 900 CGST already collected from Mr. A in 1st intra-state supply)

Statement showing net tax liability of Mr. H and revenue to the Government

Particulars	Value in (₹)	CGST in (₹)	SGST in (₹)	IGST in (₹)	Remarks
Mr. H to Mr. S	30,000	2,700	2,700	Nil	
Less: ITC		(2,700)	(450)	(3,150)	IGST credit 1st adjust against IGST, next CGST and next SGST
Net liability of Mr. H		Nil	2,250	Nil	

Since, Mr. H a dealer has used IGST of ₹ 450/- to pay the SGST of Telangana State, the Centre has to transfer ₹ 450/- to the Telangana State (i.e. importing State).

Net revenue to the Telanaga State = ₹ 2,700 (i.e. 2,250 + 450)

Net Revenue to the Centre = ₹ 2,700 (i.e. 3,125 – 450)

Total revenue to the Government = ₹ 5,400 (i.e. 30,000 x 18%)

This is called as one nation one tax.

**ILLUSTRATION 6:**

Mr. C of Tamil Nadu supplied goods/services for 20,000 to Mr. M of Maharashtra. SGST and CGST rate on supply of goods and services is 9% each. IGST rate is 18%. Find the following:

(a) Total price charged by Mr. C.

(b) Who is liable to pay GST?

Particulars	Value in (₹)
Supply of goods/services	20,000
Add: IGST 18%	3,600
(a) Total price charged by Mr. C from Mr. M for inter-state supply of goods or services. (b) Mr. C is liable to pay GST.	23,600

**Note:**

- Location of supplier and place of supply are in different States. Therefore, IGST is applicable.
- The IGST charged on Mr. M for supply of goods/services will be remitted by Mr. C to the account of the Central Government.

**ILLUSTRATION 7:**

Mr. M of Maharashtra supplied goods/services for ₹ 35,000 to Mr. P of Pune. Mr. M purchased goods/services for ₹ 23,600 (inclusive of IGST 18%) from Mr. C of Tamil Nadu. SGST and CGST rate on supply of goods and services is 9% each. Find the following:

(a) Total price charged by Mr. M for supply of goods/services and (b) Who is

liable to pay GST.

(c) Net liability of GST.

**Answer:**

Particulars	Value in (₹)
Value charged for supply of goods/services	35,000
Add: CGST 9%	3,150
Add: SGST 9%	3,150
(a) Total price charged by Mr. M from Mr. P for local supply of goods/services. (b) Mr. M is liable to pay GST.	41,300

Particulars	CGST (₹)	SGST (₹)	
Output tax	3,150	3,150	IGST credit 1st adjust against CGST and next SGST.
Less: Input Tax Credit (ITC)	(3,150)	(450)	
IGST			
(c) Net tax liability of Mr. M	Nil	2,700	

**Note:**

(1) By giving input tax credit Government is not looser of revenue.

<i>Particulars</i>	<i>Revenue to Central Government (-)</i>	<i>Revenue to Tamil Nadu State Government (-) (Exporting State)</i>	<i>Revenue to Maharashtra State Government (-) (Importing State)</i>
<i>Supply of goods/services by Mr. C to Mr. M</i>	<i>3,600</i>	<i>-</i>	<i>-</i>
<i>Add: supply of goods/services by Mr. M to Mr. P</i>	<i>Nil</i>	<i>-</i>	<i>2,700</i>
<i>Add: Transfer by Centre to Maharashtra State</i>	<i>(450)</i>	<i>-</i>	<i>450</i>
<i>Total</i>	<i>3,150</i>	<i>-</i>	<i>3,150</i>

## Definition & Sections

- Business Section 2(17)** – Business includes-
  - Any trade, Commerce, manufacture, profession, vacation, Adventure, wager or any other similar activities whether or not it is for a pecuniary benefit.
  - Any activities or transactions in connection with or incidental or an ancillary to above.
  - Any activity or transaction in nature or above, whether or not there is a volume frequency, continuity or regularity of such transaction.
  - Supply or acquisition of goods including capital asset & service in connection with commencement or closure of business
  - Provision by a club, association, society or any such body for a subscription or any other considerations of the facilities or benefits to its members, as the case may be.
  - Admission, for a consideration, of person to any premises and
  - Services supplied by a person as the holder of an office which has been accepted by him in the course of futurance of his trade profession or vacation.
  - Services provided by a race club by way of totalisator or a licence to book maker in such club. Any activity or transaction undertaken by the central government, a state government or any local authority in which they are engaged as public authorities.
- Consideration Section 2(31)** - Section 2(31) of CGST Act 2017 defines “consideration” in relation to the supply of goods or services or both includes— (a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the 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 Government or a State Government; (b) the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the 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 Government or a State Government: Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply.
- Electronic Commerce Operator Section 2(45)** - Electronic Commerce mean the supply of goods or services or both, including digital products over digital or electronic network.
- Goods Section 2(52)** - Goods means every kind of movable property other than money and securities, but includes accountable claim, growing crops, grass and things attached to forming parts of the land which are agreed to be served before supply for under a contract of supply.
- India Section 2(56)** - “India” means the territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and sub-soil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial

Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, and the air space above its territory and territorial waters.

- **Non-taxable Supply Section 2(78)** - Section 2(78) of CGST Act 2017 defines “non-taxable supply” means a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act.
- **Person Section 2(84)** - includes , an individual, HUF, an association of person or body of individuals, weather incorporated or not in India or outside India, a firm, a LLP, a local authority, a company, an artificial person, any corporation established by under any central, state or provincial act of or government company as defined in section 2(45) of companies act 2013. Taxable supply section 2(105) of CGST ACT  
A supply of goods or services or both which is enviabale for tax under this act.  
Recipient section 2(93) of CGST ACT
  - Where a consideration is payable for the supply of good or services or both, the person who is liable to pay that consideration.
  - Where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available or to whom made available or to whom possession or use of goods is given or made available.
  - Where no consideration is payable for the supply of a service, the person to custom the service is rendered. Any reference to a person to whom a supply is made shall be conserved 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.
- **Principal Supply Section 2(90)** -Principal supply means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.
- **Recipient 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 Section 2(98)** - services. Reverse Charge is a mechanism under Goods and Service Tax Laws (GST Acts), where the. liability to pay tax is on the recipient of supply of goods or services instead of the supplier of such. goods or services in respect of notified categories of supply.
- **Services Section 2(102)** - Anything other than goods, money and securities but includes activities relating to the use of money or its conserved by cash or any other made, from one form, currency or domination, to another form, currency or denomination for which separate condition is charged.
- **Supplier Section 2(105)** - In relation to any goods or services or both, shall means the person supplying the said goods or services or both and shall include an agent acting as such or on behalf of such supplier in relation to goods or services or both supplied.
- **Taxable Person Section 2(107)** - Section 2(107) of CGST Act 2017 defines “taxable person” means a person who is registered or liable to be registered under section 22 or section 24.

- **Taxable Supply Section 2(108)** - Section 2(108) of CGST Act 2017 defines “taxable supply” means a supply of goods or services or both which is leviable to tax under this Act For a supply to attract GST, the supply must be taxable supply. Taxable Supply can be either Inter State Supply or Intra State Supply. • **Inter State Supply** Inter- State supply of goods means a supply of goods where the location of the supplier and place of supply are in different States or Union territories, then IGST has to paid. Imports, Supplies from and to SEZs are treated as deemed Inter-State supplies. • **Intra State Supply** Intra State supply of goods means supply of goods where the location of the supplier and the place of supply are in the same State or Union territory, then CGST and SGST/UTGST has be paid. Various types of supplies which are not liable to tax are :• **Exempt supply** Section 2(47) of CGST Act 2017 defines “exempt supply” means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply.

## GENESIS OF GST IN INDIA

- It has now been more than a decade since the idea of national Goods and Services Tax (GST) was mooted by Kelkar Task Force in 2004. The Task Force strongly recommended fully integrated ‘GST’ on national basis.
- Subsequently, the then Union Finance Minister, Shri P. Chidambaram, while presenting the Central Budget (2007-2008), announced that GST would be introduced from April 1, 2010. Since then, GST missed several deadlines and continued to be shrouded by the clouds of uncertainty.
- The talks of ushering in GST, however, gained momentum in the year 2014 when the NDA Government tabled the Constitution (122<sup>nd</sup> Amendment) Bill, 2014 on GST in the Parliament on 19<sup>th</sup> December, 2014. The Lok Sabha passed the Bill on 6<sup>th</sup> May, 2015 and Rajya Sabha on 3<sup>rd</sup> August, 2016. Subsequent to ratification of the

Bill by more than 50% of the States, Constitution

(122<sup>nd</sup> Amendment) Bill, 2014 received the assent of the President on 8<sup>th</sup> September, 2016 and became **Constitution (101<sup>st</sup> Amendment) Act, 2016**, which paved the way for introduction of GST in India.

- In the following year, on 27<sup>th</sup> March, 2017, the Central GST legislations - Central Goods and Services Tax Bill, 2017, Integrated Goods and Services Tax Bill, 2017, Union Territory Goods and Services Tax Bill, 2017 and Goods and Services Tax (Compensation to States) Bill, 2017 were introduced in Lok Sabha. Lok Sabha passed these bills on 29<sup>th</sup> March, 2017 and with the receipt of the President’s assent on 12<sup>th</sup> April, 2017, the Bills were enacted. The enactment of the Central Acts was followed by the enactment of the State GST laws by various State Legislatures. Telangana, Rajasthan, Chhattisgarh, Punjab, Goa and Bihar were among the first ones to pass their respective State GST laws.
- GST is a path breaking indirect tax reform which will create a common national market. GST has subsumed multiple indirect taxes like excise duty, service tax, VAT, CST, luxury tax, entertainment tax, entry tax, etc.

## FRAMEWORK OF GST AS INTRODUCED IN INDIA

### I. Dual GST:

India has adopted a dual GST which is imposed concurrently by the Centre and States, i.e. Centre and States simultaneously tax goods and services. Centre has the power to tax intra-State sales &

States are empowered to tax services. GST extends to whole of India including the State of Jammu and Kashmir.

## II. CGST/SGCT/UGST/IGST

GST is a destination based tax applicable on all transactions involving supply of goods and services for a consideration subject to exceptions thereof. GST in India comprises of Central Goods and Service Tax (CGST) - levied and collected by Central Government, State Goods and Service Tax (SGST) - levied and collected by State Governments/Union Territories with State Legislatures and Union Territory Goods and Service Tax (UTGST) - levied and collected by Union Territories without State Legislatures, on intra-State supplies of taxable goods and/or services.

Inter-State supplies of taxable goods and/or services are subject to Integrated Goods and Service Tax (IGST). IGST is approximately the sum total of CGST and SGST/UTGST and is levied by Centre on all inter-State supplies.

## III. Legislative Framework

There is single legislation – CGST Act, 2017 - for levying CGST.  
Similarly, Union Territories without  
State legislatures

[Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, Daman and Diu and Chandigarh] are governed by UTGST Act, 2017 for levying UTGST. States and Union territories with their own legislatures [Delhi and Puducherry] have their own GST legislation for levying SGST.

Though there are multiple SGST legislations, the basic features of law, such as chargeability, definition of taxable event and taxable person, classification and valuation of goods and services, procedure for collection and levy of tax and the like are uniform in all the SGST legislations, as far as feasible. This is necessary to preserve the essence of dual GST.

## IV. Classification of goods and services

HSN (Harmonised System of Nomenclature) code is used for classifying the goods under the GST.

A new **Scheme of Classification of Services** has been devised wherein the services of various descriptions have been classified under various sections, headings and groups. Each group consists of various Service Codes (Tariff). Chapters referred are the Chapters of the First Schedule to the Customs Tariff Act, 1975.

**V. Registration** Every supplier of goods and/ or services is required to obtain registration in the State/UT from where he makes the taxable supply if his aggregate turnover exceeds ` 20 lakh during a FY.

However, the limit of `40 lakh will be reduced to `20 lakh if the person is carrying out business in the Special Category States – [11 Special Category States are specified in Article 279A(4)(g) of the Constitution] - States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand.

## VI. Composition Scheme

- In GST regime, tax (i.e. CGST and SGST/UTGST for intra-State supplies and IGST for inter-State supplies) is payable by every taxable person and in this regard provisions have been prescribed in the law.

- However, for providing relief to small businesses making intra-State supplies, a simpler method of paying taxes and accounting thereof is also prescribed, known as Composition Levy.

## **VII. Exemptions**

Apart from providing relief to small-scale business, the law also contains provisions for granting exemption from payment of tax on essential goods and/or services.

## **VIII. Manner of utilization of ITC**

- Input Tax Credit (ITC) of CGST and SGST/UTGST is available throughout the supply chain, but cross utilization of credit of CGST and SGST/UTGST is not possible, i.e. CGST credit cannot be utilized for payment of SGST/UTGST and SGST/UTGST credit cannot be utilized for payment of CGST.
- However, cross utilization is allowed between CGST/SGST/UTGST and IGST, i.e. credit of IGST can be utilized for the payment of CGST/SGST/UTGST and vice versa.

## **IX. Seamless flow of credits**

Since GST is a destination based consumption tax, revenue of SGST ordinarily accrues to the consuming States.

The inter-State supplier in the exporting State is allowed to set off the available credit of IGST, CGST and SGST/UTGST (in that order) against the IGST payable on inter-State supply made by him.

- The buyer in the importing State is allowed to avail the credit of IGST paid on inter-State purchase made by him. Thus, unlike the earlier scenario where the credit chain used to break in case of inter-State sales on account of non-VATable CST, under GST regime there is a seamless credit flow in case of inter-State supplies too.
- The revenue of inter-State sale does not accrue to the exporting State and the exporting State transfers to the Centre the credit of SGST/UTGST used in payment of IGST.
- The Centre transfers to the importing State the credit of IGST used in payment of SGST/UTGST. Thus, the inter-State trade of goods and services (IGST) needed a robust settlement mechanism amongst the States and the Centre.
- A Common Portal was needed which could act as a clearing house and verify the claims and inform the respective Governments to transfer the funds. This was possible only with the help of a strong IT Infrastructure.

## **X. GST Common Portal**

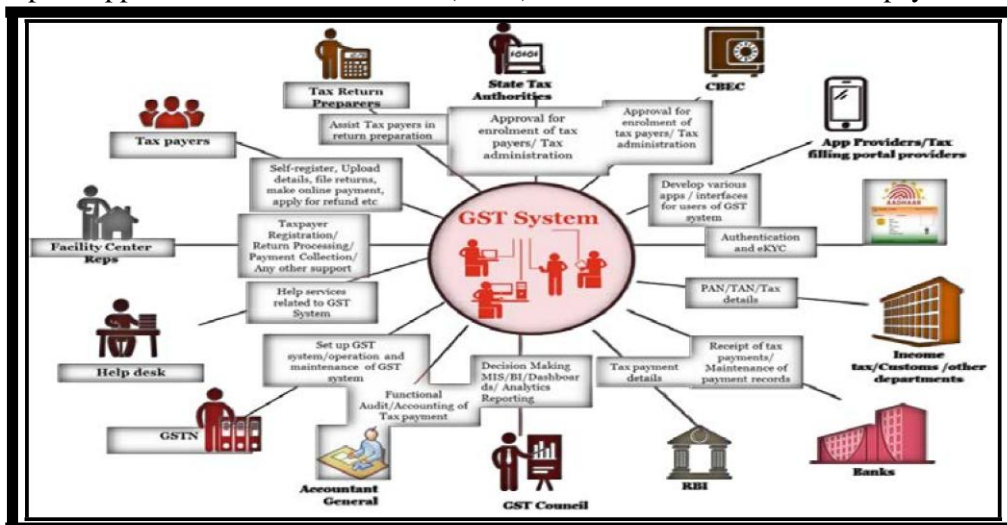
- Resultantly, Common GST Electronic Portal – [www.gst.gov.in](http://www.gst.gov.in) – a website managed by Goods and Services Network (GSTN) [a company incorporated under the provisions of section 8 of the Companies Act, 2013] has been set by the Government to establish a uniform interface for the tax payer and a common and shared IT infrastructure between the Centre and States.
- The GST portal is accessible over Internet (by taxpayers and their CAs/Tax Advocates etc.) and Intranet by Tax Officials etc. The portal is one single common portal for all GST related services.
- A common GST system provides linkage to all State/ UT Commercial Tax Departments, Central Tax authorities, Taxpayers, Banks and other stakeholders. The ecosystem consists of all stakeholders starting from taxpayer to tax professional to tax officials to GST portal to Banks to accounting authorities.
- Primarily, GSTN provides three front end services to the taxpayers namely registration, payment and return through GST Common Portal.

- The functions of the GSTN include:
  - facilitating registration;
  - forwarding the returns to Central and State authorities; computation and settlement of IGST;
  - matching of tax payment details with banking network;
  - providing various MIS reports to the Central and the State Governments based on the taxpayer return information;
  - providing analysis of taxpayers' profile; and running the matching engine for matching, reversal and reclaim of input tax credit.

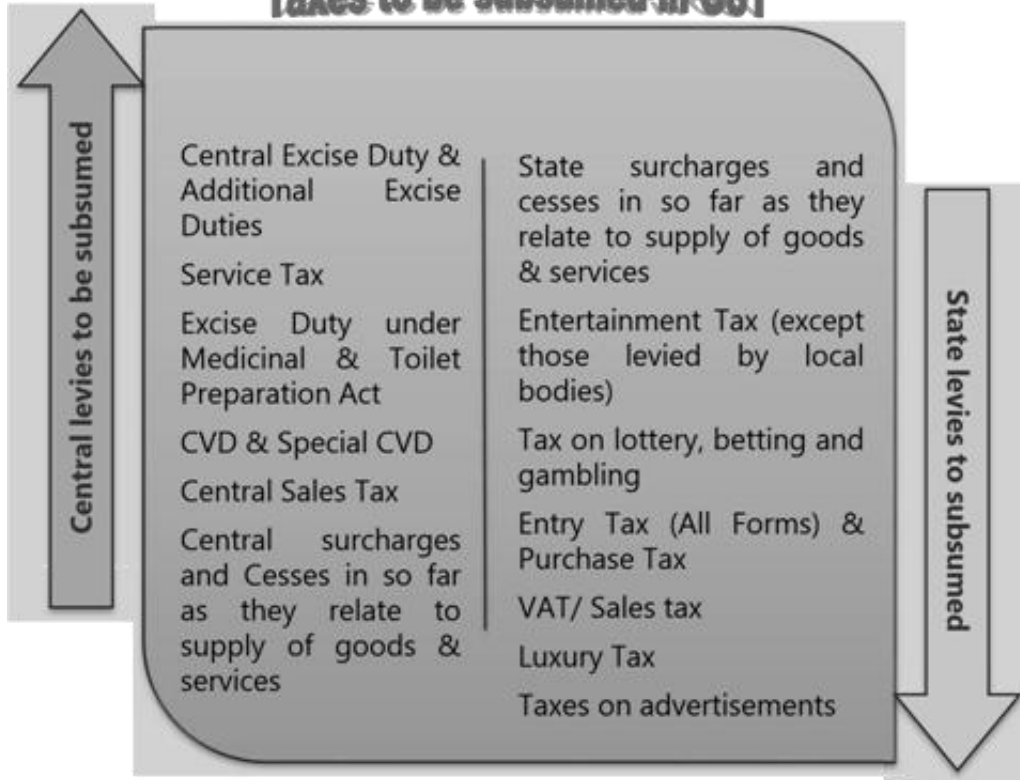
## XI. GSPs/ASPs

GSTN has selected certain IT, ITes and financial technology companies, to be called GST Suidha Providers (GSPs). GSPs develop applications to be used by taxpayers for interacting with the GSTN.

- They facilitate the tax payers in uploading invoices as well as filing of returns and act as a single stop shop for GST related services.
- They customize products that address the needs of different segment of users. GSPs may take the help of Application Service Providers (ASPs) who act as a link between taxpayers and GSPs.



## Taxes to be subsumed in GST



## ILLUSTRATION

In case of local supply of goods/ services, the supplier would charge dual GST i.e., CGST and SGST at specified rates on the supply.

### I. Supply of goods/ services by A to B

	Amount (in `)
Value charged for supply of goods/ services	10,000
<i>Add:</i> CGST @ 9%	900
<i>Add:</i> SGST @ 9%	<u>900</u>
Total price charged by A from B for local supply of goods/ services	<u>11,800</u>

The CGST & SGST charged on B for supply of goods/services will be remitted by A to the appropriate account of the Central and State Government respectively.

A is the first stage supplier of goods/services and hence, does not have credit of CGST, SGST or IGST.

### Intra-State Supply

### II. Supply of goods/services by B to C – Value addition @ 20%

B will avail credit of CGST and SGST paid by him on the purchase of goods/ services and will utilise such credit for being set off against the CGST and SGST payable on the supply of goods/services made by him to C.

	Amount (in `)
Value charged for supply of goods/ services ( ` 10,000 x 120%)	12,000
Add: CGST @ 9%	1080
Add: SGST @ 9%	<u>1080</u>
Total price charged by B from C for local supply of goods/ services	<u>14160</u>

**Computation of CGST, SGST payable by B to Government**

	Amount (in `)
CGST payable	1080
Less: Credit of CGST	<u>900</u>
CGST payable to Central Government	<u>180</u>
SGST payable	1080
Less: Credit of SGST	<u>900</u>
SGST payable to State Government	<u>180</u>

*Note: Rates of CGST and SGST have been assumed to be 9% each for the sake of simplicity.*

**Statement of revenue earned by Central and State Government**

Transaction	Revenue to Central Government ( ` )	Revenue to State Government ( ` )
Supply of goods/services by A to B	900	900
Supply of goods/services by B to C	180	180
Total	1080	1080

**Inter-State Supply**

**TEST YOUR KNOWLEDGE**

1. Which of the following taxes have been subsumed in GST?

- (a) Central Sales Tax
- (b) Central Excise Duty
- (c) VAT
- (d) All of the above

**(Answer – All of the above)**

2. List-I of the Constitution contains matters in respect of which \_\_\_\_\_ has the exclusive right to make laws.

- (a) Central Government
- (b) State
- (c) Both Centre and State Governments
- (d) None of the above

**(Answer – Central Government)**

3. GST is levied on supply of all goods and services except:

- (a) Alcoholic liquor for human consumption
- (b) Tobacco
- (c) Health care services
- (d) All of the above

**(Answer – Alcoholic liquor for human consumption)**

4. On Petroleum Crude, High Speed Diesel, Motor Spirit (commonly known as Petrol), Natural Gas and Aviation Turbine Fuel:

- (a) GST is not levied at all
- (b) GST will be levied from a date to be notified on the recommendations of the GST Council
- (c) GST is levied, but exempt
- (d) None of the above

**(Answer – GST will be levied from a date to be notified on the recommendations of the GST Council)**

5. The functions of Goods and Services Network (GSTN) include:

- (a) facilitating registration
- (b) forwarding the returns to Central and State authorities
- (c) computation and settlement of IGST
- (d) All of the above

**(Answer – All of the above)**

6. Define direct and indirect taxes.

7. Enumerate different types of direct and indirect taxes.

8. Explain the salient features of indirect taxes.

9. Write a short note on various Lists provided under Seventh Schedule to the Constitution of India.

10. Discuss how GST resolved the double taxation dichotomy under previous indirect tax laws.

11. Enumerate the deficiencies of the existing indirect taxes which led to the need for ushering into GST regime.

12. Discuss the dual GST model to be introduced in India.

13. List the Central and State levies which will be subsumed in GST in India.

## **Chapter 2**

# **SUPPLY, LEVY & COLLECTION OF GST AND** **COMPOSITION SCHEME**

## **INTRODUCTION**

The incidence of tax is the foundation stone of any taxation system. It determines the point at which tax would be levied, i.e. the taxable event. The earlier framework of taxable event in various statutes was prone to catena of interpretations resulting in litigation since decades.

Broadly, the controversies related to issues like whether a particular process amounted to manufacture or not, whether the sale was pre-determined sale, whether a particular transaction was a sale of goods or rendering of services etc. The GST laws resolve these issues by laying down one comprehensive taxable event i.e: “Supply” - Supply of goods or services or both

## **CONCEPT OF SUPPLY [SECTION 7 OF CGST ACT]**

The concept of ‘supply’ is the key stone of the GST architecture. The provisions relating to meaning and scope of supply are contained in Chapter III of the CGST Act read with various Schedules given under the said Act. Therefore, following shall be discussed in this chapter:

<b>Section 7</b>	Meaning and scope of supply
<b>Section 8</b>	Taxability of composite and mixed supplies
<b>Schedule I</b>	Matters to be treated as supply even if made without consideration
<b>Schedule II</b>	Matters to be treated as supply of goods or as supply of services
<b>Schedule III</b>	Matters or transactions which shall be treated neither as supply of goods nor as supply of services.



## STATUTORY PROVISIONS

Section 7		Meaning and Scope of Supply
Sub Section	Clause	Particulars
(1)	<b>Supply includes -</b>	
	(a)	all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a <b>consideration</b> by <b>a person</b> in the <b>course or furtherance of business</b>
	(b)	<b>importation of services</b> , for a consideration whether or not in the course or furtherance of business,
	(c)	the <b>activities</b> specified in <b>Schedule I</b> , made or agreed to be made <b>without a consideration</b> ,
	(d)	the activities to be treated as supply of goods or supply of services as referred to in <b>Schedule II</b> .
(2)	Notwithstanding anything contained in sub-section (1),	
	(a)	activities or transactions specified in <b>Schedule III</b> ; or
	(b)	such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council
		shall be treated neither as a supply of goods nor a supply of services.
(3)	Subject to sub-sections (1) & (2), the Government may, on the recommendations of the Council, specify, by notification, the	

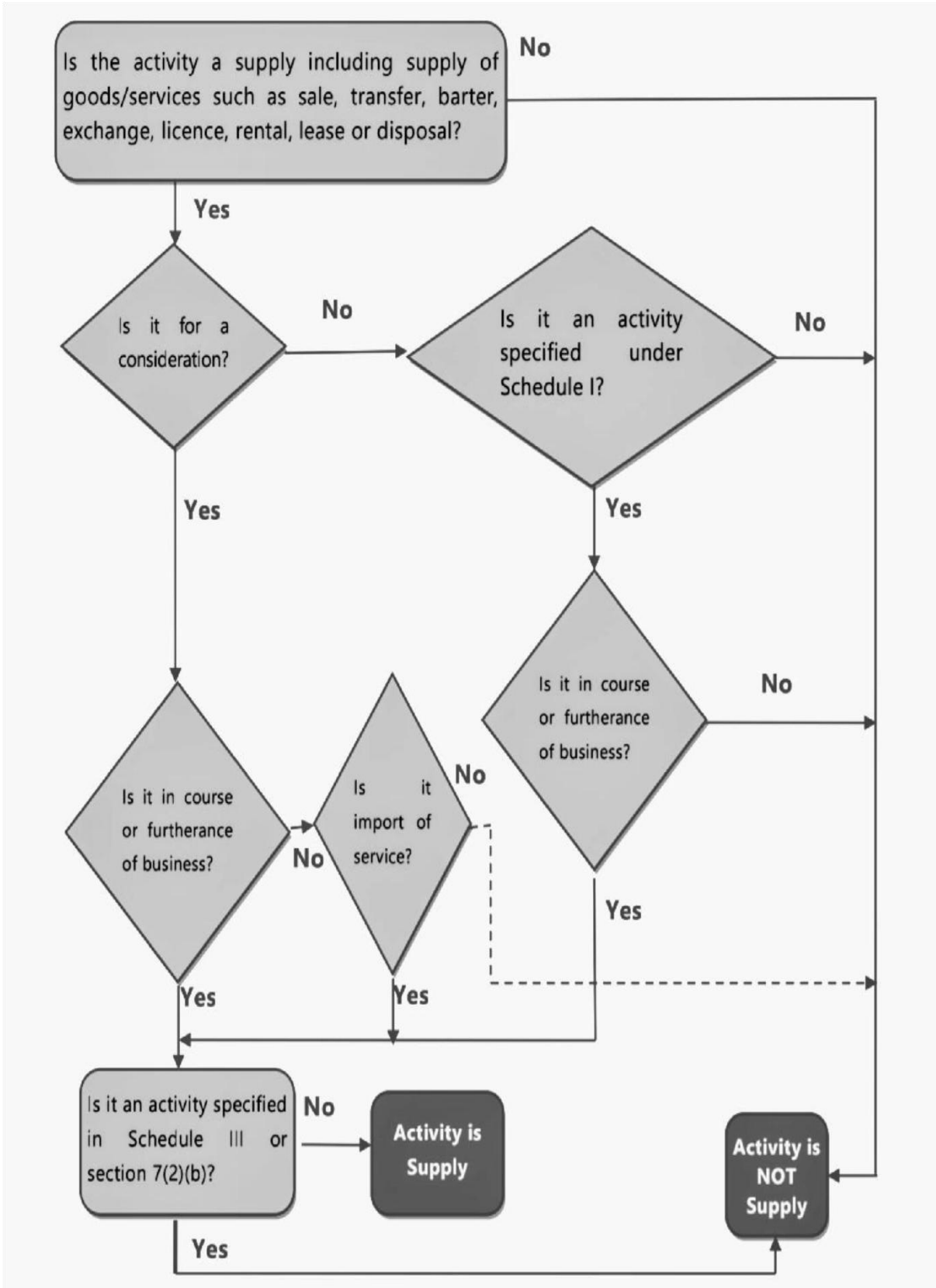
	transactions that are to be treated as —	
(a)	a supply of goods and not as a supply of services; or	
(b)	a supply of services and not as a supply of goods.	

S.No.	Transaction	Type	Supply of goods/ services
1.	Transfer	(i) Title in goods (ii) Title in goods under an agreement that property shall pass at a future date.	Goods
		Right/undivided share in goods without transfer of title in them	Services
2.	Land and Building	Lease, tenancy, easement, licence to occupy land	Services
		Lease/letting out of building including a commercial/ industrial/ residential complex for business/ commerce, wholly/ partly.	Services
3.	Treatment or Process	Applied to another person's goods	Services
4.	Transfer of Business Assets	Goods forming part of business assets are transferred/disposed off by/under directions of person carrying on business so as no longer to form part of those assets, whether or not for consideration	Goods
		Goods held/used for business are put to private use or are made available to any person for use for any purpose other than business, by/under directions of person carrying on the business, whether or not for consideration	Services

S. No.	Activities or transactions which shall be treated neither as a supply of goods nor a supply of services
1.	Services by an employee to the employer in the course of or in relation to his employment.
2.	Services by any court or Tribunal established under any law for the time being in force.
3.	<p>(a) Functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities;</p> <p>(b) Duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or</p> <p>(c) Duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.</p>
4.	Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
5.	Sale of land and, subject to paragraph 5(b) of Schedule II, sale of building.
6.	Actionable claims, other than lottery, betting and gambling.

**The diagram on the next page summarises the steps to determine whether an activity undertaken is Supply or not.**

	<p>Goods forming part of assets of any business carried on by a person who ceases to be a taxable person, shall be deemed to be supplied by him, in the course or furtherance of his business, immediately before he ceases to be a taxable person.</p> <p><b>Exceptions:</b></p> <ul style="list-style-type: none"> <li>✎ Business transferred as a going concern.</li> <li>✎ Business carried on by a personal representative who is deemed to be a taxable person.</li> </ul>	Goods
5.	<p>Renting of immovable property</p> <p>Construction of complex, building, civil structure, etc.</p> <p>Temporary transfer or permitting use or enjoyment of any intellectual property right</p> <p>Development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of IT software</p> <p>Agreeing to obligation to refrain from an act, or to tolerate an act or situation, or to do an act.</p> <p>Transfer of right to use any goods for any purpose</p>	Services
6.	<p>Following <b>composite supplies</b>:-</p> <ul style="list-style-type: none"> <li>👤 Works contract services.</li> <li>👤 Supply of goods, being food or any other article for human consumption or any drink.</li> </ul>	Services
7.	<p>Supply of goods by an unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.</p>	Goods



As per Section 7(1) Supply includes	As per Section 7(2) Supply excludes
<p>(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;</p> <p>(b) import of services for a consideration whether or not in the course or furtherance of business;</p> <p>(c) the activities specified in Schedule I, made or agreed to be made without a consideration; and</p> <p>(d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II.</p>	<p>(a) activities or transactions specified in Schedule III; or</p> <p>(b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council,</p> <p><b>Note:</b> Activities specified in Schedule III (i.e. Negative list):</p> <ol style="list-style-type: none"> <li>1. Services by employee to employer in the course of or in relation to his employment.</li> <li>2. Services by court or Tribunal</li> <li>3. Services by Member of Parliament and others</li> <li>4. Services by funeral, burial etc.</li> <li>5. Sale of land/Building</li> <li>6. Actionable claim other than lottery, betting and gambling.</li> </ol>
<p>As per Section 7(3) Subject to the provisions of sub-sections (1) and (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as— (a) a supply of goods and not as a supply of services; or (b) a supply of services and not as a supply of goods.</p>	

**Supply made in the course or furtherance of business:**

**(a) In the course of business:** Every person carries out certain activities regularly for running trade or commerce.

**ILLUSTRATION: 1**

*CMA Ram a practising Cost Accountant carries out the activity of Accounting, Auditing, Filing returns, Certifying documents and so on soforth. These activities can be considered as performed in the course of business.*

**(b) Furtherance of business:** Every business person use to think how to develop his business or carrying out new activities. Such activities called as furtherance of business.

**ILLUSTRATION: 2**

*M/s X Ltd. manufacturing of motor cars. Company use to sell more number of cars in Southern India. In view of demand in Southern India, company intends to establish manufacturing unit in Chennai. M/s X Ltd. appointed Mr. Y as a consultant for searching, evaluating and shortlisting places for prospective targets. Finally company decided to establish unit at Ambattur Industrial Estate Chennai. Hence, Mr. Y carried out various activities is in furtherance of business of M/s X Ltd.*

GST is essentially a tax only on commercial transactions. Hence, only those supplies that are in the course or furtherance of business qualify as supply under GST. Hence, any supplies made by an individual in his personal capacity do not come under the ambit of GST unless they fall within the definition of business as defined in the Act. Sale of goods or service even as a vocation is a supply under GST. Therefore, even if a famous politician paints paintings for charity and sells the paintings even as a one-time occurrence, the sale would constitute supply.

- (1) Section 7(1)(a) of CGST Act, 2017:** all forms of supply of goods or services or both such as
- (i) sale,
  - (ii) transfer,
  - (iii) barter,
  - (iv) exchange,
  - (v) licence,
  - (vi) rental,
  - (vii) lease or (viii) disposal
- made or agreed to be made for a consideration by a person in the course or furtherance of business;

**Note:** The above activities are specified as an example as they are preceded by words 'such as'.

- **Sale:** The term sale is defined under various states VAT laws. Sale means a sale of goods made within the State for cash or deferred payment or other valuable consideration but does not include a mortgage, hypothecation, charge or pledge. Sale involves transfer of property in goods from one person to another person for consideration.

Under CGST Law sale is treated as supply leviable to GST. However, the definition of Sale has not been provided under the GST Law.

**Note:** mortgage, hypothecation, charge or pledge is not supply and hence GST will not be levied.

**ILLUSTRATION: 3**

*Mr. X sold laptop worth ₹ 1,00,000 and issued invoice in favour of Mr. Y. Now ownership in laptop transferred to Mr. Y. Such transaction shall be covered in sale. It is a supply of goods leviable to GST.*

**Example : 4**

**Illegal Activity vs Prohibited Activity:**

1. *Mr. T, a thief has stolen motorbike and sells the motorbike to Mr. Q. It is illegal to steal a motorbike. Sale of motorbike considered as supply of goods liable to be taxed.*
2. *Mr. T sold Narcotic drugs and psychotropic substances, to Mr. Q for ₹ 3 Lakhs. These goods are prohibited goods. Such activity cannot constitute supply. Mr. T is punishable under the law.*

**Example : 5**

*Mr. X is an official liquidator provided various services like valuation of assets with the help of valuers, inviting and evaluating the tenders, selling assets, making payment to borrowers/creditors and so on. Activities of Mr. X are treated as supply of service and the commission earned by him is subject to GST.*

**Example : 6**

*Mr. A being a dealer of furniture deliver the goods to the branch office of M/s X Ltd., upon directions of M/s X Ltd., head office. The contract to supply furniture is between Mr. A and M/s X Ltd., head office. Mr. A is liable to pay GST on the consideration received from M/s X Ltd. head office.*

- **Transfer:** the term transfer means, where the ownership may not be transferred but the right in the goods is transferred.

**ILLUSTRATION: 7**

*Goods sent for a demonstration on returnable basis. Is it supply?*

**Answer:**

*No. It would not be considered as supply, as there is no transfer of title involved.*

**ILLUSTRATION: 8**

*Mr. A is the owner of Xerox machine. He transferred the right to operate the Xerox machine to Mr. B for a consideration of ₹ 10,000 per month for four months. Hence, ownership of the machine is not transferred but the right in the machine is transferred. It is supply of service leviable to GST.*

- **Barter:** it means, the exchange of goods and productive services for other goods and productive services, without the use of money.

**ILLUSTRATION: 9**

*Mr. C, a practicing Cost Accountant provided services to M/s A Ltd., dealer of laptops. In return M/s A Ltd., given to Mr. C two laptops. Here, two-way supply takes place. Mr. C is making taxable supply of service and M/s A Ltd., is making taxable supply of goods. Hence, tax is payable by both.*

**Example : 10**

*Mr. X, a dealer in laptops. He supplied a laptop for ₹ 40,000 to Mr. Y along with a barter of printer. The value of the printer known at the time of supply is ₹ 4,000 but the open market value of the laptop is not known. The value of the supply of laptop is ₹ 44,000. Hence, Mr. X is liable to pay GST on ₹ 44,000. At the same time Mr. Y is also liable to pay GST on ₹ 4,000 if he is registered person.*

- **Exchange:** when two persons mutually transfer the ownership of one thing for the ownership of another, neither thing nor both things being money only, the transaction is called an exchange.

Exchange offers on products such as televisions, mobile phones and refrigerators are leviable under GST.

**ILLUSTRATION: 11**

*Mr. A is a dealer of new phones. He supplied for ₹ 20,000 to Mr. B along with exchange of an old phone and if the price of the new phone without exchange is ₹ 24,000, the open market value of the new phone is ₹ 24,000. Mr. A is liable to pay GST on ₹ 24,000. Mr. B also liable to pay GST on ₹ 4,000 if he is registered person.*

**Example : 12**

*Mr X is a dealer of new cars. He sells new cars for ₹ 8,25,000 agrees to reduce ₹ 1,25,000 on surrendering of old car. Mr. Y who intends to buy new car worth ₹ 8,25,000 agreed to exchange his old car with new car.*

*Under GST law, it will be treated as Mr. Y has made supply of old car to dealer Mr. X and Mr. X has made supply of new car to Mr. Y.*

*If Mr. Y is registered person, he will be liable to pay GST on ₹ 1,25,000. Mr. X will be liable to pay GST on ₹ 8,25,000 whether Mr. Y is a registered person or not.*

- **Licence:** where one person grants to another, or to a definite number of other persons, a right to do or continue to do in or upon the immovable property of the granter, the right is called a licence.

**ILLUSTRATION : 13**

*Mr. X, a developer of information technology software and holder of licence thereon. License to use software was given to different clients: ₹ 18 lakhs; hence, Mr. X is liable to pay GST whether he transfer such right permanently or temporarily as the case may be.*

**ILLUSTRATION: 14** *A Chennai based company has been awarded mineral exploration contract for 18 months in respect of specific sites in Mumbai by a Mumbai based corporation (i.e. local authority). As a result Chennai based company got licence to extract mineral exploration for a period of 18 months. Mumbai based company supplied taxable services. GST is liable to pay by Chennai based company on licence fee paid to supplier under Reverse Charge.*

- **Rentals:** Periodical payment for use of another's property. Rent is to pay on monthly.

**ILLUSTRATION: 15**

*Mr. A owns a residential building in a prime commercial locality. Large vacant land in the backyard is given on rent of ₹ 1,80,000 per month to a parking contractor, Mr. B who has set up a parking facility on the said land. It is a taxable supply of service and hence, Mr. A is liable to pay GST.*

**ILLUSTRATION: 16**

*Mr. X, the owner of a residential building in a commercial locality, Ground Floor is given on rent to Mr. Y for a monthly rent of ₹ 60,000. Mr. Y uses the same as his residence. It is a supply of service. However, specifically exempted from GST. Hence, Mr. X is not liable to pay GST.*

- **Lease:** A lease is an agreement whereby the lessor conveys to the lessee in return for a payment or series of payments the right to use an asset for an agreed period of time. A lease may be financial lease or operating lease.

**ILLUSTRATION: 17**

*M/s M Bank Ltd., given an asset under financial lease to M/s N Ltd. Repayment of financial lease made by the customer to the bank ₹ 80 lakhs which includes a principal amount of ₹ 50 lakhs.*

*Financial leases shall be taxed as supply of services. M/s M Bank Ltd., is liable to pay GST.*

- **Disposal:** Disposal normally considered as selling of assets when the organization is about to close down and various assets are required to be disposed of. Such transactions will also be considered as supply of liable to tax under GST Law.

**Consideration:**

As per Section 2(31) of the CGST Act, 2017 “consideration” in relation to the supply of goods or services or both includes—

- (a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the 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 Government or a State Government;
- (b) the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the 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 Government or a State Government:

Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply;

**Donation or charity does not attract GST:**

**ILLUSTRATION: 18**

*Alia Travels Pvt. Ltd., a travel agent books ticket for a customer Mr. Z. Travel agent raises invoice on customer Mr. Z for transportation of passenger by air of ₹ 10,000 and his commission of ₹ 500. The entire amount of ₹ 10,500 is not his consideration. The amount of ₹ 500 retained by the air travel is to be considered as his consideration.*

**ILLUSTRATION: 19**

*M/s L Ltd., being an authorized dealer of the TT brand, rendered services to buyer of car, but payment is made to authorized dealer by the TT Company. It is called as consideration is given by third person. Therefore, it is treated as supply of service and liable to tax in the hands of M/s L Ltd.*

**Consideration includes non-monetary consideration.**

**Aggregate of payments received in money and monetary value of the act or forbearance will constitute consideration:**

**ILLUSTRATION: 20**

*A Sports Club agrees to hire services of cricket player Mr. C for a consideration of ₹ 2 crores. In addition to this, the agreement provides that the player shall be provided with the car valued for ₹ 20 lakhs. The entire value of ₹ 2.20 crores will be considered as consideration and subject to tax.*

*Example : 21 Mr. X sells office furniture to Mr. Y on the condition that donation of ₹ 10,000 is payable by Mr. Y to a trust. The amount of ₹ 10,000 is paid by Mr. Y by reason of purchase of furniture. Hence, ₹ 10,000 will be treated as consideration for sale of furniture. Thereby Mr. X is liable to pay GST on ₹ 10,000 in addition to the value of furniture.*

**Example : 22**

*M/s Dev Ltd. agreed to sell its business to M/s RN Ltd., for a consideration of ₹ 50,00,000. M/s Dev Ltd. further agrees that it will not conduct same or similar business for a period of 10 years, for which M/s RN Ltd., paid ₹ 20,00,000. Hence, M/s Dev Ltd., consideration is ₹ 70,00,000.*

**No consideration:**

**ILLUSTRATION: 23**

*Mr. A during long drive with his wife Bela violated traffic rules and was imposed fine of ₹ 1,000. The amount received as fine or penalty for violation of statutory provisions will not be considered as consideration.*

**ILLUSTRATION: 24 the following generally not considered as consideration:**

- Grant of pocket money
- Gift or reward (which has not been given in terms of reciprocity) or
- Amount paid on alimony for divorce

**ILLUSTRATION: 25**


*Subsidy given by the Government to benefit the farmers cannot be considered an additional consideration: The Government provides subsidy, for the benefit of farmers but it is given to the manufacturer of fertilizers will not be considered as consideration.*

**ILLUSTRATION: 26**

*Deposits: If refunded then, it is not a consideration. Therefore the same does not attract GST. If tax has already been paid the taxpayer would be entitled to refund.*

*If not refunded then, it is relating to a service, attract GST.*

## COMPOSITE AND MIXED SUPPLIES [SECTION 8]

 <b>STATUTORY PROVISIONS</b>	
<b>Section 8</b>	<b><i>Tax liability on composite and mixed supplies</i></b>
<b>Clauses</b>	<b><i>Particulars</i></b>
	<i>The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:-</i>
<b>(a)</b>	<i>a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and</i>
<b>(b)</b>	<i>a mixed supply comprising of two or more supplies shall be treated as supply of that particular supply that attracts highest rate of tax.</i>



### ANALYSIS

GST is payable on individual goods or services or both at the notified rates. The application of rates poses no problem if the supply is of individual goods or individual services, which is clearly identifiable and such goods or services are subject to a particular rate of tax.

However, in certain cases, supplies are not such simple and clearly identifiable supplies. Some of the supplies are a combination of goods or combination of services or combination of goods and services both and each individual component of such supplies may attract a different rate of tax.

In such a case, the rate of tax to be levied on such supplies may be a challenge. It is for this reason, that the GST Law identifies composite supplies and mixed supplies and provides certainty in respect of tax treatment under GST for such supplies.

In order to determine whether the supplies are ‘composite supplies’ or ‘mixed supplies’, one needs to determine whether the supplies are naturally bundled or not naturally bundled in ordinary course of business.

**Composite supply** means a supply made by a taxable person to a recipient and:

- comprises two or more taxable supplies of goods or services or both, or any combination thereof.
- are naturally bundled and supplied in conjunction with each other, in the ordinary course of business

- one of which is a principal supply [Section 2(30) of the CGST Act].
- This means that in a composite supply, goods or services or both are bundled owing to natural necessities. The elements in a composite supply are dependent on the 'principal supply'.

Principal supply means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary. [Section 2(90) of CGST Act]

How to determine the tax liability on composite supplies?

A composite supply comprising of two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply.

Suvarna Manufacturers entered into a contract with XYZ Ltd. for supply of readymade shirts packed in designer boxes at XYZ Ltd's outlet. Further, Suvarna Manufacturers would also get them insured during transit. In this case, supply of goods, packing materials, transport & insurance is a composite supply wherein supply of goods is principal supply.

When a consumer buys a television set and he also gets warranty and a maintenance contract with the TV, this supply is a composite supply. In this example, supply of TV is the principal supply, warranty and maintenance services are ancillary.

A travel ticket from Mumbai to Delhi may include service of food being served on board, free insurance, and the use of airport lounge. In this case, the transport of passenger, constitutes the predominant element of the composite supply, and is treated as the principal supply and all other supplies are ancillary. Works contract and restaurant services are classic examples of composite supplies. However, the GST law identifies both as supply of services and such services are chargeable to specific rate of tax mentioned against such services (works contract and restaurants).

How to determine whether the services are bundled in the ordinary course of business?

Whether the services are bundled in the ordinary course of business, would depend upon the normal or frequent practices followed in the area of business to which services relate. Such normal and frequent practices adopted in a business can be ascertained from several indicators some of which are listed below:

- The perception of the consumer or the service receiver - If large number of service receivers of such bundle of services reasonably expect such services to be provided as a package, then such a package could be treated as naturally bundled in the ordinary course of business.
- Majority of service providers in a particular area of business provide similar bundle of services.

For example, bundle of catering on board and transport by air is a bundle offered by a majority of airlines.

- The nature of the various services in a bundle of services will also help in determining whether the services are bundled in the ordinary course of business. If the nature of services is such that one of the services is the main service and the other services combined with such service are in the nature of incidental or ancillary services which help in better enjoyment of a main service.

For example, service of stay in a hotel is often combined with a service or laundering of 3-4 items of clothing free of cost per day. Such service is an ancillary service to the provision of hotel accommodation and the resultant package would be treated as services naturally bundled in the ordinary course of business.

- Other illustrative indicators, not determinative but indicative of bundling of services in the ordinary course of business are:

There is a single price or the customer pays the same amount, no matter how much package they actually receive or use.

- The elements are normally advertised as a package.
- The different elements are not available separately.

The different elements are integral to one overall supply. If one or more is removed, the nature of the supply would be affected.

No straight jacket formula can be laid down to determine whether a service is naturally bundled in the ordinary course of business. Each case has to be individually examined in the backdrop of several factors some of which are outlined above. The above principles explained in the light of what constitutes a naturally bundled service can be gainfully adopted to determine whether a particular supply constitutes a composite supply under GST and if so what constitutes the principal supply so as to determine the right classification and rate of tax of such composite 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 [Section 2(74) of the CGST Act].

The individual supplies are independent of each other and are not naturally bundled.

How to determine if a particular supply is a mixed supply?

In order to identify if the particular supply is a mixed supply, the first requisite is to rule out that the supply is a composite supply.

A supply can be a mixed supply only if it is not a composite supply. As a corollary it can be said that if the transaction consists of supplies not naturally bundled in the ordinary course of business then it would be a mixed supply.

Once the amenability of the transaction as a composite supply is ruled out, it would be a mixed supply, classified in terms of supply of goods or services attracting highest rate of tax.

How to determine the tax liability on mixed supplies?

A mixed supply comprising of two or more supplies shall be treated as supply of that particular supply that attracts highest rate of tax.

A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drink and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately.

A shopkeeper selling storage water bottles along with refrigerator. Bottles and the refrigerator can easily be priced and sold independently and are not naturally bundled. So, such supplies are mixed supplies.

**Illustration 1. Booking of Air Tickets which involves cost of the meal to be provided during travel Classify Principal & Composite Supply?**

**Solution-** Booking of Air Tickets which involves cost of the meal to be provided during travel will be Composite supply and tax will be calculated on the principle supply which in this case is transportation of passengers through flight.

**Illustration 2. M/s P Ltd. entered into a contract with M/s Z Ltd. for supply of goods. Where goods are packed and transported with insurance. Classify Principal & Composite Supply?**

**Solution-** M/s P Ltd. entered into a contract with M/s Z Ltd. for supply of goods. 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.

**Illustration 3. A Five-star hotel provides four days and three-night package, with breakfast. Classify Principal & Composite Supply? The hotel accommodation attracts 18% tax and the restaurant service attracts 28% tax. What will be GST Rate.**

**Solution-** A Five-star hotel provides four days and three-night package, with breakfast. This is a composite supply as the package of accommodation facilities and breakfast is a natural combination in the ordinary course of business for a hotel. In this case, the hotel accommodation is the principal supply, and breakfast is ancillary to the hotel accommodation. The hotel accommodation attracts 18% tax and the restaurant service attracts 28% tax. As per the example, hotel accommodation is the principal supply, and the entire supply will be taxed at 18%.

**Illustration 4. Mr. Ravi being a dealer in laptops, sold a laptop bag along with the laptop to a customer, for ₹ 55,000. CGST and SGST for laptop @18% and for laptop bag @28%. What would be the rate of tax leviable? Also find the GST liability.**

**Solution-** If the laptop bag is supplied along with the laptop in the ordinary course of business, the principal supply is that of the laptop and the bag is an ancillary. Therefore, it is a composite supply and the rate of tax would that as applicable to the laptop. Hence, applicable rate of GST 18% on ₹ 55,000. CGST is ₹ 4,950 and SGST is ₹ 4,950.

**Illustration 5. Diwali gift hamper which consist of different Items like sweets, chocolates, cakes, dry fruits packed in one pack is example of Composite or Mixed Supply and what will be tax rate applicable on them ?**

**Solution-** Diwali gift hamper which consist of different Items like sweets, chocolates, cakes, dry fruits packed in one pack is Mixed supply as these items can be sold separately and it shall be treated as a supply of that particular item which attracts the highest rate of tax.

**Illustration 6. M/s X Ltd. a dealer offer combo packs of shirt, watch, wallet, book and they are bundled as a kit and this Tax rate for a shirt, watch, wallet and book are 12%, 18%, 5% and Nil respectively. What will be the GST Rate applicable ?**

**Solution-** M/s X Ltd. a dealer offer combo packs of shirt, watch, wallet, book and they are bundled as a kit and this kit is supplied for a single price and the supply of one item does not naturally necessitate the supply of other elements. Hence the supply is a mixed supply. Tax rate for a shirt, watch, wallet and book are 12%, 18%, 5% and Nil respectively. In this case, watch attracts the highest rate of tax in the mixed supply i.e., 18%. Hence, the mixed supply will be taxed at 18%.

**Illustration 7. Mr. A booked a Rajdhani train ticket, which includes meal. Is it composite supply or mixed supply?**

**Solution-** It is a bundle of supplies. It is a composite supply where the products cannot be sold separately. The transportation of passenger is, therefore, the principal supply.

Rate of tax applicable to the principal supply will be charged to the whole composite bundle. Therefore, rate of GST applicable to transportation of passengers by rail will be charged by IRCTC on the booking of Rajdhani ticket.

**Illustration 8. Space Bazar offers a free bucket with detergent purchased. Is it composite supply or mixed supply? Assume rate of GST for detergent @28% and bucket @18%.**

**Solution-** This is a mixed supply. These items can be sold separately.

Product which has the higher rate, will apply on the whole mixed bundle. i.e. 28%

## **LEVY & COLLECTION OF CGST [SECTION 9 OF THE CGST ACT]**

<i>Section 9</i>	<i>Levy and collection</i>
<i>Sub-section</i>	<i>Particulars</i>
<i>(1)</i>	<i>Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.</i>
<i>(2)</i>	<i>The central tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.</i>
<i>(3)</i>	<i>The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.</i>
<i>(4)</i>	<i>The central tax in respect of the supply of taxable goods or</i>

	<p><i>services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both</i></p>
(5)	<p><i>The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services.</i></p> <p><i>Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:</i></p> <p><i>Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also he does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.</i></p>

### **Levy and collection as per CGST Act, 2017**

- U/s 9(1) of CGST Act, 2017 there shall be levied a tax –
  - Called the Central Goods and Services Tax(CGST);
  - On all the intra-state supplies of goods or services or both, except on supply of alcoholic liquor for human consumption;
  - On the value determined u/s 15; and
  - At such a rate (maximum 20%,) as notified by the Central Government on recommendation of GST Council; and
  - Collected in such a manner as may be prescribed; and ↓ ↓ 96
  - Shall be paid by the taxable person.
- U/s 9(2) of CGST Act 2017, the CGST of following supply shall be levied with the effect from such date as notified by the Central Government on recommendation of GST Council
  - Petroleum crude
  - High speed diesel
  - Motor spirit (commonly known as petrol)
  - Natural gas

- Aviation turbine fuel
- (c) U/s 9(3), CGST is to be paid on reverse charge basis by the recipient on notified goods/ services or both (liability to pay tax by the recipient of supply of goods / services rather than supplier of goods/ services under forward charge)
- U/s 9(4), CGST on taxable supply of goods/ services to registered supplier from unregistered supplier is to be paid on reverse charge basis by the recipient.
- U/s 9(5), E-Commerce operator is liable to pay CGST on notified intra-state supplies.

### Levy and collection as per IGST Act, 2017

- U/s 5(1) of IGST Act, 2017 there shall be levied a tax –
  - Called the Integrated Goods and Services Tax (IGST);
  - On all the inter-state supplies of goods or services or both, except on supply of alcoholic liquor for human consumption;
  - On the value determined u/s 15 of CGST Act, 2017; and
  - At such a rate (maximum 40%,) as notified by the Central Government on recommendation of GST Council; and
  - Collected in such a manner as may be prescribed; and
  - Shall be paid by the taxable person. Provided further that IGST will be imposed on goods/ services imported into India.
- U/s 5(2) of IGST Act, 2017, the CGST of following supply shall be levied with the effect from such date as notified by the Central Government on recommendation of GST Council
  - Petroleum crude
  - High speed diesel
  - Motor spirit (commonly known as petrol)
  - Natural gas
  - Aviation turbine fuel 97
- U/s 5(3), IGST is to be paid on reverse charge basis by the recipient on notified goods/ services or both (liability to pay tax by the recipient of supply of goods / services rather than supplier of goods/ services under forward charge).
- U/s 5(4), IGST on taxable inter-state supply of goods/ services to registered supplier from unregistered supplier (agriculturist) is to be paid on reverse charge basis by the recipient.
- U/s 5(5), E-Commerce operator is liable to pay CGST on notified inter-state supplies.

**Illustration 9.** Mr. Asif of Mumbai Supplied Goods to Mr. Binay of Pune Rs. 10,000/-. If GST Rate is 5%, 12%, 18% and 28% under GST. Calculate Tax Payable by Mr. Asif ?

**Solution –**

Particulars	Rs.
Value of Supply	10,000
Add CGST @ 2.5%	250
Add SGST @ 2.5%	250
<b>Total Value of Invoice</b>	<b>11,000</b>
Tax Payable by Mr. Asif	500

**Illustration 10.** Mr. C of Chennai supplied goods/services for ₹ 20,000 to Mr. M of Madurai. SGST and CGST rate on supply of goods and services is 9% each. IGST rate is 18%. Find the following: (a) Total price charged by Mr. C. (b) Who is liable to pay GST?

**Solution –**

<b>Particulars</b>	<b>Rs.</b>
Value of Supply	20,000
Add CGST @ 9%	1,800
Add SGST @ 9%	1,800
<b>Total Value of Invoice</b>	<b>23,600</b>
(b) Mr. C is liable to pay GST.	<b>23,600</b>

**Illustration 11.** M/s. ABC Ltd. provides the following relating to information technology software. Compute the value of taxable service and GST liability (Rate of CGST 9% and SGST 9%)? (a) Development and Design of information technology software: ₹ 15 lakhs; (b) Sale of pre-packaged software, which is put on media: ₹ 52 lakhs.

**Solution –**

<b>Particulars</b>	<b>Rs.</b>
Value of Supply	67,00,000
Add CGST @ 9%	6,03,000
Add SGST @ 9%	6,03,000
<b>Total Value of Invoice</b>	<b>79,06,000</b>

**Illustration 12.** Mr. C unregistered dealer of Tamil Nadu supplied goods/services for ₹ 20,000 to Mr. M of Maharashtra. SGST and CGST rate on supply of goods and services is 9% each. IGST rate is 18%. Find the following: (a) Total price charged by Mr. C. (b) Who is liable to pay GST?

**Solution –**

<b>Particulars</b>	<b>Rs.</b>
Value of Supply	20,000
Add IGST @ 18%	3,600
<b>Total Value of Invoice</b>	<b>23,600</b>
(b) Mr. M is liable to pay GST.	<b>23,600</b>

**{Hint : Reverse Chages}**

**Illustration 13.** M/s X & Co., sells electrical cables, motors and wires. Company also undertake to repair switches, motor sets. Turnover during preceding financial year from sale of goods is ₹ 59 lakhs, whereas repairing unit is ₹ 1 lakh. Is M/s X & Co. eligible for composition scheme. Advice.

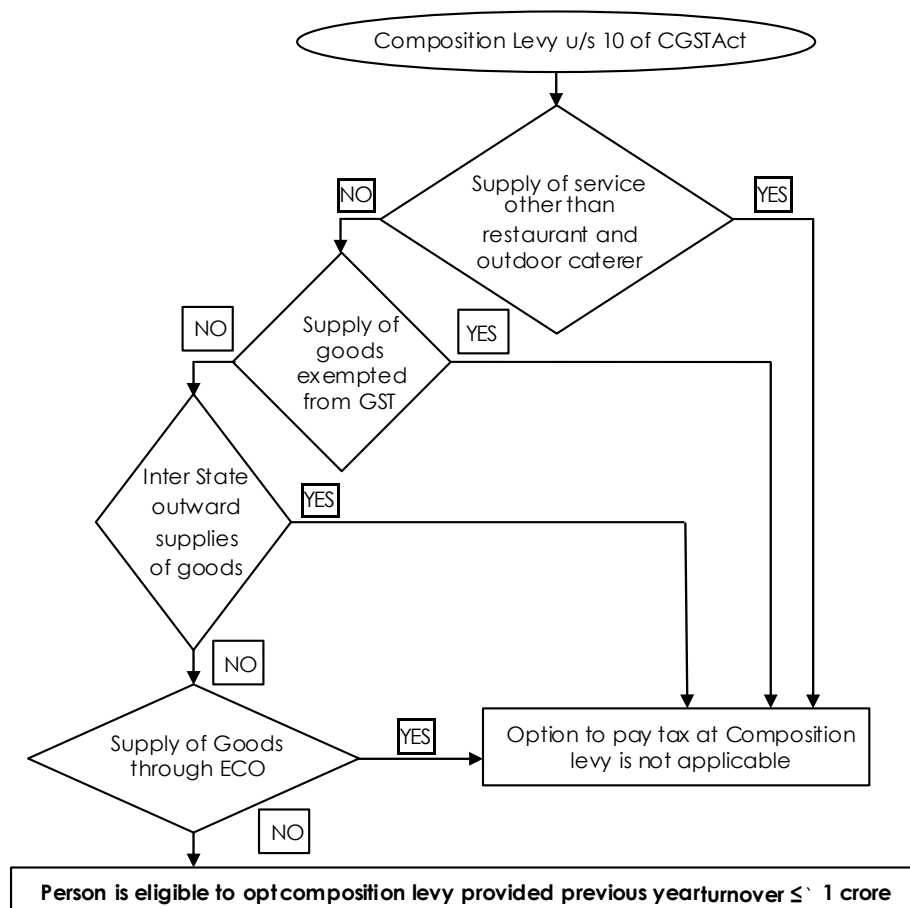
**Solution –**

No. Since, M/s X & Co., deals partly with supply of services. Therefore, the benefit of composition scheme will be denied to M/s X & Co.

# Composition Scheme

The Government of India provides for simplified and easy of doing business scheme for payment of taxes and filling of returns to certain categories of taxable person. As a result such taxable person is not required to maintain elaborate records and filing detailed returns. Section 10 of the CGST Act, provides for composition levy to such person.

## Person eligible for Composition Levy u/s 10 of CGST Act:



As per Section 10(1) of CGST Act, 2017, Registered person, whose aggregate turnover in the financial year did not exceed ₹ 1 crore (₹ 75 Lakhs for north-eastern states), may opt to pay composition levy. **Note:** North eastern states includes

1. Arunachal Pradesh;
2. Assam;
3. Manipur
4. Meghalaya
5. Mizoram;
6. Nagaland;
7. Sikkim;
8. Tripura;
9. Himachal Pradesh.

## Aggregate turnover as per Section 2(6) of CGST Act, 2017:

The term “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.

Aggregate turnover includes	Aggregate turnover excludes
The value of exported goods/services	Inward supplies on which the recipient is required to pay tax under Reverse Charge Mechanism (RCM).
Exempted goods/services or both which attracts nil rate of tax or wholly exempt from tax and includes nontaxable supply.	<ul style="list-style-type: none"> <li>• Central tax (CGST),</li> <li>• State tax (SGST),</li> <li>• Union territory tax and</li> <li>• Integrated tax (IGST)</li> </ul>
Inter-state supplies between distinct persons having same PAN	<ul style="list-style-type: none"> <li>• Compensation Cess</li> </ul>
Supply on own account and on behalf of principal.	

**Important points:**

- (i) The turnover will be computed PAN wise.
- (ii) The partner and partnership firm will have different PAN Nos. Thus the turnover of the partner and partnership firm will not be aggregated.
- (iii) The HUF and individual coparcener of the family have different PAN Nos. Hence, turnover of Karta of HUF in his individual capacity and turnover of Karta as a Karta of HUF will not be aggregated.

Supply of goods, after completion of jobwork, by a registered jobworker shall be treated as the supply of goods by the principal referred to in Sec. 143 of the CGST Act, 2017, and the value of such goods shall not be included in the aggregate turnover of the registered jobworker. It will be included in the turnover of principal.

**Persons not entitled to avail Composition Scheme:**

The Section 10(2) of the CGST Act, 2017 specifies the benefit of composition scheme shall not be granted if a taxable person is:

- (a) engaged in the supply of services (other than restaurant and outdoor catering service);
- (b) engaged in making any supply of goods which are not leviable to tax under this Act;
- (c) engaged in making any inter-state outward supplies of goods;
- (d) engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52; and
- (e) a manufacturer of such goods as may be notified by the Government on the recommendations of the Council:

<b>Illustration 14. M/s X Ltd. being a manufacturer of laptops has four factories in Chennai, Salem, Coimbatore and Madurai.</b>	
Place	P.Y. Turnover ` in lakhs (Including Taxes @ 18%)
Chennai	57.91
Salem	12.00
Coimbatore	8.00
Madurai	10.00
Chennai –II	23.60
<b>Total</b>	<b>111.51</b>
<b>Is M/s X Ltd eligible for composition levy in the current year?</b>	

**Answer:**

Aggregate turnover = 111.51 x 100/118 = ` 94.50 lakh

**Note:** Since, aggregate turnover in the preceding financial year does not exceed ` 1 crore, M/s X Ltd. is eligible for composition Scheme.

<b>Illustration 15.</b> <i>M/s Paul Ltd. being a trader of laptops has two units in Chennai and in Mumbai.</i>	
<i>Place</i>	<i>P.Y. Turnover ` in lakhs (Excluding taxes)</i>
<i>Chennai</i>	<i>52.00</i>
<i>Mumbai</i>	<i>12.00</i>

*Your are required to answer the following:*

(a) *Is M/s Paul Ltd eligible for composition levy in the current year?*  
 (b) *If so, can M/s Paul Ltd. opt composition scheme for Chennai location and normal scheme for Mumbai?*  
 (c) *Need to give separate intimations for opting composition scheme in each State.*

**Answer:**

- (a) Yes. M/s Paul Ltd. is eligible to avail the composition scheme in both the states namely Tamil Nadu and Maharashtra. Since, M/s Paul Ltd. has same PAN, and his aggregate turnover does not exceeds rupees one crore, it is eligible for composition levy, even though the company has multiple registrations under GST.
- (b) No. M/s Paul Ltd. cannot opt composition scheme for one location and normal scheme for another location. Where more than one registered persons are having the same Permanent Account Number (issued under the Income-tax Act, 1961), the registered person shall not be eligible to opt for the scheme under sub-section (1) of Section 10 of CGST Act, 2017 unless all such registered persons opt to pay tax under that sub-section.
- (c) Intimation to opt composition scheme in respect of any place of business in any State or Union Territory shall be deemed to be intimation in respect of all other places of business registered on the same Permanent Account Number (PAN).

**Illustration 16.** *M/s X & Co., sells electrical cables, motors and wires. Company also undertake to repair switches, motor sets. Turnover during preceding financial year from sale of goods is ` 59 lakhs, whereas repairing unit is ` 1 lakh. Is M/s X & Co. eligible for composition scheme. Advice. Answer:*

*No. Since, M/s X & Co., deals partly with supply of services. Therefore, the benefit of composition scheme will be denied to M/s X & Co.*

*Example : Mr. Q is a paper merchant own 5,000 sq ft., shop at Chennai. Mr. Q offered extra space available in their shop to supplier to put up their advertisement. His turnover in the previous year from sale of goods ` 20 lakhs and advertising services ` 2 lakhs. Is Mr. Q eligible for composition scheme in the current year? Answer:*

*No. Mr. Q being a paper merchant charging services and hence, the benefit of composition scheme is not allowed.*

*Example : Hotel King Pvt., Ltd. provider of restaurant services in New Delhi. They also serve beer, whisky and so on. Turnover in the preceding previous year is ` 67 lakhs. Is Hotel King Pvt. Ltd. eligible for composition scheme in the current year? Answer:*

*Hotel King Pvt. Ltd., is not eligible for composition scheme. Since they are supplying the product, which is not levied to GST (namely beer, whisky).*

**Illustration 17.** *Mr. A of Chennai is a retailer dealing with cell phones. He supplies goods to the person located in Chennai and Pondicherry. Aggregate turnover in the preceding financial year is ` 45 lakhs. Mr. A wants to opt for composition scheme in the current financial year. Advise. Answer:*

*No. When the person makes inter-state supply of goods, benefit of composition scheme is prohibited. Therefore, Mr. A will not be entitled to the benefit of composition scheme.*

**Illustration 18.** *Peter England is a trader who sells his ready-made clothes online on Amazon India (an Electronic Commerce Operator). He received an order for ` 12, 00,000 in the previous year. Peter England also supplied goods from there out lets. Aggregate turnover of the company in the previous year was ` 21,00,000.*

*Is Peter England eligible for composition scheme? Answer:*

*No. Peter England engaged in making supply of goods through an electronic commerce operator who is required to collect tax at source under section 52 of CGST Act, 2017. Hence, Peter England is not eligible for composition scheme.*

**Illustration 19.** Hot Breads Pvt. Ltd is the supplier of bakery products registered in the current financial year (2017-18) w.e.f. 1st Oct 2017. In the month of Oct 2017 total taxable supplies ` 88 lakhs.

Answer the following:

(a) Is Company eligible for Composition Scheme?

(b) If so company wants to pay tax @ 1% being a trader. However, the Deputy Commissioner of Central Tax contended that the assessee is liable to pay tax @ 5% under the Food and Restaurant Services category? Advise.

Answer:

(a) Hot Breads Pvt. Ltd. is eligible for composition levy in the current year.

(b) The supply of food and restaurant services category is the only service included under the composition scheme. For a business to be categorised as food and restaurant services, there needs to be an element of service involved.

In the given case, supply of bakery products, there is only a supply of goods i.e. food items but there is no element of supply of service. Hence supply of bakery products is eligible to pay GST @1%, under the Traders category and not Food and Restaurant Services category.

Therefore, department's contention is not correct.

**Illustration 20.** Hotel King Pvt. Ltd. is a registered person under GST. P.Y. turnover was ` 100 lakhs. Applicable GST 18%. Inputs cost ` 7,80,000 (exclusive of GST 18%). Profit margin is 40% on cost. Find the invoice price and advice the best option to pay tax if any. There is no opening balance and closing balance for the tax period.

Answer:

Composition Levy	
Particulars	Value in `
Cost of inputs	7,80,000
Add: GST 18% on inputs	1,40,400
Total Cost	9,20,400
Add: Profit margin 40%	3,68,160
Invoice Price	12,88,560
CGST 2.5%	32,214
SGST 2.5%	32,214
Total GST Liability	64,428

Normal Provision		
Particulars	Value in `	
Cost of inputs	7,80,000	
Add: GST 18% on inputs	Not Cost	
Total Cost	7,80,000	
Add: Profit margin 40%	3,12,000	
Add: GST 18% CGST & SGST	1,96,560	
Invoice Price	12,88,560	
	CGST 9%	SGST 9%
Output Tax	98,280	98,280
Less: ITC	-70,200	-70,200
Net Liability	28,080	28,080
Total Tax is ` 56,160		

# **Chapter 3**

## **Exemptions U/S 11**

### **INTRODUCTION**

When a supply of goods and/or services falls within the purview of charging section, such supply is chargeable to GST. However, for determining the liability to pay the tax, one needs to further check whether such supply of goods and/or services are exempt from tax. Exempt supply has been defined as supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax and includes non-taxable supply. Power to grant exemption from GST has been granted vide section 11 of the CGST Act and vide section 6 of the IGST Act. State GST laws also contain identical provisions granting power to exempt SGST. Under earlier Indirect Tax regime, a larger number of exemptions were enjoyed by the taxpayers. The idea is to prune the exemption list under GST Regime. Area based exemptions have been done away with under GST. Essential goods/services, i.e. public consumption products/services, have been exempted. Items such as unbranded atta/maida/besan, unpacked food grains, milk, eggs, curd, lassi and fresh vegetables are among the items exempted from GST. Further, essential services like health care services, education services, etc. have also been exempted.

The incidence of tax is the foundation stone of any taxation system. It determines the point at which tax would be levied, i.e. the taxable event. The earlier framework of taxable event in various statutes was prone to catena of interpretations resulting in litigation since decades. Broadly, the controversies related to issues like whether a particular process amounted to manufacture or not, whether the sale was pre-determined sale, whether a particular transaction was a sale of goods or rendering of services etc. The GST laws resolve these issues by laying down one comprehensive taxable event i.e.: “Supply” - Supply of goods or services or both.

GST Law, by levying tax on the ‘supply’ of goods and/or services, departs from the historically understood concepts of ‘taxable event’ under the State VAT Laws, Excise Laws and Service Tax Laws i.e. sale, manufacture and service respectively. In the GST regime, the entire value of supply of goods and /or services is taxed in an integrated manner, unlike the earlier indirect taxes, which were charged independently either on the manufacture or sale of goods, or on the provisions of services.

### **POWER TO GRANT EXEMPTION FROM TAX [SECTION 11 OF THE CGST ACT/SECTION 6 OF IGST ACT]**

Section 11	Power to grant exemption from tax
Sub-section	Particulars
(1)	<i>Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by notification, exempt generally, either absolutely or subject to such conditions as may be specified therein, goods or services or both of any specified description from the whole or any part of the tax leviable thereon with effect from such date as may be specified in such notification</i>
(2)	<i>Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by special order in each case, under circumstances of an exceptional nature to be stated in such order, exempt from payment of tax any goods or services or both on which tax is leviable.</i>
(3)	<i>The Government may, if it considers necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2), insert an explanation in such notification or order, as the case may be, by notification at any time within one year of issue of the notification under sub-section (1) or order under sub-section (2), and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.</i>

CGST Act, 2017	IGST Act, 2017	Provision
Section 11(1)	Section 6(1)	Power to grant exemption with the Central Government by Notification; <ul style="list-style-type: none"> <li>• General exemption</li> <li>• Absolute exemption</li> <li>• Conditional exemption</li> </ul> Upon recommendation of the GST Council
Section 11(2)	Section 6(2)	Exemption by special order
Section 11(3)	Section 6(3)	Explanation in such notification issued u/s 11(1) or 6(1) of CGST or IGST or order issued u/s 11(2) or 6(2) of CGST or IGST as the case may be.

As per Section 11 of the CGST Act, 2017 and Section 6 of the IGST provides power to Central Government of India to exempt on recommendation of the GST Council either absolutely or subject to such condition, as may be specified goods or services of specified description from the whole or any part of the tax leviable thereon. **Exempt Supply:**

As per Section 2(47) of CGST Act, 2017 “exempt supply” means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply;

Exempt supply includes the supply of following type of goods and services:

- (a) Supply attracting nil rate of tax;
- (b) Supplies wholly exempt from tax; (c) Non-taxable supply; **General Exemptions:**

As per sec. 11(1) of the CGST Act, 2017 and Sec. 6(1) of the IGST Act, 2017 the Government of India on the recommendations of the GST Council by notification, exempt generally, either absolutely or subject to such conditions as may be specified therein, goods or services or both of any specified description from the whole or any part of the tax leviable thereon with effect from such date as may be specified in such notification.

**Example :**

- (1) General exemption granted where supply is in relation to supply of Indian National Flag [vide Notification No.2/2017-Central Tax (Rate) Dt. 28-06-2017]. It is called as absolutely exempt. GST rate is Nil.
- (2) Services provided by a goods transport agency, by way of transport in a goods carriage for - agricultural produce were exempted from GST [vide Notification No. 12/2017- Central Tax (Rate) Dt 28-06-2017]. It is called as general exemption subject to such condition where supply of service is in the nature of transport of agricultural produce

**Absolute Exemption vs Conditional Exemption:**

Absolute Exemption	Conditional Exemption
The taxable person must avail all the benefits of notification, which are absolute (i.e. without any condition). <b>Example :</b> <b>Applicability of Sec. 9(3) of CGST Act, 2017 where Reverse Charge Mechanism is mandatory.</b>	In case of conditional exemption, this is upto the registered person to avail or not to avail the benefit. <b>Example :</b> <b>Applicability of Sec 10 of CGST Act is at the option of the eligible assessee.</b>

**Exemption by Special Order:**

As per sec. 11(2) of the CGST Act, 2017 and Sec. 6(2) of the IGST Act, 2017 the Government of India on the recommendations of the GST Council by Special Order, in each case, under circumstances of an exceptional nature to be stated in such order, exempt from the payment of tax any goods or services or both on which tax is leviable.

**Example –**

Exemption granted by special order to all assesses registered in one State, from payment of GST by reason, earthquake or assesseees are affected in tsunami. Such special order can be issued only in exceptional nature to be stated in such order.

**Explanation in such notification or order:**

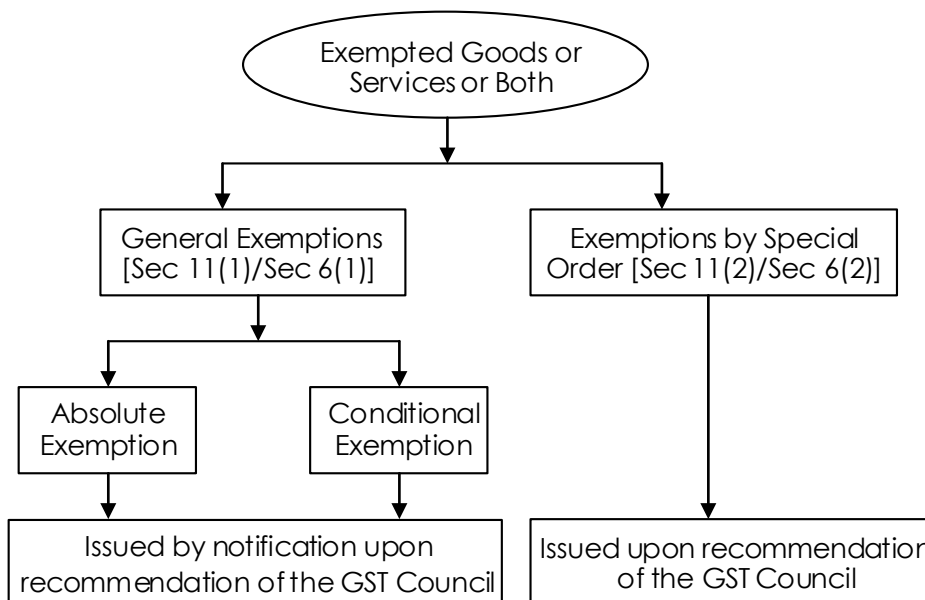
As per sec 11(3) of the CGST Act, 2017 or sec 6(3) of the IGST Act, 2017, Government is empowered to clarify the scope of applicability of any notification or special order by inserting an

explanation in such notification or order. Such clarification shall only be issued by notification within ONE year of issuing of notification or special order and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.

**Example –**

Assume a notification issued on 28th June 2017 may specify that it will be effective from 1st July 2017. In such case an explanation is inserted (i.e. subsequently) within one year reckoned from 1<sup>st</sup> July 2017 but not from 28th June 2017. If so such an explanation is effective from 1st July 2017.

**Summary:**



**The following goods and services are exempted from GST:**

S. No.	Exempted goods (Notification No.2/2017-Central Tax (Rate) Dt. 28-06-2017)	Exempted services (Notification No. 12/2017- Central Tax (Rate) Dt 28-06-2017)
1	Live animals other than live horses	Services by an entity registered under section 12AA of the Incometax Act, 1961 by way of charitable activities.
2	Meat and edible meat offal	Services by way of transfer of a going concern, as a whole or an independent part thereof.
3	Fish, crustaceans, molluscs & other aquatic invertebrates	Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.
4	Dairy produce; bird's eggs; natural honey; edible products of animal origin, not elsewhere specified	Services by Central Government, State Government, Union territory, local authority or governmental authority by way of any activity in relation to any function entrusted to a municipality under article 243 W of the Constitution.

5	<p>1. Human hair, unworked, whether or not washed or scoured; waste of human hair</p> <p>2. Semen including frozen semen</p>	<p>Services by a governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution.</p> <p>Notification No. 32/2017 Central Tax (Rate) dt 13.10.2017, this notification extends the exemption from GST to Central Government, State Government, Union territory, local authority along with Governmental Authority.</p>
6	Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage	<p>Services by the Central Government, State Government, Union territory or local authority excluding the following services—</p> <p>(a) 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 the Central Government, State Government, Union territory;</p> <p>(b) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</p> <p>(c) transport of goods or passengers; or</p> <p>(d) any service, other than services covered under entries (a) to (c) above, provided to business entities.</p>
7	<p>Edible vegetables, roots and tubers</p> <ul style="list-style-type: none"> <li>• Potatoes, fresh or chilled.</li> <li>• Tomatoes, fresh or chilled.</li> <li>• Onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled.</li> <li>• Cabbages, cauliflowers, kohlrabi, kale and similar edible brassicas, fresh or chilled etc.,</li> </ul>	Services provided by the Central Government, State Government, Union territory or local authority to a business entity with an aggregate turnover of up to ₹ 20 lakh (₹ 10 lakh in case of a special category state) in the preceding financial year.

		<p><b>Explanation:-</b> For the purposes of this entry, it is hereby clarified that the provisions of this entry shall not be applicable to-</p> <p>(a) services,-</p> <ul style="list-style-type: none"> <li>(i) by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory;</li> <li>(ii) in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</li> <li>(iii) of transport of goods or passengers; and</li> </ul> <p>(b) services by way of renting of immovable property.</p>
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8	Edible fruit and nuts; peel of citrus fruit or melons, Coconuts, fresh or dried, whether or not shelled or peeled Bananas, including plantains, fresh or dried, Dates, figs, pineapples, avocados, guavas, mangoes and mangos teens, fresh etc.,	Services provided by the Central Government, State Government, Union territory or local authority to another Central Government, State Government, Union territory or local authority: Provided that nothing contained in this entry shall apply to services- (i) by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory; (ii) in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) of transport of goods or passengers
9	Coffee beans, not roasted. Unprocessed green leaves of tea	Services provided by Central Government, State Government, Union territory or a local authority where the consideration for such services does not exceed ` 5,000: Provided that nothing contained in this entry shall apply to- (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 the Central Government, State Government, Union territory; (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: Provided further that in case where continuous supply of service, as defined in sub-section (33) of section 2 of the Central Goods and Services Tax Act, 2017, is provided by the Central Government, State Government, Union territory or a local authority, the exemption shall apply only where the consideration charged for such service does not exceed ` 5,000 in a financial year.
10	Cereals All goods [other than those put up in unit container and bearing a registered brand name]. Fresh ginger, other than in processed form etc.,	Services provided by way of pure labour contracts of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a civil structure or any other original works pertaining to the beneficiary-led individual house construction or enhancement under the Housing for All (Urban) Mission or Pradhan Mantri Awas Yojana.
11	Products of milling industry; malt; starches; insulin; wheat gluten	Services by way of pure labour contracts of construction, erection, commissioning, or installation of original works pertaining to a single residential unit otherwise than as a part of a residential complex.
12	Oil seeds and oleaginous fruits, miscellaneous grains, seeds and fruit; industrial or medicinal plants; straw and fodder	Services by way of renting of residential dwelling for use as residence.

13	Lac; gums, resins and other vegetable saps and extracts Lac and Shellac,	<p>Services by a person by way of (a) conduct of any religious ceremony;</p> <p>(b) renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a charitable or religious trust under section 12AA of the Income-tax Act, 1961 or a trust or an institution registered under sub clause (v) of clause (23C) of section 10 of the Income-tax Act or a body or an authority covered under clause (23BBA) of section 10 of the said Income-tax Act:</p> <p>Provided that nothing contained in entry (b) of this exemption shall apply to,-</p> <p>(i) renting of rooms where charges are ` 1,000 or more per day;</p> <p>(ii) renting of premises, community halls, kalyanmandapam or open area, and the like where charges are ` 10,000 or more per day;</p> <p>(iii) renting of shops or other spaces for business or commerce where charges are ` 10,000 or more per month.</p>
14	Vegetable plaiting materials; vegetable products, not elsewhere specified or included Betel leaves	Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below ` 1,000 per day or equivalent.
15	Sugar and sugar confectionery Cane jaggery	<p>Transport of passengers, with or without accompanied belongings, by –</p> <p>(a) air, embarking from or terminating in an airport located in the state of</p> <p>(i) Arunachal Pradesh,</p> <p>(ii) Assam,</p> <p>(iii) Manipur,</p> <p>(iv) Meghalaya,</p> <p>(v) Mizoram,</p> <p>(vi) Nagaland,</p> <p>(vii) Sikkim, or</p> <p>(viii) Tripura or</p> <p>(ix) at Bagdogra located in West Bengal;</p> <p>(b) non-airconditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or</p> <p>(c) stage carriage other than airconditioned stage carriage.</p>

16	<p>Preparations of cereals, flour, starch or milk; pastrycooks' products</p> <ol style="list-style-type: none"> <li>1. Puffed rice, commonly known as Muri, flattened or beaten rice, commonly known as Chira, parched rice, commonly known as khoi, parched paddy or rice coated with sugar or gur, commonly known as Murki</li> <li>2. Pappad, by whatever name it is known, except when served for consumption</li> <li>3. Bread (branded or otherwise), except when served for consumption and pizza bread.</li> </ol>	<p>Services provided to the Central Government, by way of transport of passengers with or without accompanied belongings, by air, embarking from or terminating at a regional connectivity scheme airport, against consideration in the form of viability gap funding: Provided that nothing contained in this entry shall apply on or after the expiry of a period of one year from the date of commencement of operations of the regional connectivity scheme airport as notified by the Ministry of Civil Aviation</p>
17	<p>Miscellaneous edible preparations</p> <ol style="list-style-type: none"> <li>1. Prasadam supplied by religious places like temples, mosques, churches, gurudwaras, dargahs, etc.</li> </ol>	<p>Service of transportation of passengers, with or without accompanied belongings, by—</p> <ol style="list-style-type: none"> <li>(a) railways in a class other than— <ol style="list-style-type: none"> <li>(i) first class; or</li> <li>(ii) an air-conditioned coach;</li> </ol> </li> <li>(b) metro, monorail or tramway;</li> <li>(c) inland waterways;</li> <li>(d) public transport, other than predominantly for tourism purpose, in a vessel between places located in India; and</li> <li>(e) metered cabs or auto rickshaws (including e-rickshaws).</li> </ol>
18	<p>Beverages, spirit and vinegar. Water [other than aerated, mineral, purified, distilled, medicinal, ionic, battery, de-mineralized and water sold in sealed container</p>	<p>Services by way of transportation of goods-</p> <ol style="list-style-type: none"> <li>(a) by road except the services of—(i) a goods transportation agency; <ol style="list-style-type: none"> <li>(ii) a courier agency;</li> </ol> </li> <li>(b) by inland waterways.</li> </ol>
19	<p>Residues and waste from the food industries; prepared animal fodder</p>	<p>Services by way of transportation of goods by an aircraft from a place outside India upto the customs station of clearance in India</p>
20	<p>Salt; sulphur; earths and stone; plastering materials, lime and cement</p>	<p>Services by way of transportation by rail or a vessel from one place in India to another of the following goods –</p> <ol style="list-style-type: none"> <li>(a) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap;</li> <li>(b) defence or military equipments;</li> <li>(c) newspaper or magazines registered with the Registrar of Newspapers;</li> <li>(d) railway equipments or materials;</li> <li>(e) agricultural produce;</li> <li>(f) milk, salt and food grain including flours, pulses and rice; and (g) organic manure.</li> </ol>

21	Pharmaceutical products Human Blood and its components	<p>Services provided by a goods transport agency, by way of transport in a goods carriage of -</p> <p>(a) agricultural produce;</p> <p>(b) goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage does not exceed ₹ 1,500;</p> <p>(c) goods, where consideration charged for transportation of all such goods for a single consignee does not exceed ₹ 750;</p> <p>(d) milk, salt and food grain including flour, pulses and rice;</p> <p>(e) organic manure;</p> <p>(f) newspaper or magazines registered with the Registrar of Newspapers;</p> <p>(g) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or (h) defence or military equipments.</p> <p>Entry No. 21A: "Services provided by a goods transport agency to an unregistered person, including an unregistered casual taxable person, other than the specified recipients" also exempt from GST [vide Notification No. 33/2017 Central Tax (Rate) Dt 13.10.2017].</p>
22	1. Organic manure, other than put up in unit containers and bearing a brand name.	<p>Services by way of giving on hire:-</p> <p>(a) to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers; or</p> <p>(b) to a goods transport agency, a means of transportation of goods.</p>
23	Essential oils and resinoids perfumery, cosmetic or toilet preparations 1. Kumkum, Bindi, Sindur, Alta	<p>Service by way of access to a road or a bridge on payment of toll charges.</p> <p>Entry 23A: Service by way of access to a road or a bridge on payment of annuity is also exempt from GST (Notification No. 32/2017- Central Tax (Rate) Dt 13.10.2107)</p>
24	Miscellaneous chemical products, Municipal waste, sewage sludge, clinical waste	Services by way of loading, unloading, packing, storage or warehousing of rice.
25	Plastics and articles thereof Plastic bangles	Transmission or distribution of electricity by an electricity transmission or distribution utility.
26	Rubber and articles thereof Condoms and contraceptives	Services by the Reserve Bank of India.
27	Wood and articles of wood, wood charcoal Firewood or fuel wood	<p>Services by way of—</p> <p>(a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services);</p> <p>(b) sale or purchase of foreign currency amongst banks or authorized dealers of foreign exchange or amongst banks and such dealers.</p>

28	Paper and paperboard; articles of paper pulp, of paper or of paperboard	Services of life insurance business provided by way of annuity under the National Pension System regulated by the Pension Fund Regulatory and Development Authority of India under the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013).
29	Printed books, newspapers, pictures and other products of the printing industry, manuscripts, typescripts and plans	Services of life insurance business provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds to members of the Army, Navy and Air Force, respectively, under the Group Insurance Schemes of the Central Government.
30	Raw Silk	Services by the Employees' State Insurance Corporation to persons governed under the Employees' State Insurance Act, 1948 (34 of 1948).
31	Wool, fine or coarse animal hair; horse hair yarn and woven fabric	Services provided by the Employees Provident Fund Organisation to the persons governed under the Employees Provident Funds and the Miscellaneous Provisions Act, 1952 (19 of 1952).
32	Cotton 1. Gandhi Topi, 2. Khadi yarn	Services provided by the Insurance Regulatory and Development Authority of India to insurers under the Insurance Regulatory and Development Authority of India Act, 1999 (41 of 1999).
33	Other vegetable textile fibres; paper yarn, woven fabrics of paper yarns 1. Coconut, coir fibre 2. Jute fibres, raw or processed but not spun	Services provided by the Securities and Exchange Board of India set up under the Securities and Exchange Board of India Act, 1992 (15 of 1992) by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market.
34	Other made up textile articles, sets, worn clothing and worn textile articles; rags Indian National Flag	Services by an acquiring bank, to any person in relation to settlement of an amount upto` 2,000 in a single transaction transacted through credit card, debit card, charge card or other payment card service.  Explanation.— For the purposes of this entry, “acquiring bank” means any banking company, financial institution including nonbanking financial company or any other person, who makes the payment to any person who accepts such card.
35	Ceramic products	Services of general insurance business provided under following schemes – (a) Hut Insurance Scheme; (b) Cattle Insurance under Swarnajayanti Gram Swarozgar Yojna (earlier known as Integrated Rural Development Programme); (c) Scheme for Insurance of Tribals; (d) Janata Personal Accident Policy and Gramin Accident Policy; (e) Group Personal Accident Policy for Self-Employed Women; (f) Agricultural Pumpset and Failed Well Insurance; (g) premia collected on export credit insurance; (h) Weather Based Crop Insurance Scheme or the Modified National Agricultural Insurance Scheme, approved by the Government of India and implemented by the Ministry of Agriculture; (i) Jan ArogyaBima Policy;

		(j) National Agricultural Insurance Scheme (RashtriyaKrishiBimaYojana);
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		(k) Pilot Scheme on Seed Crop Insurance; (l) Central Sector Scheme on Cattle Insurance; (m) Universal Health Insurance Scheme; (n) RashtriyaSwasthyaBimaYojana; (o) Coconut Palm Insurance Scheme; (p) Pradhan MantriSurakshaBimaYojna; (q) Niramaya Health Insurance Scheme implemented by the Trust constituted under the provisions of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999).
36	Glass and glassware 1. Bangles (except those made from precious metals)	Services of life insurance business provided under following schemes- (a) JanashreeBimaYojana; (b) AamAadmiBimaYojana; (c) Life micro-insurance product as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of fifty thousand rupees; (d) Varishtha Pension BimaYojana; (e) Pradhan MantriJeevanJyotiBimaYojana; (f) Pradhan Mantri Jan DhanYogana; (g) Pradhan MantriVayaVandanYojana
37	Tools, implements, cutlery, spoons and forks of base metal; parts thereof of base metal 1. Agricultural implements manually operated or animal driven	Services by way of collection of contribution under the Atal Pension Yojana.

38	Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof 1. Handloom [weaving machinery]	Services by way of collection of contribution under any pension scheme of the State Governments.
39	Aircraft; spacecraft and parts thereof	Services by the following persons in respective capacities – (a) business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch; (b) any person as an intermediary to a business facilitator or a business correspondent with respect to services mentioned in entry (a); or (c) business facilitator or a business correspondent to an insurance company in a rural area.
40	Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; parts and accessories thereof	Services provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union territory
41	Musical instruments; parts and accessories of such articles 1. Indigenous handmade musical instruments	One time upfront amount (called as premium, salami, cost, price, development charges or by any other name) leviable in respect of the service, by way of granting long term (thirty years, or more) lease of industrial plots, provided by the State Government Industrial Development Corporations or Undertakings to industrial units
42	Miscellaneous manufactured articles 1. Slate pencils and chalk sticks. 2. Slates	Services provided by the Central Government, State Government, Union territory or local authority by way of allowing a business entity to operate as a telecom service provider or use radio frequency spectrum during the period prior to the 1st April, 2016, on payment of licence fee or spectrum user charges, as the case may be
43	Project imports, laboratory chemicals, passengers' baggage, personal importation, ship stores Passenger baggage	Services of leasing of assets (rolling stock assets including wagons, coaches, locos) by the Indian Railways Finance Corporation to Indian Railways.
<b>Exempted services Notification No. 12/2017- Central Tax (Rate) Dt 28-06-2017)</b>		
44	Services provided by an incubatee up to a total turnover of ` 50 lakh in a financial year subject to the following conditions, namely:- (a) the total turnover had not exceeded fifty lakh rupees during the preceding financial year; and (b) a period of three years has not elapsed from the date of entering into an agreement as an incubatee.	

45	<p>Services provided by-</p> <p>(a) an arbitral tribunal to –</p> <p>(i) any person other than a business entity; or</p> <p>(ii) a business entity with an aggregate turnover up to ` 20 lakh (` 10 lakh in the case of special category states) in the preceding financial year;</p> <p>(b) a partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of legal services to-</p> <p>(i) an advocate or partnership firm of advocates providing legal services;</p> <p>(ii) any person other than a business entity; or (iii) a business entity with an aggregate turnover up to ` 20 lakh (` 10 lakh in the case of special category states) in the preceding financial year;</p> <p>(c) a senior advocate by way of legal services to-</p> <p>(i) any person other than a business entity; or</p> <p>(ii) a business entity with an aggregate turnover up to ` 20 lakh (` 10 lakh in the case of special category states) in the preceding financial year</p>
46	Services by a veterinary clinic in relation to health care of animals or birds.
47	<p>Services provided by the Central Government, State Government, Union territory or local authority by way of-</p> <p>(a) registration required under any law for the time being in force;</p> <p>(b) testing, calibration, safety check or certification relating to protection or safety of workers, consumers or public at large, including fire license, required under any law for the time being in force</p>
48	Taxable services, provided or to be provided, by a Technology Business Incubator or a Science and Technology Entrepreneurship Park recognised by the National Science and Technology Entrepreneurship Development Board of the Department of Science and Technology, Government of India or bio incubators recognised by the Bio technology Industry Research Assistance Council, under the Department of Bio technology, Government of India.
49	Services by way of collecting or providing news by an independent journalist, Press Trust of India or United News of India.
50	Services of public libraries by way of lending of books, publications or any other knowledge-enhancing content or material.
51	Services provided by the Goods and Services Tax Network to the Central Government or State Governments or Union territories for implementation of Goods and Services Tax.
52	Services by an organiser to any person in respect of a business exhibition held outside India
53	<p>Services by way of sponsorship of sporting events organised –</p> <p>(a) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, State, zone or Country;</p> <p>(b) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat;</p> <p>(c) by the Central Civil Services Cultural and Sports Board;</p> <p>(d) as part of national games, by the Indian Olympic Association;</p> <p>or</p> <p>(e) under the Panchayat Yuva Kreedha Aur Khel Abhiyaan Scheme.</p>

54	<p>Services relating to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce by way of—</p> <p>(a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing;</p> <p>(b) supply of farm labour;</p> <p>(c) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market;</p> <p>(d) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;</p> <p>(e) loading, unloading, packing, storage or warehousing of agricultural produce;</p> <p>(f) agricultural extension services;</p> <p>(g) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce.</p>
55	Carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce
56	Services by way of slaughtering of animals
57	Services by way of pre-conditioning, precooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables.
58	Services provided by the National Centre for Cold Chain Development under the Ministry of Agriculture, Cooperation and Farmer's Welfare by way of cold chain knowledge dissemination.
59	Services by a foreign diplomatic mission located in India
60	Services by a specified organisation in respect of a religious pilgrimage facilitated by the Ministry of External Affairs, the Government of India, under bilateral arrangement.
61	Services provided by the Central Government, State Government, Union territory or local authority by way of issuance of passport, visa, driving licence, birth certificate or death certificate.
62	Services provided by the Central Government, State Government, Union territory or local authority by way of tolerating non-performance of a contract for which consideration in the form of fines or liquidated damages is payable to the Central Government, State Government, Union territory or local authority under such contract.
63	Services provided by the Central Government, State Government, Union territory or local authority by way of assignment of right to use natural resources to an individual farmer for cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products
64	<p>Services provided by the Central Government, State Government, Union territory or local authority by way of assignment of right to use any natural resource where such right to use was assigned by the Central Government, State Government, Union territory or local authority before the 1st April, 2016:</p> <p>Provided that the exemption shall apply only to tax payable on one time charge payable, in full upfront or in instalments, for assignment of right to use such natural resource.</p>
65	Services provided by the Central Government, State Government, Union territory by way of deputing officers after office hours or on holidays for inspection or container stuffing or such other duties in relation to import export cargo on payment of Merchant Overtime charges.

66	<p>Services provided –</p> <p>(a) by an educational institution to its students, faculty and staff;</p> <p>(b) to an educational institution, by way of,-</p> <ul style="list-style-type: none"> <li>(i) transportation of students, faculty and staff;</li> <li>(ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;</li> <li>(iii) security or cleaning or housekeeping services performed in such educational institution;</li> <li>(iv) services relating to admission to, or conduct of examination by, such institution; upto higher secondary;</li> </ul> <p>Provided that nothing contained in entry (b) shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent.</p>
67	<p>Services provided by the Indian Institutes of Management, as per the guidelines of the Central Government, to their students, by way of the following educational programmes, except Executive Development Programme: -</p> <p>(a) two year full time Post Graduate Programmes in Management for the Post Graduate Diploma in Management, to which admissions are made on the basis of Common Admission Test (CAT) conducted by the Indian Institute of Management;</p> <p>(b) fellow programme in Management;</p> <p>(c) five year integrated programme in Management.</p>
68	<p>Services provided to a recognised sports body by- (a) an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organised by a recognized sports body;</p> <p>(b) another recognised sports body.</p>
69	<p>Any services provided by, _</p> <p>(a) the National Skill Development Corporation set up by the Government of India;</p> <p>(b) a Sector Skill Council approved by the National Skill Development Corporation;</p> <p>(c) an assessment agency approved by the Sector Skill Council or the National Skill Development Corporation;</p> <p>(d) a training partner approved by the National Skill Development Corporation or the Sector Skill Council, in relation to-</p> <ul style="list-style-type: none"> <li>(i) the National Skill Development Programme implemented by the National Skill Development Corporation; or</li> <li>(ii) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or</li> <li>(iii) any other Scheme implemented by the National Skill Development Corporation.</li> </ul>
70	<p>Services of assessing bodies empanelled centrally by the Directorate General of Training, Ministry of Skill Development and Entrepreneurship by way of assessments under the Skill Development Initiative Scheme.</p>
71	<p>Services provided by training providers (Project implementation agencies) under DeenDayalUpadhyayaGrameenKaushalyaYojana implemented by the Ministry of Rural Development, Government of India by way of offering skill or vocational training courses certified by the National Council for Vocational Training.</p>
72	<p>Services provided to the Central Government, State Government, Union territory administration under any training programme for which total expenditure is borne by the Central Government, State Government, Union territory administration.</p>
73	<p>Services provided by the cord blood banks by way of preservation of stem cells or any other service in relation to such preservation.</p>

74	Services by way of- (a) health care services by a clinical establishment, an authorised medical practitioner or para-medics; (b) services provided by way of transportation of a patient in an ambulance, other than those specified in (a) above.
75	Services provided by operators of the common bio-medical waste treatment facility to a clinical establishment by way of treatment or disposal of bio-medical waste or the processes incidental thereto.
76	Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets
77	Service by an unincorporated body or a non- profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution – (a) as a trade union; (b) for the provision of carrying out any activity which is exempt from the levy of Goods and services Tax; or (c) up to an amount of ` 5,000 per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex.
78	Services by an artist by way of a performance in folk or classical art forms of (a) music, or (b) dance, or (c) theatre, if the consideration charged for such performance is not more than ` 1,50,000: Provided that the exemption shall not apply to service provided by such artist as a brand ambassador.
79	Services by way of admission to a museum, national park, wild life sanctuary, tiger reserve or zoo.
80	Services by way of training or coaching in recreational activities relating to- (a) arts or culture, or (b) sports by charitable entities registered under section 12AA of the Income-tax Act
81	Services by way of right to admission to- (a) circus, dance, or theatrical performance including drama or ballet; (b) award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event; (c) recognised sporting event, where the consideration for admission is not more than ` 250 per person as referred to in (a), (b) and (c) above.

**Apart from above, list of services exempt from IGST by Notification No. 9/2017-Integrated Tax (Rate) Dated 28th June 2017 also include following three services.**

1	<p>Services received from a provider of service located in a non- taxable territory by –</p> <p>(a) the Central Government, State Government, Union territory, a local authority, a governmental authority or an individual in relation to any purpose other than commerce, industry or any other business or profession;</p> <p>(b) an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) for the purposes of providing charitable activities; or</p> <p>(c) a person located in a non-taxable territory:</p> <p>Provided that the exemption shall not apply to –</p> <p>(i) online information and database access or retrieval services received by persons specified in entry (a) or entry (b); or</p> <p>(ii) services by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India received by persons specified in the entry.</p> <p>it means item no. (i) and (ii) are taxable.</p>
2	Services received by the Reserve Bank of India, from outside India in relation to management of foreign exchange reserves.
3	Services provided by a tour operator to a foreign tourist in relation to a tour conducted wholly outside India.

## Other exemptions

S. No.	Description of Service
1	<p>Intra-state supplies received by a registered person from any unregistered supplier exempt from CGST under Sec 9(4).</p> <p>However, the said exemption shall not be applicable where the aggregate value of such supplies of goods or services or both received by a registered person from any or all the suppliers, who is or are not registered, exceeds ` 5,000 in a day (Notification No. 8/2017 Central Tax (Rate) dated 28.06.2017).</p> <p>This Section 9(4) of the CGST Act, 2017 has been suspended till 31st March 2018.</p>
2	<p>Intra-state supplies received by a TDS deductor under sec 51 of CGST, from any unregistered supplier exempt from CGST from the whole of the central tax leviable thereon under sec 9(4), subject to the condition that the deductor is not liable to be registered otherwise than under section 24(vi) of the CGST Act, 2017 (Notification No. 9/2017 Central Tax (Rates) Dates 28.06.2017).</p> <p>It means he should be registered compulsorily under sec 24(vi) of the CGST, Act, 2017 (i.e. Person who are required to deduct tax under section 51 of the CGST Act, 2017 whether or not separately registered under this Act).</p> <p>After assessing the readiness of the trade, industry and Government departments, it has been decided that registration and operationalization of TDS/TCS provisions shall be postponed till 31.03.2018.</p>
3	<p>Services imported by unit/developer in SEZ exempt from IGST.</p> <p>All services imported by a unit/developer in the Special Economic Zone (SEZ) for authorized operations are exempted from the whole of the integrated tax leviable thereon under sec 3(7) of Customs Tariff Act, 1975 read with section 5 of the IGST Act, 2017 [As per Notification No. 18/2017 -Integrated Tax (Rate) date 5th July 2017].</p>

## Negative list of Duty Drawback [Section 76]

- (1) DDB amount is less than Rs 50
- (2) In case of negative sales
- (3) If CENVAT CREDIT availed (except BCD)
- (4) DDB amount is more than 1/3rd of Market value of exports
- (5) Export to Nepal and Bhutan and the export proceeds are not received in hard currency (it means USD, GBP or Pounds).
- (6) DDB as % on FOB less than 1% unless amount of DDB is more than or equal to Rs 500
- (7) Duty drawback is not allowed if the exporter has already availed the Duty Entitlement Pass Book (DEPB) or other export incentives.
- (8) If the sale proceeds not received within the time period allowed by Reserve Bank of India.
- (9) Duty drawback amount exceeds the market value of exported goods

## ILLUSTRATIONS -

**ILLUSTRATION:** 1. Computation of duty drawback: 'A' exported a consignment under drawback claim consisting of the following items—

Particulars	Chapter Heading	FOB value	Drawback rate
200 pieces of pressure stores mainly made of brass @ ₹ 80/piece	74.04	16,000	4% of FOB
200 Kgs. Brass utensils @ ₹ 200 per Kg.	74.13	40,000	₹ 24/Kg.
200 Kg. Artware of brass @ ₹ 300 per Kg.	74.22	60,000	17.50% of FOB subject to a maximum of ₹ 38 per Kg.

On examination in docks, weight of brass Artware was found to be 190 Kgs. and was recorded on shipping bill. Compute the drawback on each item and total drawback admissible to the party.

**Answer:**

The drawback on each item and total drawback admissible to the party shall be-

Particulars	FOB value	Drawback rate	Drawback Amount (₹)
200 pcs, pressure stoves made of brass	16,000	4% of FOB	640
200 Kgs. Brass utensils	40,000	₹ 24 per Kg.	4,800
200 kgs. Artware of brass, whose actual weight was 190 Kgs. only. (60,000 x 190/200) x 17.5% = 9,975		17.50% of FOB subject to maximum of ₹ 38 per Kg. (₹ 9,975 or ₹ 7,220 whichever is less)	7,220
190 kgs x ₹ 38 = ₹ 7,220			
Total Drawback admissible (in ₹)			12,660

**ILLUSTRATION : 2**

Mr. Param (registered person under GST) being a dealer furnished the following business transactions took place during the Oct 2017. Find the GST liability.

- (a) Sale of plastic bangles for ₹ 20,000.
- (b) Supply of mobile phones for ₹ 3,20,120
- (c) Sale of printed books and newspapers for ₹ 1,25,500

- (d) Sale of Dates for ₹ 13,500  
 (e) Sale of Salt for ₹ 9,180  
 (f) Sale of Organic manure worth ₹ 2,00,000

Sale of Chemical Fertilizers ₹ 5,75,000 (out of which 30% subsidy received from Government of India). Note: Taxable supply attracts GST @5% (CGST 2.5% and SGST 2.5%).

Answer

S.No.	Particulars	Taxability	CGST 2.5%	SGST 2.5%
(a)	Plastic bangles	Exempted	Nil	Nil
(b)	Mobile phone	3,20,120	8,003	8,003
(c)	Books	Exempted	Nil	Nil
(d)	Dates	Exempted	Nil	Nil
(e)	Salt	Exempted	Nil	Nil
(f)	Organic manure	Exempted	Nil	Nil
(g)	Che. Fertilizers 70%	4,02,500	10,063	10,063
	<b>Total</b>		<b>18,066</b>	<b>18,066</b>

**ILLUSTRATION: 3**

Services of a NGO registered under sec. 12AA of the Income Tax Act, 1961 working for the rehabilitation of disabled. The aggregate value of taxable supply is ₹ 20 Lakh. Find the taxability for the given service?

Answer:

It is taxable supply. GST will be levied.

Since, exemption has been given to public health by way of -mental disability, but not rehabilitation of disabled

**Drawback shall not be recovered (Notification No. 30/2011-Cus., Dated 11-4-2011):**

As per Rule 16A (5) the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995 where sale proceeds are not realized by an exporter within the period allowed under the FEMA, the amount of drawback paid to the exporter or the claimant shall not be recovered if

- i. such non-realisation of sale proceeds is compensated by the Export Credit Guarantee Corporation of India Ltd. (ECGC), under an insurance cover and
- ii. the Reserve Bank of India writes off the requirement of realization of sale proceeds on merits and
- iii. the exporter produces a certificate from the concerned Foreign Mission of India about the fact of nonrecovery of sale proceeds from the buyer.

**A Vessel was caught up in the rough weather and sank in the territorial waters.**

**2. Union of India v Rajindra Dyeing & Printing Mills Ltd. 2005 (180) ELT 433 (SC):**

A vessel was caught up in the rough weather and sank in the territorial waters.

Duty drawback can be claimed?

**Decision:** The vessel sunk within territorial waters of India and therefore there is no export. Accordingly, no duty drawback shall be available in this case. The territorial waters extend to 12 nautical miles into the sea from the base line.

**Example:**

Alpha Ltd. manufactures heavy machinery. 50% of its production is exported to European countries. The machinery is manufactured with the help of imported components as well as indigenous raw materials. Alpha Ltd. regularly pays import duty and central excise duty on the imported components and indigenous raw materials respectively and claims duty drawback on exports made by it.

On 28.11.2013, it loaded a machinery manufactured by it on a vessel 'Victoria' for being exported to Germany. 'Victoria' set sail from Mumbai on 01.12.2013, but was caught up in the rough weather and sank in the territorial waters on 02.12.2013. The Customs

Department has refused to grant duty drawback claimed by Alpha Limited in respect of the machinery loaded on 28.11.2013 for the reason that the machinery has not reached Germany.

Examine the situation with the help of decided case laws, if any.

**Answer:**

Union of India v Rajindra Dyeing & Printing Mills Ltd. 2005 (180) ELT 433 (SC):The vessel sunk within territorial waters of India and therefore there is no export. Accordingly, no duty drawback shall be available in this case. The territorial waters extend to 12 nautical miles into the sea from the base line.

## TEST YOUR KNOWLEDGE

**Q.1. Mr. A is the owner of a petrol pump in Rajasthan state and also owns certain licenses for supply of liquor. With the implementation of GST, he got to know that certain items relating to his business don't fall in the ambit of GST initially. Which of the following goods and services are not taxable under GST?**

- (a) Supply of alcoholic liquor for human Consumption
- (b) Petroleum Crude
- (c) Motor Spirit (petrol)
- (d) High Speed Diesel
- (e) Natural Gas

**Answer - Natural Gas**

**Which of the above are not chargeable to GST?**

- (a) i,iii,iv,v
- (b) i,ii,iv,v
- (c) ii,iii,iv
- (d) All of the above

**Answer- All of the above**

**Q.2. What is the highest rate of tax prescribed by GST Council?**

- (a) 1%
- (b) 5%
- (c) 28%
- (d) 40%

**Answer- 40%**

**Q.3. Which of the following transactions does not qualify as supply under GST law?**

- (i) When the Head Office makes a supply of services to its own branch outside the State.
- (ii) When a person import services without consideration for the purposes of his business from his elder brother living outside India.
- (iii) Disposal of car without consideration and where the supplier has not claimed input tax credit on such car.
- (iv) When a principal makes supplies to his agent who is also registered and is situated within the same State.

- (a) (i) & (iii)
- (b) (i), (ii) & (iii)
- (c) Only (iii)
- (d) (iii) & (ii)

**Answer- Only (iii)**

**Q.4. Which of the following is not covered under Schedule III of CGST Act: -**

- (i) Service provided by an employer to his employee on the occasion of his marriage
- (ii) The functions performed by the members of municipalities and local authorities
- (iii) The duties performed by a director in a body established by the Central

**Government**

(iv) **Actionable claims, other than lottery, betting and gambling**

(a) (i) & (iii)

(b) (i)

(c) (iii)

(d) None of the above

**Answer- None of the above**

**Q.5. Which one of the following is not a composite supply:**

(a) Supply of an air conditioner along with freight, insurance and installation

(b) Supply of UPS along with external battery

(c) Supply of architect services along with supply of material incidental to his services

(d) Supply of lodging service by a hotel including breakfast

**Answer- Supply of lodging service by a hotel including breakfast**

**Q.6. There is a difference in taxability of goods forming part of composite supply and mixed supply. Here are few examples from which you need to identify which is correct example of composite supply and mixed supply.**

i) **Mr. A buys a car and purchases warranty and maintenance of the car by paying nominal amount. Car, warranty and maintenance here are a mixed supply.**

ii) **Mr. A buys a car and purchases warranty and maintenance of the car by paying nominal amount. Car, warranty and maintenance here are a composite supply.**

iii) **Mrs. A buys a microwave oven and some utensils for use in microwave oven. Both microwave oven and utensils are sold at a single price. Microwave oven and its utensils here are a mixed supply.**

iv) **Mrs. A buys chocolates, juices and biscuits from a shop. All items have different prices. Chocolates, juices and biscuits are a mixed supply. The correct examples of composite and mixed supply are: -**

- (a) i&,iv
- (b) ii&,iii
- (c) ii, iii &iv
- (d) None of the above

**Answer - ii &,iii**

# Chapter 4


## Time of Supply U/S 12 & 13 CGST ACT

### Place of Supply U/S 10-13 IGSTACT

#### **INTRODUCTION:**

GST is payable on supply of goods or services. A supply consists of elements that can be separated in time, like purchase order / agreement, despatch (of goods), delivery (of goods) or provision or performance of service, entry in the records, payment, and entry of the payment in the records or deposit in the bank. So, at which of these points of time will GST become payable? Will it become payable when an agreement to supply goods or services is made, or when the goods are shipped or the services are provided, or when the invoice is issued or when payment is made? What if the goods are shipped over a period of time? What if the service is provided over a period of time? Provisions relating to 'time of supply' provide answer to all such and other questions that arise on the timing of the liability to pay CGST and SGST/UTGST (intra-State supply) and IGST (inter-State supply) as time of supply fixes the point in time when the liability to pay tax arises. The CGST Act provides separate provisions for time of supply for goods and services vide sections 12 and 13 of CGST Act. Section 14 provides for the method of determining the time of supply in case there is a change in the rate of tax on supply of goods or services.<sup>1</sup> Sections 12 and 13 use the provisions of section 31 relating to issue of tax invoice as a reference point, hence it will be advantageous to refer to Chapter 8: Tax Invoice, Credit and Debit Notes in conjunction with this one. Events like issuing of invoices, receipt of payment, provision of service, receipt of services in books of account need to be analysed to determine the time of supply when the tax on supply is payable under forward charge. When the tax on supply is payable under reverse charge, events like date of receipt of goods, date of making payment etc. need to be analysed to determine the time of supply. The provisions relating to time of supply essentially push the tax collection event to the earliest possible time. In the subsequent pages of this Unit, sections 12 and 13 are extracted, followed by their analysis, to understand how to determine the time of supply of goods and services respectively. When studying the statutory provisions, the definitions (extracted first) must also be referred to simultaneously, so as to understand the precise meaning of the terms used.

## TIME OF SUPPLY OF GOODS [SECTION 12]

 <b>STATUTORY PROVISIONS</b>		
Section 12	Time of supply of goods	
Sub-section	Clause	Particulars
(1)		The liability to pay tax on goods shall arise at the time of supply as determined in terms of the provisions of this section.

(2)	The time of supply of goods shall be the earlier of the following dates, namely:-	
	(a)	the date of issue of invoice by the supplier or the last date on which he is required, under sub-section (1) of section 31, to issue the invoice with respect to the supply; or
	(b)	The date on which the supplier receives the payment with respect to the supply:
		Provided that where the supplier of taxable goods receives an amount up to one thousand rupees in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess shall, at the option of the said supplier, be the date of issue of invoice in respect of such excess amount.
Explanation 1. For the purposes of clauses (a) and (b), the "supply" shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.		
Explanation 2. For the purpose of clause (b), "the date on which the supplier receives the payment" shall be the date on which the payment is entered in his books of account or the date on which the payment is credited to his bank account, whichever is earlier.		
(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:	
	(a)	the date of the receipt of the goods, or
	(b)	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
	(c)	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:

	<i>Provided that where it is not possible to determine the time of supply under clause (a), (b), or (c), the time of supply shall be the date of entry in the books of account of the recipient of supply.</i>
(4)	<i>In case of supply of vouchers by a supplier, the time of supply shall be –</i>
(a)	<i>the date of issue of voucher, if the supply is identifiable at that point; or</i>
(b)	<i>the date of redemption of voucher, in all other cases.</i>
(5)	<i>Where it is not possible to determine the time of supply under the provisions of sub-section (2) or sub-section (3) or sub-section (4), the time of supply shall—</i>
(a)	<i>in a case where a periodical return has to be filed, be the date on which such return is to be filed; or</i>
(b)	<i>in any other case, be the date on which the tax is paid.</i>
(6)	<i>The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.</i>
<b>Section 31</b>	<b><i>Tax invoice (to the extent relevant to time of supply)</i></b>
(1)	<i>A registered person supplying taxable goods shall, before or at the time of,—</i>
(a)	<i>removal of goods for supply to the recipient, where the supply involves movement of goods; or</i>
(b)	<i>delivery of goods or making available thereof to the recipient, in any other case,</i>
	<i>issue a tax invoice showing the description, quantity and value of goods, the tax charged thereon and such other particulars as may be prescribed:</i>

	<i>Provided that the Government may, on the recommendations of the Council, by notification, specify the categories of goods or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed.</i>
(4)	<i>In case of continuous supply of goods, where successive statements of accounts or successive payments are involved, the invoice shall be issued before or at the time each such statement is issued or, as the case may be, each such payment is received.</i>
(7)	<i>Notwithstanding anything contained in sub-section (1), where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued before or at the time of supply or six months from the date of removal, whichever is earlier.</i>

## Analysis

Section 12 covers the determination of time of supply in the following situations:

Supply of goods by supplier where supplier is liable to pay tax;

- Receipt of goods that are taxable under reverse charge;
- Supply of vouchers that can be used to pay for goods;
- Residual cases
- Addition to value of supply by way of interest or fee or penalty for delayed payment.
- We consider below how the time of supply is determined in each of these situations.

### ILLUSTRATION 1.

A machine has to be supplied at site. It is done by sourcing various components from vendors and assembling the machine at site. The details of the various events are:

17 <sup>th</sup> September	Purchase order with advance of ` 50,000 is received for goods worth ` 12 lakh and entry duly made in the seller's books of account
20 <sup>th</sup> October	The machine is assembled, tested at site, and accepted by buyer
23 <sup>rd</sup> October	Invoice raised
4 <sup>th</sup> November	Balance payment of ` 11,50,000 received

Determine the time of supply(ies) in the above scenario.

### ANSWER

The time of supply of goods to the extent of ` 50,000 is 17<sup>th</sup> September, as this payment was received before the date of invoice [Section 12(2)(b)]. The time of supply of goods to the extent of the balance amount of ` 11,50,000 is 20<sup>th</sup> October which is the date on which the goods were made available to the recipient as per section 31(1)(b), and the invoice should have been issued on this date [Section 12(2)(a)].

## ILLUSTRATION 2.

Gas is supplied by a pipeline. Monthly payments are made by the recipient as per contract. Every quarter, invoice is issued by the supplier supported by a statement of the goods dispatched and payments made, and the recipient has to pay the differential amount, if any. The details of the various events are:

August 5, September 5, October 6	Payments of ` 2 lakh made in each month
October 3	Statement of accounts issued by supplier, with invoice for the quarter July – September
October 17	Differential payment of ` 56,000 received by supplier for the quarter July – September as per statement of accounts

Determine the time of supply.

### ANSWER

As per section 31(4), in the case of continuous supply of goods, the invoice should be issued before or when the statement of accounts is issued; hence October 3 is the correct invoice date.

Time of supply will be August 5, September 5 and October 6 respectively for goods valued at ` 2 lakh each, as the date of payment is earlier than the date of invoice. [Invoice is yet to be issued for payment made on October 6]. Time of supply will be October 3 for goods valued at ` 56,000, as the date of invoice is earlier than the date of payment.

## Sec. 12 of the IGST Act, 2017

S. No.	Nature of service	Place of supply of service [Sec. 12(9) of the IGST Act 2017];
1	Passenger transportation service. Including: Rail, Mono Rail, Metro Rail, Road, Air, Vessel, boat, Cycle rickshaw, Bullock cart, Camel etc.	Provided to a registered person: <ul style="list-style-type: none"><li>Location of recipient of Service. Provided</li></ul> to a un-registered person: <ul style="list-style-type: none"><li>Place where the passenger embarks on the continuous journey.</li></ul>

Place of supply of service where location of Supplier of Service or Location of Recipient of Service is outside India  
[ Sec. 13 of IGST ]

S. No.	Nature of service	Place of supply of service [Sec. 13(10) of the IGST Act 2017]:
1	Passenger transportation service. Including: Rail, Mono Rail, Metro Rail, Road, Air, Vessel, boat, Cycle rickshaw, Bullock cart, Camel etc.	where the passenger embarks on the conveyance for a continuous journey.

**ILLUSTRATION : 1**

Compute value of taxable supply of services of Air Speed Airlines located in Chennai for transportation of passengers by air from the following data relating to sums received exclusive of GST –

- (1) Passengers embarking at Arunachal Pradesh: ₹ 5 lakhs;
- (2) Amount for journey terminated at Assam: ₹ 4 lakhs;
- (3) Amount charged from passenger for flights starting from USA to Chennai: ₹ 250 lakhs;
- (4) Amount charged from passengers flying from Chennai to Sydney (Business class): ₹ 540 lakhs (including passenger taxes levied by government and shown separately on ticket: ₹ 100 lakhs). All passengers booked ticket from Delhi Office of Air Speed Airlines.
- (5) Passengers embarking from Chennai to Coimbatore (Economic class): ₹ 4 lakhs. Passengers booked tickets from Chennai office of Air Speed Airlines.

Applicable rate of GST 5% and 12%. Find the IGST, CGST & SGST if any.

Answer:

**Statement Showing GST Liability of Air Speed Airlines:**

(a) embarking at Arunachal Pradesh	exempted supply
(b) where journey terminated at Assam	exempted supply
(c) from USA to Chennai	exempted supply
(d) from Chennai to Sydney (Business class)	4,40,00,000
Passenger tax	1,00,00,000
(e) from Chennai to Coimbatore	4,00,000 (Economic class)
<b>Value of Taxable Supply of Services</b>	<b>5,44,00,000</b>
<b>IGST 12% on ₹ 5,40,00,000</b>	<b>64,80,000</b>
<b>CGST 2.5% on ₹ 4,00,000</b>	<b>10,000</b>
<b>SGST 2.5% on ₹ 4,00,000</b>	<b>10,000</b>
<b>Total Tax</b>	<b>65,00,000</b>

**NOTE:** Compulsory Inclusions: Any taxes, fees, charges levied under any law other than GST law, are required to be added to the price (if not already added) to arrive at the taxable value.

**Air Travel Agents - GST**

Air Travel agents are the mediator between the ultimate customer and the airlines e.g. Makemytrip.com, PayTM are all examples of Air travel agents because they acts as a mediator between the customer and the airline companies like Air India, Spice Jet etc.

**Exemption:** Air Travel Agents are not entitled for any exemption.

**Payment of tax at the option of the Air Travel Agent:**

- (A) air travel agents are required to pay 18% GST on commission earned from airlines and also service charges, handling charges etc. (by whatever name called) collected from the customers / passengers.

There is no bar on airtravel agents in availing ITC on input services to support the output services of travel agents.

OR

- (B) As per rule 32 (3) of the CGST rules, 2017 permits an air travel agent to discharge GST at fixed percentage of basic fare on which commission is normally paid by the airlines to the agent. In such a case, the effective value and the effective rate of GST is tabulated below:-

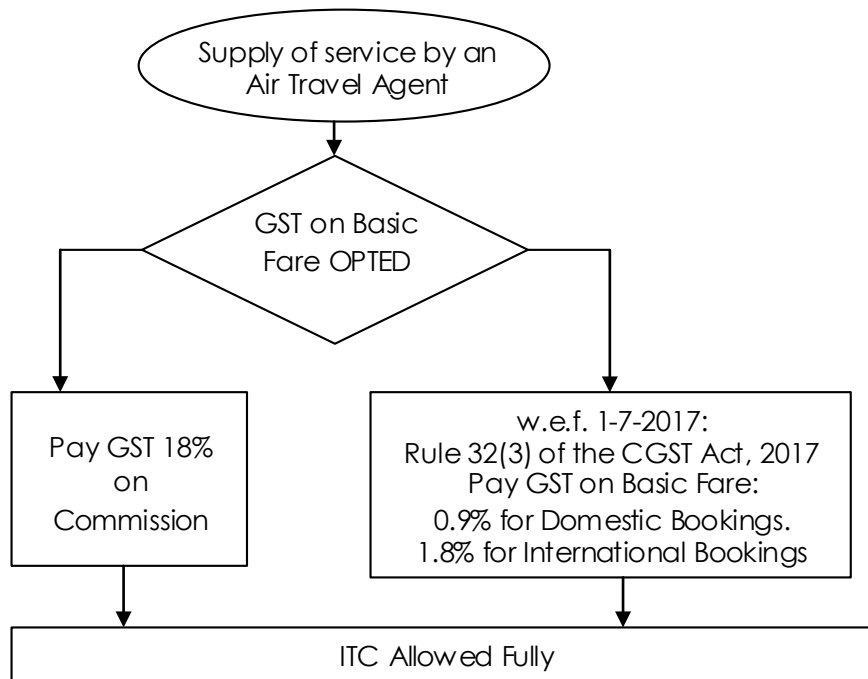
Air travel agent	Domestic booking	International booking
Value of taxable supplies	5% on Basic Fare	10 % on Basic Fare

Air Travel Agent has to pay GST 18% on the above value of taxable supplies.

An air travel agent can pay tax under any of the 2 options on transaction to transaction basis. The rules do not bind the travel agent to opt for any of the options uniformly throughout the given financial year.

**Input Tax Credit :** Full ITC is available to the air travel agents.

**Summary**



**ILLUSTRATION: 2**  
 Compute the GST liability of Mr. Zed, an air travel agent, for the quarter ended Dec. 31, 2017 using the following details:

Particulars	Amount (₹)
Basic air fare collected for domestic booking of tickets	50,00,000
Basic air fare collected for international booking of tickets	80,00,000
Commission received from the airlines on the sale of domestic and international tickets	4,50,000
Year ending bonus received from airlines	50,000

In the above case, would the GST liability of Mr. Zed be reduced if he opts for the special provision for payment of GST as per Rule 32(3) of the CGST Rules, 2017. The applicable rate of GST 18%. Answer:

**Statement Showing GST liability of Mr. Zed for the quarter ending 31st Dec 2017:**

Commission received from the airlines on the sale of domestic and international tickets	4,50,000
Year ending bonus or incentive	50,000
Taxable supply of services	5,00,000
GST @18% on ₹ 5 lakh	90,000

**Statement Showing GST liability of Mr. Zed for the quarter ending 31st Dec 2017**

Basic air fare (domestic booking) [50,00,000 x 5%]	2,50,000
Basic air fare (international booking) [80,00,000 x 10%]	8,00,000
Total taxable supply of service	10,50,000
GST 18% on ₹ 10,50,000	1,89,000

**Note:** The GST liability of Mr. Zed would not be reduced in the aforesaid option.

Therefore, special provision under Rule 32(3) of CGST Rules, 2017 is not economical.

**(b) nonairconditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or**

A contract carriage (other than radio taxi) for the transportation of passengers (non-AC) (excluding tourism) are exempted from GST.

“contract carriage” has the same meaning as assigned to it in clause (7) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

**Tour and Travel services:**

“Tour operator” means any person engaged in the business of planning, scheduling, organizing, arranging tours (which may include arrangements for accommodation, sight-seeing or other similar services) by any mode of transport and includes any person engaged in the business of operating tours”.

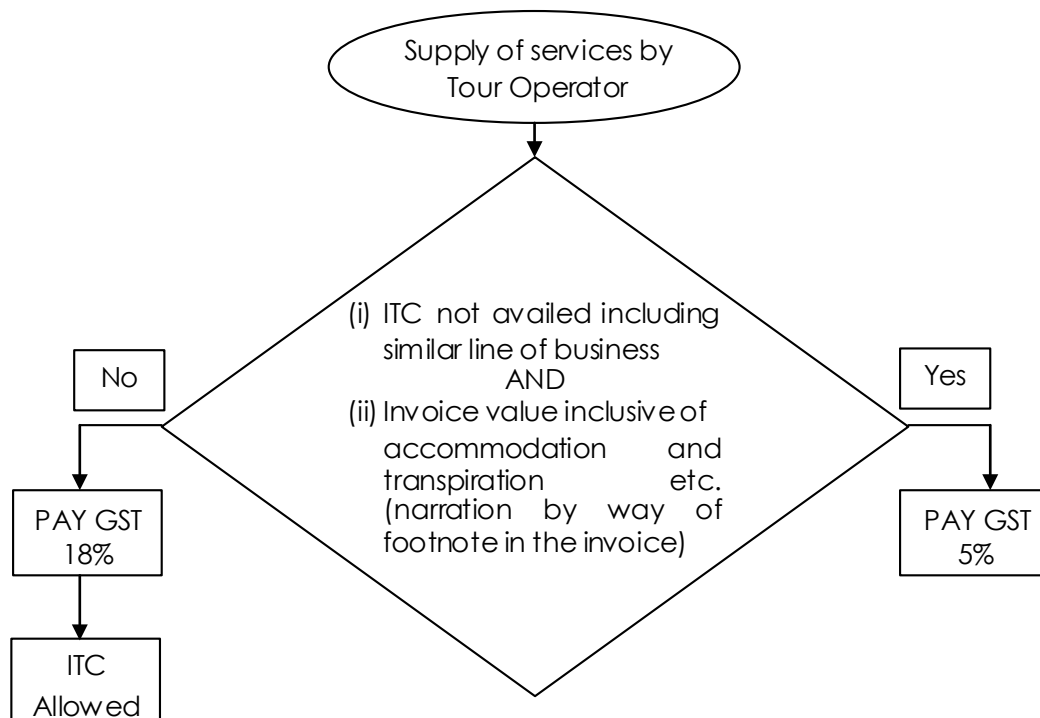
GST @ 5% has been applied on services of tour operator without benefit of Input Tax Credit (ITC) on goods and services. 5% GST will be payable on the gross amount charged by the tour operator from the customer. This GST is uniform for all services – package tours, hotel accommodation only etc.

The concessional GST rate of 5% is subject to meeting the following conditions:-

- (i) Input Tax Credit on goods and services used in supplying output services of tour operator has not been taken.
- (ii) The invoice / bill issued for supply of output service indicates that it is inclusive of charges of accommodation and transportation required for such a tour. This narration can be given by way of footnote in the invoice.

In case any of the above conditions are not met, the benefit of concessional rate of 5% would not apply and in that event the Department may demand full 18% GST from the tour operator.

**Rate of GST and ITC:**



**Important Note :**

- (i) House Boats (moving): Services provided by house boats (moving) in Kerala and cruise ships, are also covered as Tour Operators Services. In both these cases, accommodation, food, transportation, sightseeing and other value added services are provided as combo package.
- (2) Tours conducted through luxury trains like Maharaja Express, Deccan Odyssey, Heritage of India etc. are also covered as Tour Operators Services.
- (3) The services provided by static house boats (in Kashmir) by way of providing accommodation and food to the tourists are not covered within the ambit of tour operators as such. These services are akin to services of hotels, inns, guest houses, campsites and other commercial places for residential or lodging purposes. The rate of GST in these cases will be linked with the declared tariff per day.

**ILLUSTRATION: 3**

*Riya Tours Co. has arranged four package tours during Oct 017. The particulars of the services and charges are as under:*

- (1) Tour 1: Charges received ` 35 lakhs. The package includes transportation, accommodation, food, and tourist guide, entry fees for monuments.**
- (2) Tour 2: Charges received ` 65 lakhs. The package includes transportation and accommodation for stay.**
- (3) Tour 3: Charges received ` 40 lakhs. The charges are solely for arranging accommodation for stay. However, the bills issued to the clients do not mention it clearly that the charges are solely for arranging the accommodation for stay.**
- (4) Tour 4: Charges received ` 50 lakhs (inclusive of charges of stay). The bill issued to the client's mentions it clearly that the charges are solely for arranging the accommodation for stay.**

*Compute the value of taxable supply of services and GST.*

*Note: Applicable rates of GST 5% and 18%. All transactions taken place at inter state level.*

*Asnwer:*

*Statement Showing GST of Riya Tours Co. for Oct 2017*

<i>Particulars</i>	<i>Value ` in lakhs</i>	<i>Value ` in lakhs</i>
<i>Tour 1: Packaged Tour</i>	<i>35</i>	
<i>Tour 2: Transportation and Accommodation</i>	<i>65</i>	
<i>Tour 3: Accommodation for stay</i>		<i>40</i>
<i>Tour 4: Accommodation for stay</i>	<i>50</i>	
<i>Taxable supply of services</i>	<i>150</i>	<i>40</i>
<i>GSR Rate</i>	<i>5%</i>	<i>18 %</i>
<i>IGST</i>	<i>7.50</i>	<i>7.20</i>
<i>Less: ITC</i>	<i>Not allowed</i>	<i>Allowed</i>
<i>Net GST liability</i>	<i>7.50</i>	<i>7.20</i>

**( c) Stage carriage other than airconditioned stage carriage.**

“Stage carriage” means a motor vehicle constructed or adapted to carry more than six passengers excluding the driver for hire or reward at separate fares paid by or for individual passengers, either for the whole journey or for stages of the journey;

**ILLUSTRATION: 4**

*M/s. R Ltd. is engaged is providing service of transportation of passengers, he furnished the following information in the month of Oct 2017. Find the GST liability.*

- (1) Service of transportation of passengers by National Waterways: ` 50 lakhs;**
- (2) Service of transportation of passengers by Stage carriage (non-A/c): ` 5 lakhs;**

- (3) Service of transportation of passengers by contract carriage for tourism: ₹ 120 lakhs (bills inclusive of accommodation and transportation etc. indicated as narration at the bottom of invoice);
- (4) Transportation of passenger from Mumbai to Chennai port in a vessel and such service is not for tourism purpose: ₹ 12 lakhs; Note:
- R Ltd. is willing to avail exemption benefits if any. Taxable supplies of Mr. R in the previous year were ₹ 22 lakh.

Answer:

Statement showing GST liability M/s. R. Ltd.

Nature of service (Transport of passengers)	₹ in Lakhs
By National Waterways	Exempted supply
By Stage carriage [non-A/c]	Exempted supply
By Contract carriage for tourism (Bill inclusive of accommodation and transportation etc. indicated as narration at the bottom of invoice)	120
In a vessel from Mumbai in Chennai and such service is not for tourism	Exempted supply
Taxable supply of services	120
GST liability @ 5% on 120 lakhs (Note: Input tax credit not allowed)	6

**Entry No. 17 Service of transportation of passengers with or without accompanied belongings by—**

- (a) railways in a class other than—
- first class; or
  - an air-conditioned coach;
- (b) metro, monorail or tramway; (c) inland waterways;
- (d) public transport, other than predominantly for tourism purpose, in a vessel between places located in India; and
- (e) metered cabs or auto rickshaws (including e-rickshaws). **Note:**
- The rate of GST on Transport of passengers by rail (other than sleeper class) fixed by GST council at the introduction of GST in July, 2017 is 5% with ITC of input services.
  - E-rickshaws exempt from GST.

**Services Relating to Transportation of Passengers covered under NIL Rate of GST**

- Ordinary Coach
- Metro
- Monorail
- Tramway
- Metered Cabs
- E-rickshaws

**ILLUSTRATION: 5**

Indian railways has provided following services –

- Transport of passengers by general class : ₹ 15,00,000;
- Transport of passengers by sleeper class : ₹ 10,00,000;
- Transport of passengers by 1st Class air conditioned coach: ₹ 5,00,00,000;
- Transport of passengers by 2 tier air conditioned coach: ₹ 20,00,00,000;

**(5) Transport of passengers by 3-tier air conditioned coach: ₹ 30,00,00,000;  
Compute value of taxable supplies and GST liability. Applicable GST rate is 5%.**

Answer:

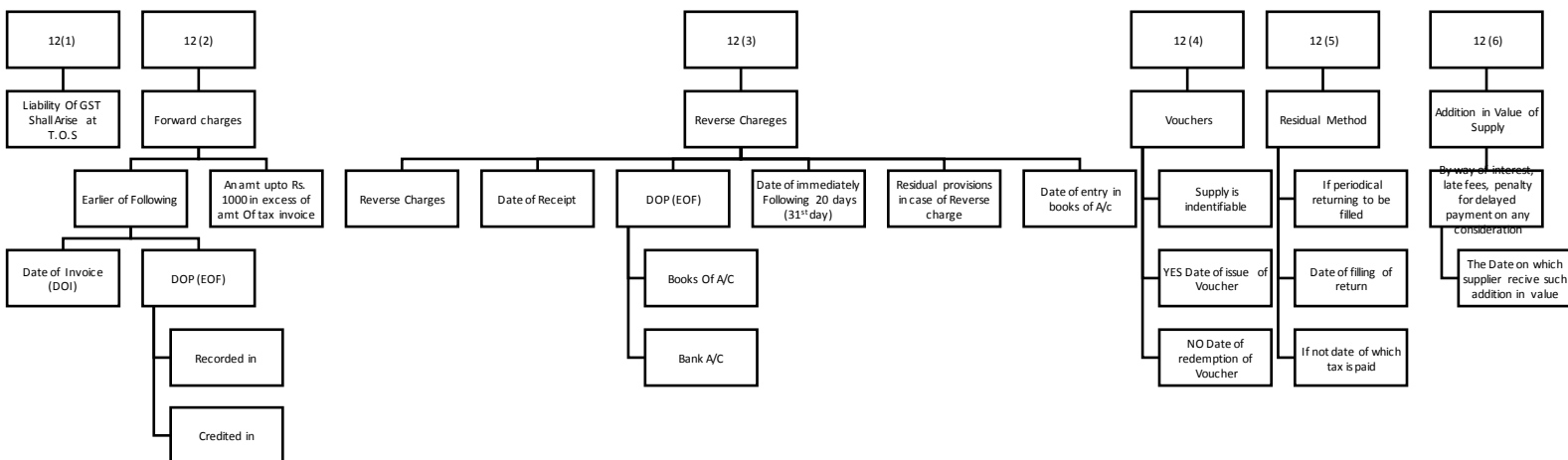
*Statement showing GST liability*

Nature of service (Transport of passengers)	Value in ₹
General class	Exempted supply
Sleeper class	Exempted supply
1st Class air conditioned coach	5,00,00,000
2 tier air conditioned coach	20,00,00,000
3-tier air conditioned coach	30,00,00,000
<b>Taxable supply of service</b>	<b>55,00,00,000</b>
<b>GST @5% on ₹ 55 crore</b>	<b>2,75,00,000</b>


**Entry No. 18 Services by way of transportation of goods**

- (a) by road except the services of— (i)
  - a goods transportation agency;
- (ii) a courier agency;
- (b) by inland waterways. are exempted from GST.

## Time of Supply Chart for Goods U/S 12



## TIME OF SUPPLY OF SERVICES [SECTION 13]

 <b>STATUTORY PROVISIONS</b>		
<b>Section 13</b>	<b>Time of supply of services</b>	
<b>Sub-section</b>	<b>Clause</b>	<b>Particulars</b>
(1)		<i>The liability to pay tax on services shall arise at the time of supply, as determined in terms of the provisions of this section.</i>
(2)		<i>The time of supply of services shall be the earliest of the following dates, namely:-</i>
	(a)	<i>the date of issue of invoice by the supplier, if the invoice is issued within the period prescribed under sub-section (2) of section 31 or the date of receipt of payment, whichever is earlier; or</i>
	(b)	<i>the date of provision of service, if the invoice is not issued within the period prescribed under sub-section (2) of section 31 or the date of receipt of payment, whichever is earlier; or</i>
	(c)	<i>the date on which the recipient shows the receipt of services in his books of account, in a case where the provisions of clause (a) or clause (b) do not apply:</i>
	<i>Provided that where the supplier of taxable service receives an amount up to one thousand rupees in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice relating to such excess amount.</i>	
	<b>Explanation - For the purposes of clauses (a) and (b) -</b>	
(i)	<i>the supply shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.</i>	
(ii)	<i>"the date of receipt of payment" shall be the date on which the payment is entered in the books of account of the supplier or</i>	

		<i>the date on which the payment is credited to his bank account, whichever is earlier.</i>
(3)		<i>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-</i>
	(a)	<i>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</i>
	(b)	<i>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:</i>
		<i>Provided that where it is not possible to determine the time of supply under clause (a) or (b), the time of supply shall be the date of entry in the books of account of the recipient of supply:</i>
		<i>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.</i>
(4)		<i>In case of supply of vouchers by a supplier, the time of supply shall be-</i>
	(a)	<i>the date of issue of voucher, if the supply is identifiable at that point; or</i>
	(b)	<i>the date of redemption of voucher, in all other cases;</i>
(5)		<i>Where it is not possible to determine the time of supply of services in the manner specified in sub-sections (2), (3) or (4), the time of supply shall</i>
	(a)	<i>in a case where a periodical return has to be filed, be the date on which such return is to be filed; or</i>
	(b)	<i>in any other case, be the date on which the tax is paid.</i>
(6)		<i>The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any</i>

	<i>consideration shall be the date on which the supplier receives such addition in value.</i>
<b>Section 31</b>	<b><i>Tax invoice (to the extent relevant to time of supply)</i></b>
<b>(2)</b>	<i>A registered person supplying taxable services shall, before or after the provision of service but within a prescribed period, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed:</i>
	<i>Provided that the Government may, on the recommendations of the Council, by notification and subject to such conditions as may be mentioned therein, specify the categories of services in respect of which—</i>
	(a) <i>any other document issued in relation to the supply shall be deemed to be a tax invoice; or</i>
	(b) <i>tax invoice may not be issued.</i>
<b>(5)</b>	<i>Subject to the provisions of clause (d) of sub-section (3), in case of continuous supply of services,—</i>
	(a) <i>where the due date of payment is ascertainable from the contract, the invoice shall be issued on or before the due date of payment;</i>
	(b) <i>where the due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment;</i>
	(c) <i>where the payment is linked to the completion of an event, the invoice shall be issued on or before the date of completion of that event.</i>
<b>(6)</b>	<i>In a case where the supply of services ceases under a contract before the completion of the supply, the invoice shall be issued at the time when the supply ceases and such invoice shall be issued to the extent of the supply made before such cessation.</i>

<b>Chapter VI: Tax Invoice, Credit and Debit Notes of CGST Rules</b>	
<b>Rule 47</b>	<b>Time limit for issuing tax invoice</b>
	<i>The invoice referred to in rule 46, in case of taxable supply of services, shall be issued within a period of thirty days from the date of supply of service:</i>
	<i>Provided that where the supplier of services is an insurer or a banking company or a financial institution, including a non-banking financial company, the period within which the invoice or any document in lieu thereof is to be issued shall be forty five days from the date of supply of service:</i>
	<i>Provided further that an insurer or a banking company or a financial institution, including a non-banking financial company, or a telecom operator, or any other class of supplier of services as may be notified by the Government on the recommendations of the Council, making taxable supplies of services between distinct persons as specified in section 25, may issue the invoice before or at the time such supplier records the same in his books of account or before the expiry of the quarter during which the supply was made.</i>

## Analysis

Section 13 stipulates how to determine time of supply in the following situations:

- Supply of service on which the supplier is liable to pay tax,
- Receipt of service that is taxable under reverse charge basis,
- Supply of vouchers that can be used to pay for services,
- Residual cases,
- Addition to value of supply by way of interest or fee or penalty for delayed payment. Below we consider these in more detail.

## Time of Supply of Goods Sec. 12(2) of CGST Act, 2017

### **ILLUSTRATION: 1**

*C of Chennai supplies goods to B of Bengaluru. C has to send the goods for delivery from Chennai to Bengaluru. A sends the goods to B on 30th Oct 2017. Turnover of C in the P.Y. was ₹ 2 crore. Find the time of supply in the following different scenarios:*

<b>Removal of Goods</b>	<b>Date of Issue of Invoice</b>	<b>Last Date for Issue of Tax Invoice</b>	<b>Date on which payment is entered in the books of account</b>	<b>Date on which payment is credited in the Bank Account</b>	<b>Time of Supply</b>	<b>Criteria for determining Time of Supply</b>
<i>30th Oct</i>	<i>30th Oct</i>	<i>30th Oct</i>	<i>31st Oct</i>	<i>1st Nov</i>	<i>30th Oct</i>	<i>Date of issue of Invoice</i>

<i>30th Oct</i>	<i>2nd Nov</i>	<i>30th Oct</i>	<i>31st Oct</i>	<i>1st Nov</i>	<i>30th Oct</i>	<i>Last Date for issue of Invoice</i>
<i>30th Oct</i>	<i>28th Oct</i>	<i>30th Oct</i>	<i>27th Oct</i>	<i>26th Oct</i>	<i>26th Oct</i>	<i>Date on which payment is credited in the bank Account</i>

**ILLUSTRATION: 2**

*Mr. Ram sold goods to Mr. Ravi worth ` 5,00,000. The invoice was issued on 15th November. The payment was received on 30th November. The goods were supplied on 20th November.*

*Find the time of supply of goods?*

*P.Y. turnover of Mr. Ram 172 lakhs.*

*Answer:*

<i>Particulars</i>	<i>Whichever is earlier</i>
<i>Date of issue of invoice</i>	<i>15 th November</i>
<i>Last date on which invoice should have been issued</i>	<i>20 th November</i>
<i>Date of receipt of payment</i>	<i>30 th November</i>

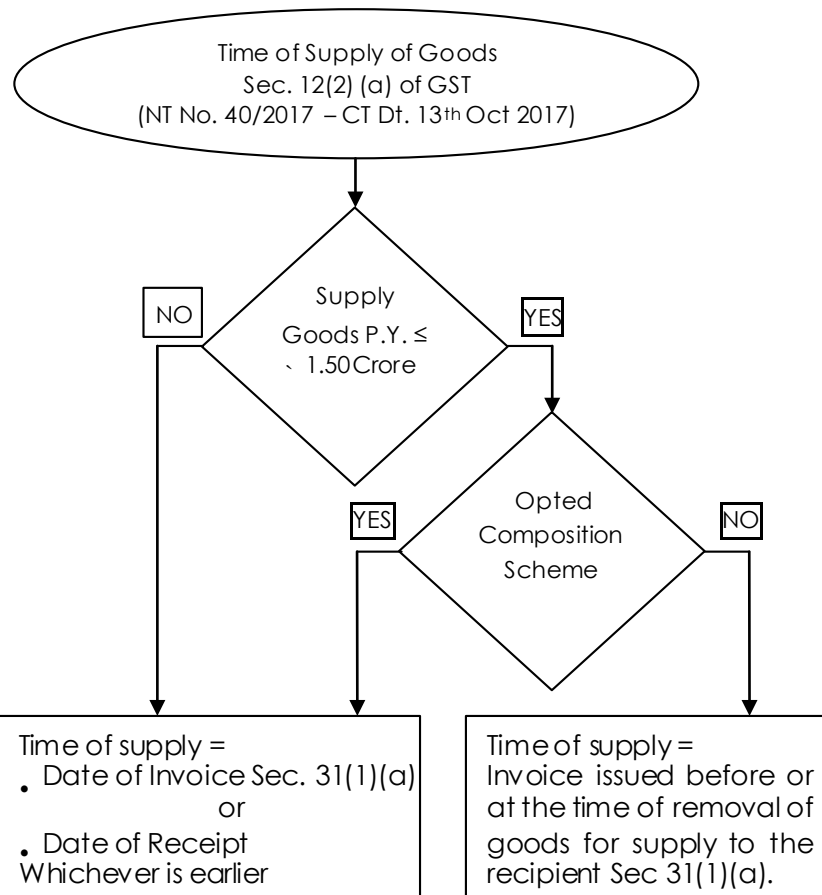
*Therefore, time of supply of goods = 15th November.*

*Date of invoice or payment whichever is earlier.*

**No GST on Advance Payments received for Supply of Goods by Small Taxpayers having aggregate annual turnover of upto- 1.5 crores:**

Taxable persons whose aggregate turnover in the preceding year did not exceed ` 1.5 Crore or registered persons whose aggregate turnover in the year in which such person has obtained registration is likely to be less than ` 1.50 crore and who did not opt for the composition levy under section 10 of the said Act.

The liability to pay taxes by such persons shall be on invoice basis. This means GST liability on advance received is waived of through Notification No. 40/2017 – Central Tax Dt 13th Oct 2017 for such taxpayers as mentioned above.



**ILLUSTRATION: 3**

*Mr. Ram sold goods to Mr. Ravi worth ₹ 5,00,000. The invoice was issued on 15th November. The payment was received on 31st October. The goods were supplied on 20th November.*

*Find the time of supply of goods?*

*P.Y. turnover of Mr. Ram 72 lakhs.*

*Answer:*

Particulars		
<i>Date of issue of invoice</i>	<i>15th November</i>	<i>Date of invoice is the criteria</i>
<i>Last date on which invoice should have been issued</i>	<i>20th November</i>	
<i>Date of receipt of payment</i>	<i>31st October</i>	<i>Advance is not a time of supply</i>

Therefore, time of supply of goods = 15th November.

**The phrase “the date on which supplier receives the payment” or “the date of receipt of payment” means:**

- the date on which payment is entered in his books of accounts

or

- the date on which the payment is credited to his bank account, whichever is earlier.

**The supply shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment:**

**ILLUSTRATION 4:**

*X & Co., receives an advance of ₹ 2,500/- on 29.07.17 for goods worth ₹ 10,000/- to be supplied in the month of September 2017.*

*Find the following:*

- ( a) Value of supply of goods in the month of July 2017 ( b) Due date of tax liability for the month of July 2017. Note: P.Y. turnover ₹ 1.80 crore.*

*Answer:*

- (a) Advance ₹ 2,500/- is treated as deemed supply.  
Therefore, X & Co., has made a supply of ₹ 2500/- on 29.07.17.  
(b) Tax liability on ₹ 2500/- is to be discharged by 20.08.17.*

**An amount upto ₹ 1000/- in excess of the amount indicated on the tax invoice. Time of supply =**

- The date of issue of invoice.  
Or
- Date of receipt of payment. At the option of the supplier.

**ILLUSTRATION: 5**

*If a supplier of goods has received an amount of ₹ 1500/- against an invoice of ₹ 1,100/- on 25.07.17 and the date of invoice of next supply to the said recipient is 14.08.17.*

*Find the following in respect of excess amount over and above invoice value: (a) Time of Supply of goods ( b) Due date of payment of tax.*

*Answer:*

*(a) Since, excess amount received over and above invoice value not exceeds ₹ 1,000, supplier has an option to treat the time of supply w.r.t ₹ 400/- either as 25.07.17 or 14.08.17. ( b) Due date of payment of tax*

- *If Time of Supply = 25.07.2017, then due date is 20.8.2017*
- *If Time of Supply = 14.08.2017, then due date is 20.9.2017*

**ILLUSTRATION: 6**

*M/s X Ltd, being a manufacturer, sold goods to M/s Y Ltd, wholesaler, and issued invoice for the sale on 01-082017.*

*Find the time of supply of goods in each of the following independent cases:*

- (i) M/s X Ltd, removes the goods for delivery to M/s Y Ltd., on 16th August 2017.*
- (ii) M/s. Y Ltd., collects the goods from premises of M/s X Ltd., on 10th August 2017.*
- (iii) M/s Y Ltd., made full payment on 26th July 2017.*
- (iv) M/s Y Ltd., credited the payment in bank account of M/s X Ltd., on 28th July 2017 for 3/4th of goods, M/s X Ltd., recorded the same as receipts in his books on 3rd August 2017. The goods were dispatched on 5th August 2017 from the warehouse.*

*Answer:*

- (i) 1st August 2017 is the time of supply of goods.  
i.e. Earlier of the following:*
- *Date of Invoice -  
1st August 2017*

*or*

• *Date on which invoice is required to be issued - 16th August 2017.*

(ii) *1st August 2017 is the time of supply of goods. i.e. Earlier of the following:*

• *Date of Invoice - 1st August 2017*

*or*

• *Date on which goods is delivered - 10th August 2017.*

(iii) *26th July 2017 is the time of supply of goods i.e. Earlier of the following: -*

• *Date of Invoice - 1st August 2017*

*or*

• *Date of Payment - 26th July 2017.*

*Note: assume P.Y. turnover exceeds ₹ 1.50 crore.*

(iv) *The time of supply of goods for 3/4th of the goods will be 28th July 2017 as the payment has been made prior to the date of invoice and the time of supply of goods will be 1st August 2017 for remaining 1/4th goods. Note: assume P.Y. turnover exceeds ₹ 1.50 crore.*

### **Continuous supply of goods**

Time of supply =

- Time when each statement is issued.

OR

- Time when each payment is received.

Whichever is earlier

Note: Sec 31(4) of GST Act, 2017, the Invoice shall be issued before or at the time of such statement is issued or, as the case may be each such payment is received.

### **ILLUSTRATION: 7**

*M/s Indian Oil Corporation entered into a contract with Mr. B to supply of oil throughout the year. M/s Indian Oil Corporation issues monthly statement for the oil supplied to Mr. B.*

*Determine the time of supply of goods in following independent cases:*

- Mr. B made payment for the month of July on 31st July 2017 and M/s Indian Oil Corporation issued statement for the month of July on 8th August 2017.*
- M/s Indian Oil Corporation issued statement for the month of August on 5th September 2017, the*

*payment of which not received till 30th September 2017.*

**Answer:**

**(i) 31st July 2017 will be the time of supply.**

**Earliest of the following:**

- **Date of Invoice: 8<sup>th</sup> August 2017**
- **Last date on which invoice has to be issued: Date of payment (31.07.2017) or statement (08.08.2017),**

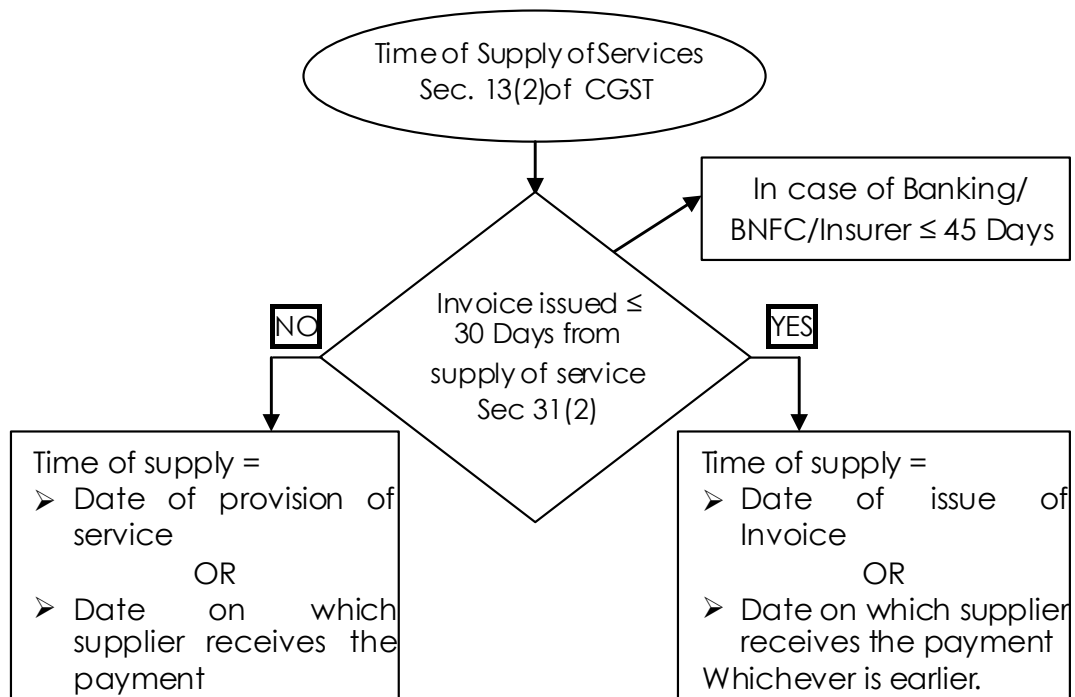
**whichever is earlier i.e. 31st July 2017.**

**(ii) 5th September 2017 will be the time of supply.**

**Earliest of the following:**

- **Date of Invoice: 5<sup>th</sup> September 2017.**
- **Last date on which invoice has to be issued: Date of payment (not known) or statement (05.09.2017), whichever is earlier i.e. 5<sup>th</sup> September 2017.**

**(B) Time of Supply of Services Sec. 13(2) of CGST Act**



**ILLUSTRATION: 8**

*ABC & Co., a Cost Accountants firm issued invoice for services rendered to Mr. Ram on 5th August 2017. Determine the time of supply in following independent cases:*

- (i) The provisions of services were completed on 1st July 2017.*
- (ii) The provisions of services were completed on 15th July 2017.*
- (iii) Mr. Ram made the payment on 3rd July 2017, where provisions of services were remaining to be completed.*
- (iv) Mr. Ram made the payment on 15th August 2017, where provisions of services were remaining to be completed.*

*Answer:*

- (i) 1st July 2017 will be the time of supply of services as invoice is not issued within the time frame of 30 days.*
- (ii) 5th August 2017 will be the time of supply of services as invoice is issued within the time frame.*
- (iii) 3rd July 2017 will be the time of supply of services as payment received before invoice date.*
- (iv) 5th August 2017 will be the time of supply of services as invoice is issued before the completion of provisions of services.*

**(C) Time of Supply of Goods & Services (in case of Reverse Charge)**

**Whichever is earlier      Whichever is earlier**

If time of supply cannot be determined with the help of above provisions then the time of supply shall be the date on which entry in the books of the recipient of goods & services is made.

**ILLUSTRATION: 9**

*Mr. A, a registered person received goods from Mr. B, an unregistered dealer. Mr. B issues invoice on 1st July 2017.*

*Find the time of supply of goods in following independent cases:*

- (i) Mr. A received goods on 15th July 2017, payment of which is not made yet.*
- (ii) Mr. A received goods on 3rd August 2017 & made payment for the same on 4th August 2017.*
- (iii) Mr. A made payment on 8th July and received goods on the same date.*
- (iv) Mr. A received goods on 10th July 2017 & made payment for the same on 9th July 2017.*

*Answer:*

*(i) Time of supply of goods = 15-07-2017*

*Earliest of the following:*

*Receipt of Goods = 15-07-2017*

*Date of Payment = not paid*

*Date immediately following 30 days from the date of invoice = 31-07-2017*

*(ii) Time of supply of goods = 31-07-2017*

*Earliest of the following:*

*Receipt of Goods = 03-08-2017*

*Date of Payment = 04-08-2017*

*Date immediately following 30 days from the date of invoice = 31-07-2017*

*(iii) Time of supply of goods = 08-07-2017*

*Earliest of the following:*

*Receipt of Goods = 08-07-2017*

<i>Date of Payment</i>	= 08-07-2017
<i>Date immediately following 30 days from the date of invoice</i>	= 31-07-2017
(iv) <i>Time of supply of goods</i>	= 09-07-2017
<i>Earliest of the following:</i>	
<i>Receipt of Goods</i>	= 10-07-2017
<i>Date of Payment</i>	= 09-07-2017
<i>Date immediately following 30 days from the date of invoice</i>	= 31-07-2017

**ILLUSTRATION: 10**

*C Ltd., a registered firm received services from a Raman & Co., an Advocate firm., an unregistered person. The firm issued invoice to C Ltd. on 1st July 2017. Determine the time of supply of services in the following independent cases:*

- (i) *C Ltd. made the payments to the firm on 15th August 2017.*  
(ii) *C Ltd. made the payments to the firm on 11th September 2017.*

*Note: C Ltd turnover in the preceding financial year was ` 2 crore* Answer:

- (i) *Time of supply of service = 15-08-2017*

*Note: as payment made earlier than the date immediately following 60 days from date of issue of invoice.*

- (ii) *Time of supply of service = 30-08-2017*

*Note: as payment made after the date immediately following 60 days from date of issue of invoice.*

**ILLUSTRATION: 11**

*X Ltd. & Y Ltd. (London) is associated enterprises. X Ltd., a registered firm received the services of Y Ltd., a unregistered firm. Determine the time of supply in following cases:*

- (i) *X Ltd. recorded the liability in the books on 15th July 2017 and payment will be made in the next month.*  
(ii) *X Ltd. made advance payment to Y Ltd. on 10th July and recorded liability in the books on 15th Aug 2017. Answer:*

- (i) *Time of supply = 15-07-2017*

*Note: as the date of entry in the books is prior to the date of payment.*

- (ii) *Time of supply = 10-07-2017*

*Note: as the payment is made earlier to the date of entry in the books.*

**Goods sent for**

**approval:** Time of supply =

- Time when it becomes known that supply is taken place.

OR

- Six month from the date of removal.

Whichever is earlier

**Time of Supply of Vouchers for Goods & Services [Section 12(4) & 13(4) of CGST Act, 2017]:**

If the supplies is identifiable at that point:

- Time of supply = Date of issue of voucher.

If the supplies is not identifiable at that point:

- Time of supply = The date of redemption of voucher.

**ILLUSTRATION: 12**

*Reliable Industries a readymade garment manufacturer issued the voucher on 10-07-2017 to their prospective customer for enabling them to buy readymade garments manufactured by them from their shop. Customer purchased readymade garments on 20th Aug 2017.*

*Find the time of supply of goods?*

*Answer:*

*Time of supply of goods = 10-07-2017*

*Note: time of supply will be the issuance of the voucher.  
Since, the voucher is identifiable with the goods.*

**Example : 13**

*Shopper's Stop store a large retailer who sells various types of products like readymade garment, jewellery, cosmetics, fabrics, shoes etc., issued the voucher on 10-07-2017 to their prospective customer for enabling them to buy any product from their shop. Customer purchased readymade garments on 20th Aug 2017.*

*Find the time of supply of goods?*

*Answer:*

*Time of supply of goods = 20-08-2017*

*Note: time of supply will be the date of encashment of voucher (i.e. Redemption of voucher).  
Since, the voucher is not identifiable with any specific product.*

**Time of supply of goods or services (Residual provisions) [Section 12(5) and Section 13(5) of the CGST Act, 2017]:**

In case it is not possible to determine the time of supply under aforesaid provisions, the time of supply is:

- Due date of filing of return, in case where periodical return has to be filed.
- Date of payment of tax in all other cases

**Time of supply of goods or services related to an addition in the value of supply by way of interest, late fees or penalty [Section 12(6) and Section 13(6) of the CGST Act, 2017]:**

**ILLUSTRATION: 14**

*Mr. X being a supplier receives consideration in the month of September 2017, instead of due date of July 2017, and for such delay he is eligible to receive an interest amount of Rs. 1000/- and the said amount is received on 15.12.2017.*

*Find the time of supply for the interest portion and due date of payment.*

**Answer:**

**The time of supply = 15.12.17**

**i.e. the date on which it is received by the supplier and**

**Due date of tax liability = 20.01.18.**

### ILLUSTRATION: 15

Determine the time of supply from the following particulars:

6 <sup>th</sup> May	Booking of convention hall, sum agreed ` 15000, advance of ` 3000 received
15 <sup>th</sup> September	Function held in convention hall
27 <sup>th</sup> October	Invoice issued for ` 15000, indicating balance of ` 12000 payable
3 <sup>rd</sup> November	Balance payment of ` 12000 received

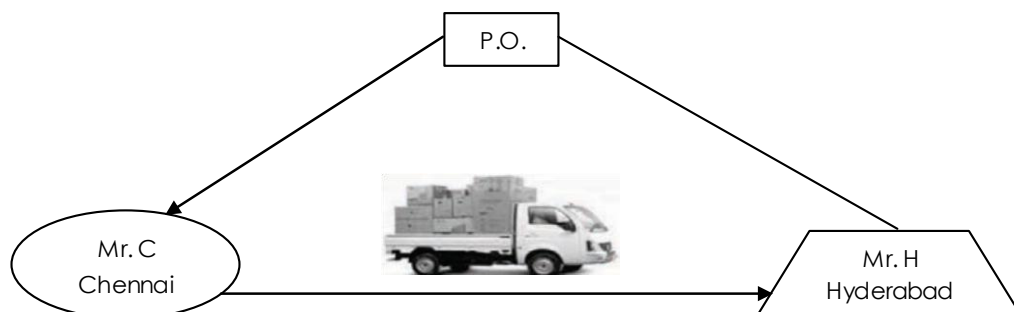
### ANSWER

As per section 31 read with rule 47 of CGST Rules, the tax invoice is to be issued within 30 days of supply of service. In the given case, the invoice is not issued within the prescribed time limit. As per section 13(2)(b), in a case where the invoice is not issued within the prescribed time, the time of supply of service is the date of provision of service or receipt of payment, whichever is earlier. Therefore, the time of supply of service to the extent of ` 3,000 is 6<sup>th</sup> May as the date of payment of ` 3000 is earlier than the date of provision of service. The time of supply of service to the extent of the balance ` 12,000 is 15<sup>th</sup> September which is the date of provision of service.

## PLACE OF SUPPLY

### ILLUSTRATION: 1

Mr. C of Chennai received purchase order from Mr. H of Hyderabad for want of commercial goods. Now supply involves movement of goods by supplier from Chennai to Hyderabad in a truck by road.



Place of supply of goods = Hyderabad.

IGST will be levied.

Declared outward supply of goods in Table 5 of GSTR - 1, supplier should indicate place of supply where location of supplier and recipient are different.

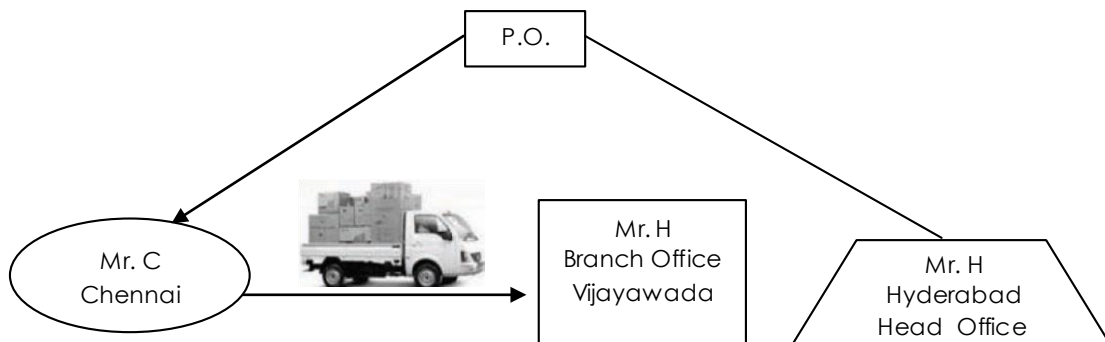
**The supplier delivers goods to a recipient or any other person on the direction of a third person by way of transfer of documents of title to the goods or otherwise Section 10(1)(b) of the IGST Act 2017:**

Nature of supply	Place of supply of goods
Goods are delivered by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods by way of transfer of documents of title to the goods or otherwise.	It shall be deemed that the said third person has received the goods and the Place of Supply of such goods shall be the principal place of business of such person.

**ILLUSTRATION: 2**

*Mr. C of Chennai received purchase order from Mr. H of Hyderabad for want of commercial goods. Now supply involves movement of goods by supplier from Chennai to Hyderabad by road in a truck.*

*Upon the direction of Mr. H of Hyderabad these goods are redirect to Branch office of Mr. H located in Vijayawada by way of transfer of documents of title to the goods (i.e. Lorry Receipt or LR copy).*



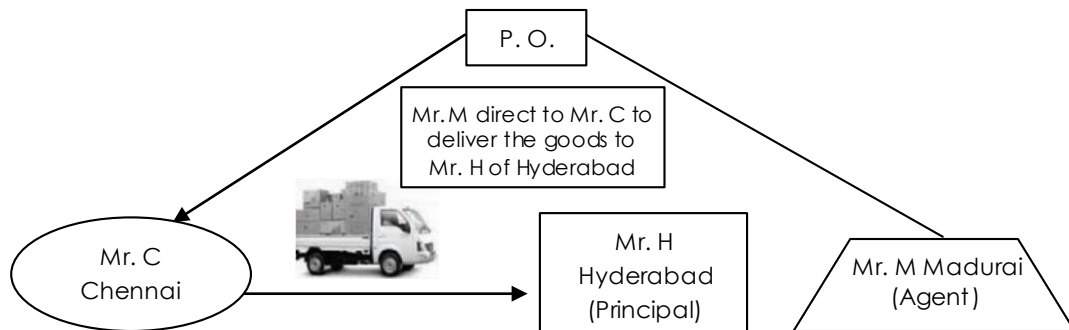
Place of supply goods = Hyderabad.

IGST will be levied.

It shall be deemed that the said third person has received the goods and the Place of Supply of such goods shall be the principal place of business of such person.

**ILLUSTRATION: 3**

*Supplier delivers goods to a Principal on the direction of an Agent.*



Place of supply goods = Madurai.

CGST & SGST will be levied

It shall be deemed that the said third person has received the goods and the Place of Supply of such goods shall be the principal place of business of such person as per Sec 10(1)(b) of IGST Act, 2017, even if Mr. M acts as agent of Mr. H (namely Principal)

**Supply does not involve movement of goods Section 10(1)(c) of the IGST Act, 2017**

Nature of supply	Place of supply of goods
Where the supply does not involve movement of goods, whether by the supplier or the recipient.	Location of such goods at the time of the delivery to the recipient  (This place of supply is irrespective of the location of the buyer and seller)

**ILLUSTRATION: 4**

*A and B both located in Kerala. B comes to shop of A. A delivered goods to B. What is the place of supply of goods. Which levy will attract?*

*Answer:*

*Place of supply goods = Kerala.*

*CGST & SGST will be levied*

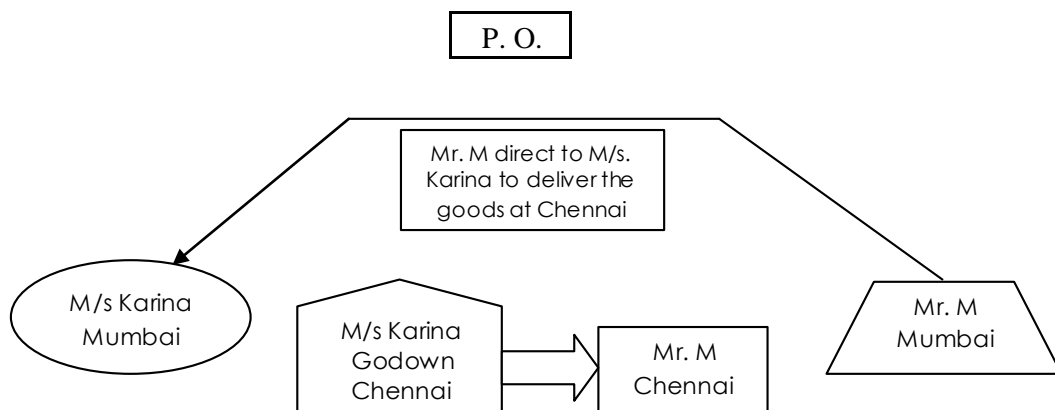
*Location of such goods at the time of the delivery to the recipient. This is irrespective of the location of the buyer and seller.*

**ILLUSTRATION: 5**

*M/s Karina Ltd. incorporated in Mumbai and own a godown in Chennai. Mr. M of Mumbai approached M/s Karina Ltd. of Mumbai for purchase of goods lying in godown at Chennai. Mr M further informs that he does not want delivery of goods in Mumbai. M/s Karina Ltd. issues invoice for sale of goods in Mumbai.*

*Find the place of supply of goods and levy of tax?*

*Answer:*



Place of supply goods = Chennai

IGST will be levied

Location of such goods at the time of the delivery to the recipient where Supply does not involve movement of goods.

This place of supply is irrespective of the location of the buyer and seller.

**ILLUSTRATION: 6**

*M/s X Ltd has place of business in Chennai, being an NBFC given an asset under financial lease to M/s ABC Ltd. of Chennai. The said asset so far used by M/s ABC Ltd in their factory located at Hyderabad. At the end of lease period the said asset acquired by M/s*

*ABC Ltd. at a nominal amount. Find the place of supply of goods and levy of GST.*

**Answer:**

*Place of supply of goods = Hyderabad.*

*IGST will be levied.*

*Since, there is no movement of goods from one place to another, provisions of Sec. 10(1)(c) of IGST applicable.*

**Goods are assembled or installed at Site [Sec 10(1)(d) of IGST, 2017]:**

Nature of supply	Place of supply of goods
Where the goods are assembled or installed at site.	Place of such installation or assembly

**ILLUSTRATION: 7**

*Mr. D located in New Delhi, place order on Mr. Delhi of New Delhi for installation of Air-condition machine in his factory located in Chennai. Mr. D procures the Indoor and out-door units, set of plugs, electrical cables, distribution boards and other items from different States in India and arranges for delivery in Chennai. The said machine assembled by Mr. Delhi in Chennai. Find the Place of supply of goods and levy tax? Answer:*

*Place of supply of goods = Chennai*

*Mr. Delhi is liable to pay IGST.*

**Goods are supplied on board a conveyance [Section 10(1)(e) of IGST Act, 2017]:**

Nature of supply	Place of supply of goods
Where the goods are supplied on board a conveyance including a vessel, an aircraft, a train or a motor vehicle.	Location at which such goods are taken on board.

**ILLUSTRATION: 8**

*Chennai express train going form Chennai to Cochin, M/s X Ltd. located in Cochin has supplied the food which are given to passengers during night time. The food packets are loaded at Chennai Central Station, Chennai.*

*Find the place of supply of goods and levy of GST?*

**Answer:**

*Place of supply of goods = Chennai [Refer above for the provision]*

*M/s X Ltd. is liable to pay IGST.*

**ILLUSTRATION: 9**

*Mr. C of Chennai supplied goods to M/s Spice Jet Airlines of Chennai flying between Delhi-Mumbai. The goods are loaded in the aircraft in Delhi. Find the place of supply of goods and levy of tax?*

**Answer:**

*Place of supply of goods = Delhi*

*Mr. C of Chennai is liable to pay IGST.*

**Place of Supply of goods cannot be determined [Section 10(2) of the IGST Act, 2017]:**

Nature of supply	Place of supply of goods
Any thing not covered under sub-section (a) to (e) of Section 10(1) of the IGST Act, 2017	Determined in such manner as may be prescribed (i.e. as recommended by GST Council)

**Place of supply of goods imported into or exported from India [Sec. 11 of the IGST Act, 2017]**

Nature of supply	Place of supply of goods
Import into India	Location of the importer
Export from India	Location of outside India

**Conclusion: IGST – Levy**

**IGST – Levy on supply of good:**

Supply of goods in the course of inter-State trade or commerce means any supply where:

- the location of the supplier  
and
- the place of supply are in different States Deemed Inter State Supply:
- A supply of goods and/or services in the course of import
- An export of goods and/or services

**The Place of Supply of Services where location of supplier and recipient is in India [Sec. 12 of IGST Act, 2017]:** To know the Place of Supply for Services the following two concepts are very important (Section 12(1) of the IGST Act, 2017):

1. Location of the recipient of services.
2. Location of the supplier of services

**Location of the recipient of services:**

Sec 2(14) of IGST Act, the definition of location of recipient of service divided into 4 sub clauses:

Recipient of service	Location of the recipient of service
(a) Services received at place of business where registration is obtained.	Location of such place of business
(b) Services received at fixed establishment	Location of such fixed establishment
(c) Services received at more than one establishment	The location of establishment most directly concerned with the receipt of the supply
(d) Services received at other than above.	The location of the usual place of residence of the recipient.

**Location of the supplier of service:**

Sec 2(15) of IGST Act, the definition of location of supplier of service divided into 4 sub clauses:

Supplier of service	Location of the supplier of service
(a) Supply is made from a place of business where registration is obtained.	Location of such place of business
(b) Supply is made from a fixed establishment	Location of such fixed establishment
(c) Supply is made from more than one establishment	The location of establishment most directly concerned with the provision of the supply
(d) Services received at other than above.	The location of the usual place of residence of the supplier.

**ILLUSTRATION: 8**

*M/s X Ltd. has entered into agreement with M/s Y Ltd. to maintain air conditioners. M/s. X Ltd. has air conditioners located in Telangana, Andhra Pradesh and Tamil Nadu. M/s Y Ltd. has appointed sub-contractors for the purpose of providing the services of maintenance of air*

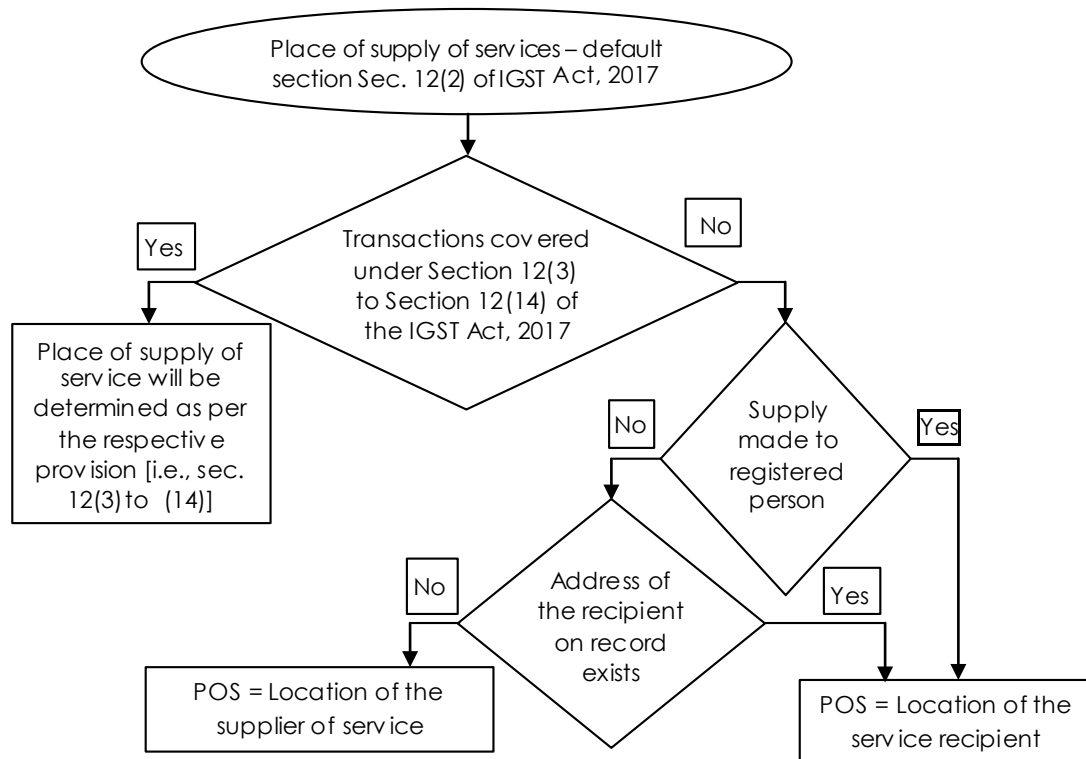
*conditioners installed in Telangana, Andhra Pradesh and Tamil Nadu. The maintenance and repair work undertaken by the sub-contractor, who is a supplier of service in the given case.*

**Answer:**

*Supplier of service is M/s Y Ltd., even though the services are actually provided by the sub-contractors on behalf of M/s Y Ltd.*

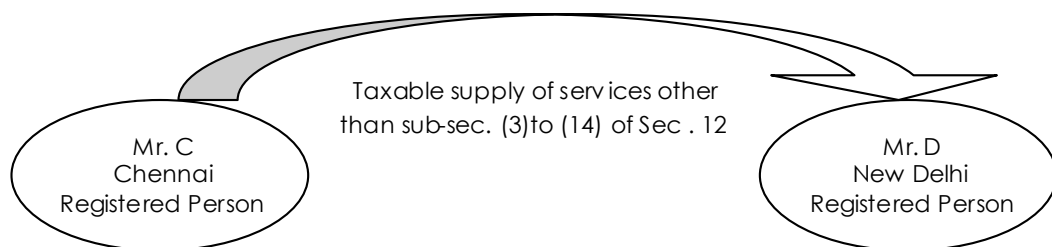
**Place of supply of services – Default Section.**

It means, Section 12(2) is applicable only when Section 12(3) to Section 12(14) is not applicable.



Here POS = Place of supply.

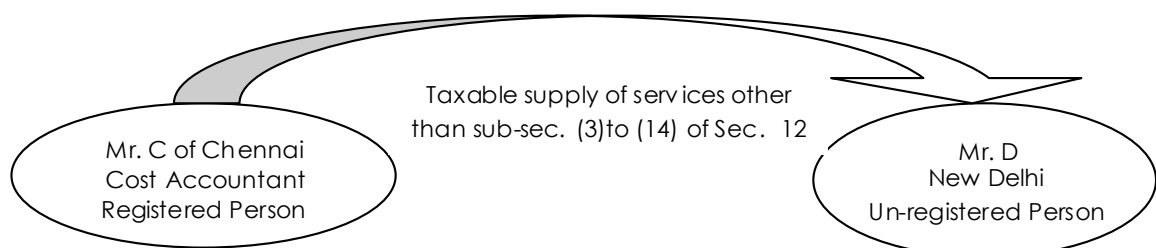
**Supply of service to a registered person [Sec. 12(2)(a) of IGST Act]:**



Place of supply of service = Location of recipient of service (i.e., New Delhi).

Levy of Tax = IGST will be levied.

**Supply of service to a unregistered person [Sec. 12(2)(b)(i) of IGST Act (where the address on records exists)]:**

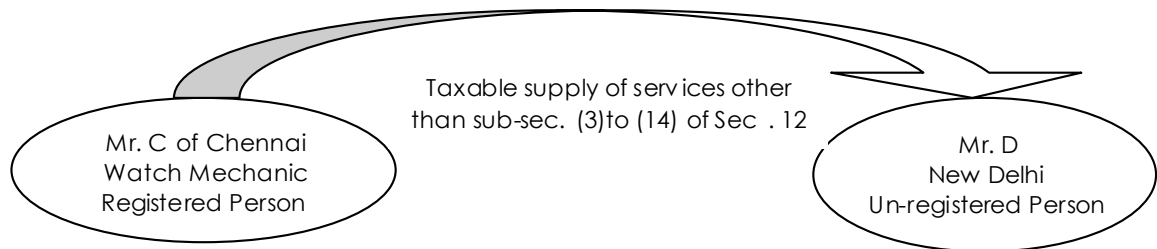


Place of supply of service = Location of the recipient where the address on records exists.

IGST will be levied.

Address on records means the address of the recipient as available in the records of the supplier.

**Supply of service to a unregistered person [Sec.12(2)(b)(ii) of IGST Act (where the address on records NOT exists)]:**



Place of supply of service = Chennai

CGST & SGST will be levied.

**Place of supply of services directly in relation to an immovable property [Sec. 12(3)(a) of IGST Act, 2017]:**

S. No.	Nature of service		Place of supply of service
1	Architects	Any services ancillary to these services Sec. 12(3)(d)	Immovable property located or intended to be located India: <ul style="list-style-type: none"> <li>• Location of Immovable property</li> </ul> Outside India: <ul style="list-style-type: none"> <li>• Location of the recipient.</li> </ul>
2	Interior decorator		
3	Surveyors		
4	Engineers and other related experts or estate agents		
5	Any service provided by way of grant of rights to use immovable property		
6	for carrying out or co-ordination of construction work		


## CHAPTER 5

### Rate of Tax U/S 14 Value of Supply U/S 15

#### INTRODUCTION

GST is payable (i) on supply of goods and / or services for a consideration in the course of or furtherance of business; (ii) on certain supplies made without a consideration as specified in Schedule I to the CGST Act. As GST is levied as a percentage of the value of supply, whether of goods or of services, it becomes important to know how to arrive at the value on which tax is to be paid. Provisions relating to 'value of supply' set out the mechanism to compute such value basis which CGST and SGST/UTGST (intra-State supply) and IGST (inter state supply) should be paid. Section 15 of the CGST Act supplemented with the Chapter IV: Determination of Value of Supply of CGST Rules<sup>3</sup> prescribes the provisions for determining the value of goods and services. Section 15 of the CGST Act provides common provisions for determining the value of goods and services. It provides the mechanism for determining the value of a supply which is made between unrelated persons and when price and only the price is the sole consideration of the supply. When value cannot be determined under section 15, the same is determined using Chapter IV: Determination of Value of Supply of CGST Rules.

#### VALUE OF SUPPLY [SECTION 15]

 <b>STATUTORY PROVISIONS</b>		
<i>Section 15</i>	<i>Value of taxable supply</i>	
<i>Sub-section</i>	<i>Clause</i>	<i>Particulars</i>
(1)		<i>The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.</i>
(2)		<i>The value of supply shall include-</i>
	(a)	<i>any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the State Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier;</i>

	(b)	<i>any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;</i>
	(c)	<i>incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services;</i>
	(d)	<i>interest or late fee or penalty for delayed payment of any consideration for any supply; and</i>
	(e)	<i>subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.</i>
	<i>Explanation.—For the purposes of this sub-section, the amount of subsidy shall be included in the value of supply of the supplier who receives the subsidy.</i>	
(3)	<i>The value of the supply shall not include any discount which is given</i>	
	(a)	<i>before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply; and</i>
	(b)	<i>after the supply has been effected, if—</i>
	(i)	<i>such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and</i>
	(ii)	<i>input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.</i>

(4)	<i>Where the value of the supply of goods or services or both cannot be determined under sub-section (1), the same shall be determined in such manner as may be prescribed.</i>
(5)	<i>Notwithstanding anything contained in sub-section (1) or sub-section (4), the value of such supplies as may be notified by the Government on the recommendations of the Council shall be determined in such manner as may be prescribed.</i>
<b>Explanation—For the purposes of this Act,—</b>	
(a)	<i>persons shall be deemed to be “related persons” if—</i>
(i)	<i>such persons are officers or directors of one another’s businesses;</i>
(ii)	<i>such persons are legally recognised partners in business;</i>
(iii)	<i>such persons are employer and employee;</i>
(iv)	<i>any person directly or indirectly owns, controls or holds twenty-five per cent or more of the outstanding voting stock or shares of both of them;</i>
(v)	<i>one of them directly or indirectly controls the other;</i>
(vi)	<i>both of them are directly or indirectly controlled by a third person;</i>
(vii)	<i>together they directly or indirectly control a third person; or they are members of the same family;</i>
(b)	<i>the term “person” also includes legal persons;</i>
(c)	<i>persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related</i>

## Analysis

The CGST law has different provisions for determining the taxable value of a supply of goods / services in the following situations:

- Supplies made for a price in money (monetary consideration), to unrelated persons □ Sub-sections (1) to (3) of section 15;
- Supplies made for non-monetary consideration, or for part monetary consideration and part other, or involving additional consideration, or to related persons, or for specific classes of supply
- Sub-sections (4) and (5) of section 15 read with the Chapter IV: Determination of Value of Supply of CGST Rules.

The 'Explanation' to section 15 defines 'related person' to cover various situations of control, including sole agent, sole distributor and sole concessionaire.

#### ILLUSTRATION 4

Black and White Pvt. Ltd. has provided the following particulars relating to goods sold by it to Colourful Pvt. Ltd.

Particulars	₹
List price of the goods (exclusive of taxes and discounts)	50,000
Tax levied by Municipal Authority on the sale of such goods	5,000
CGST and SGST chargeable on the goods	10,440
Packing charges (not included in price above)	1,000

Black and White Pvt. Ltd. received ₹ 2000 as a subsidy from a NGO on sale of such goods. The price of ₹ 50,000 of the goods is after considering such subsidy.

Black and White Ltd. offers 2% discount on the list price of the goods which is recorded in the invoice for the goods.

Determine the value of taxable supply made by Black and White Pvt. Ltd.

#### ANSWER

#### Computation of value of taxable supply

Particulars	₹
List price of the goods (exclusive of taxes and discounts)	50,000
Tax levied by Municipal Authority on the sale of such goods [Includible in the value as per section 15(2)(a)]	5,000
CGST and SGST chargeable on the goods [Not includible in the value as per section 15(2)(a)]	
Packing charges [Includible in the value as per section 15(2)(c)]	1,000
Subsidy received from a non-Government body [Since subsidy is received from a non-Government body, the same is included in the value in terms of section 15(2)(e)]	<u>2,000</u>
Total	58,000
Less: Discount @ 2% on ₹ 50,000 [Since discount is known at the time of supply, it is deductible from the value in terms of section 15(3)(a)]	<u>1,000</u>
<b>Value of taxable supply</b>	<b>57,000</b>

## ILLUSTRATIONS

#### ILLUSTRATION 5

C of Chennai supplies goods to B of Bengaluru. C has to send the goods for delivery from Chennai to Bengaluru. A sends the goods to B on 30th Oct 2017. Turnover of C in the P.Y. was 2 crore. Find the time of supply in the following different scenarios:

**Solution-**

Removal of Goods	Date of Issue of Invoice	Last Date for Issue of Tax Invoice	Date on which payment is entered in the books of account	Date on which payment is credited in the Bank Account	Time of Supply	Criteria for determining Time of Supply [Whichever is earlier]
30th Oct	30th Oct	30th Oct	31st Oct	1st Nov	<b>30th Oct</b>	<b>Date of issue of Invoice</b>
30th Oct	2nd Nov	30th Oct	31st Oct	1st Nov	<b>30th Oct</b>	<b>Last Date for issue of Invoice</b>
30th Oct	28th Oct	30th Oct	27th Oct	26th Oct	<b>26th Oct</b>	<b>Date on which payment is credited in the bank Account</b>

#### ILLUSTRATION 6

Mr. Ram sold goods to Mr. Ravi worth 5,00,000. The invoice was issued on 15th November. The payment was received on 30th November. The goods were supplied on 20th November. Find the time of supply of goods?

**Solution-**

Particulars Whichever is earlier

Date of issue of invoice 15th November

Last date on which invoice should have been issued 20th November

Date of receipt of payment 30th November

Therefore, time of supply of goods = 15th November.

Date of invoice or payment whichever is earlier.

#### ILLUSTRATION 7

Mr. Ram sold goods to Mr. Ravi worth ` 5,00,000. The invoice was issued on 15th November. The payment was received on 31st October. The goods were supplied on 20th November.

Find the time of supply of goods? P.Y. turnover of Mr. Ram 72 lakhs.

**Solution-**

Particulars

Date of issue of invoice 15th November Date of invoice is the criteria

Last date on which invoice should have been issued 20th November

Date of receipt of payment 31st October Advance is not a time of supply

Therefore, time of supply of goods = 15th November.

#### ILLUSTRATION 8

Mr. Asif of Mumbai Supplied Goods to Mr. Binay of Pune Rs. 10,000/-. If GST Rate is 5%, 12%, 18% and 28% under GST. Calculate Tax Payable by Mr. Asif ?

**Solution-**

Particulars	Rs.
Value of Supply	10,000
Add CGST @ 5%	500
Add SGST @ 5%	500
<b>Total Value of Invoice</b>	<b>11,000</b>

#### ILLUSTRATION 9

Mr. C of Chennai supplied goods/services for ₹ 20,000 to Mr. M of Madurai. SGST and CGST rate on supply of goods and services is 9% each. IGST rate is 18%. Find the following:

- Total price charged by Mr. C.
- Who is liable to pay GST?

**Solution-**

<b>Particulars</b>	<b>Rs.</b>
Value of Supply	20,000
Add CGST @ 9%	1,800
Add SGST @ 9%	1,800
<b>Total Value of Invoice</b>	<b>23,600</b>
(b) Mr. C is liable to pay GST.	<b>23,600</b>

**ILLUSTRATION 10**

M/s. ABC Ltd. provides the following relating to information technology software. Compute the value of taxable service and GST liability (Rate of CGST 9% and SGST 9%)?

- Development and Design of information technology software: ₹ 15 lakhs.
- Sale of pre-packaged software, which is put on media: ₹ 52 lakhs.

**Solution-**

(a) and (b) both are treated as supply of Service.

<b>Particulars</b>	<b>Rs.</b>
Value of Supply	67,00,000
Add CGST @ 9%	6,03,000
Add SGST @ 9%	6,03,000
<b>Total Value of Invoice</b>	<b>79,06,000</b>

**ILLUSTRATION 11**

M/s. ABC Ltd. provides the following relating to information technology software. Compute the value of taxable service and GST liability (GST rate is 18% )?

- Development and Design of information technology software: ₹ 15 lakhs;
- Sale of pre-packaged software, which is put on media: ₹ 52 lakhs.

**Solution-**

(a) and (b) both are treated as supply of Service.

<b>Particulars</b>	<b>Rs.</b>
Value of Supply	67,00,000
Add IGST @ 18%	12,06,000
<b>Total Value of Invoice</b>	<b>79,06,000</b>

**ILLUSTRATION 12**

Mr. C of Tamil Nadu supplied goods/services for ₹ 20,000 to Mr. M of Maharashtra. SGST and CGST rate on supply of goods and services is 9% each. IGST rate is 18%. Find the following:

- Total price charged by Mr. C.
- Who is liable to pay GST?

**Solution-**

<b>Particulars</b>	<b>Rs.</b>
--------------------	------------

Value of Supply	20,000
Add IGST @ 18%	3,600
<b>Total Value of Invoice</b>	<b>23,600</b>
(b) Mr. C is liable to pay GST.	<b>23,600</b>

### ILLUSTRATION 13

Mr.C unregistered dealer of Tamil Nadu supplied goods/services for ₹ 20,000 to Mr. M of Maharashtra. SGST and CGST rate on supply of goods and services is 9% each. IGST rate is 18%. Find the following:

- Total price charged by Mr. C.
- Who is liable to pay GST?

#### Solution-

Particulars	Rs.
Value of Supply	20,000
Add IGST @ 18%	3,600
<b>Total Value of Invoice</b>	<b>23,600</b>
(b) Mr. M is liable to pay GST.	<b>23,600</b>

{Hint : Reverse Chages}

### ILLUSTRATION 13

M/s X Ltd. being a manufacturer of laptops has four factories in Chennai, Salem, Coimbatore and Madurai. Place P.Y. Turnover ₹ in lakhs (Including Taxes @ 18%)

Chennai	57.91
Salem	12.00
Coimbatore	8.00
Madurai	10.00
Chennai –II	23.60
<b>Total</b>	<b>111.51</b>

Is M/s X Ltd eligible for composition levy in the current year?

#### Solution-

Aggregate turnover =  $111.51 \times 100/118 = ₹ 94.50$  lakh

Note: Since, aggregate turnover in the preceding financial year does not exceed ₹ 1 crore, M/s X Ltd. is eligible for composition Scheme.

## Explanation: For the purpose of the CGST Act, 2017:

- persons shall be deemed to be “related persons” if—
  - such persons are officers or directors of one another’s businesses;
  - such persons are legally recognized partners in business;
  - such persons are employer and employee;
  - any person directly or indirectly owns, controls or holds 25% or more of the outstanding voting stock or shares of both of them;
  - one of them directly or indirectly controls the other;

- (vi) both of them are directly or indirectly controlled by a third person;
  - (vii) together they directly or indirectly control a third person; or
  - (viii) they are members of the same family;
- (b) the term “person” also includes legal persons;
- (c) persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.

**Section 15(1): the price is sole consideration for sale:**

Under GST, the valuation is done based on the transaction value only if price is a sole consideration where supplier and the recipient are not related.

Sole consideration means by paying GST on such consideration there is no revenue loss to the department.

**Value of a supply of goods and/or services shall be:**

“Transaction Value (TV), that is the price actually paid or payable for the said supply of goods and/or services” Where:

- The supplier and the recipient of the supply are not related and
- The price is the sole consideration for the supply.

**Payment of taxes, duties, cesses, fees and charges [Sec. 15(2)(a) of CGST Act, 2017]:**

Any taxes, duties cesses, fees and charges levied under any law for the time being in force other than CGST/ SGST/ UTGST/ IGST/ Compensation Cess shall be added to the value of supply.

**ILLUSTRATION: 15**

*Admission to True Theater is ` 90 per ticket for a Tamil Movie as well as for a Hindi Movie plus entertainment tax ` 10% on Tamil Movie and 20% on other languages. In the month of November, True Theater sold 2000 tickets of Tamil Movie and 1500 tickets of Hindi Movie. Find the value of taxable supply of service. Applicable rate of GST 18 % & 28%. Find the GST liability if any?*

**Answer:**

*Statement showing value of taxable supply of service and GST liability:*

*Value of taxable services:*

<i>Tamil Movie</i>	<i>` 1,98,000</i>	<i>(` 99 x 2000 tickets)</i>
<i>Hindi Movie</i>	<i>` 1,62,000</i>	<i>(` 108 x 1500 tickets)</i>

<i>Paticulars</i>	<i>9% CGST</i>	<i>9% SGST</i>	<i>14%CGST</i>	<i>14 % SGST</i>
<i>GST liability (-)</i>	<i>17,820</i>	<i>17,820</i>	<i>22,680</i>	<i>22,680</i>

Working note:

Particulars	Tamil Movie (₹)	Hindi Movie (₹)
Rate per ticket	90	90
Add: Entertainment tax	9	18
Value of taxable supply	99	108
Applicable GST rate	18%	28 %

**Supplies made by recipient on behalf of supplier [Sec. 15(2)(b) of CGST Act, 2017]:**

The transaction value will include the amount which the supplier is so liable to pay but it has been paid by the recipient of supply.

**ILLUSTRATION: 16**

*Mr. Ram sold goods to Mr. Lakshman for ₹ 2,50,000. As per the contract of sale, Mr. Ram is required to deliver the goods in the premises of Mr. Lakshman. Mr. Ram hires transporter for transportation for delivery of goods. However, the freight paid by Mr. Lakshman to transporter. Freight paid ₹ 2,500. Find the transaction value of supply of goods.*

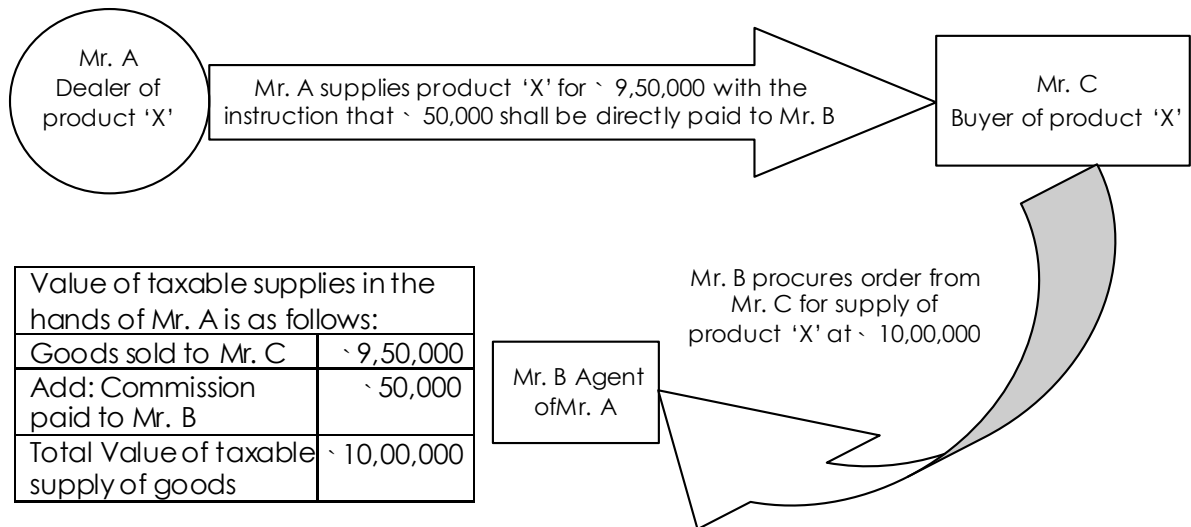
*Answer:*

Particulars	Value in ₹
Value of supply of goods	2,50,000
Add: Freight paid by recipient of supply (which the supplier is so liable to pay)	2,500
Taxable value of supply of goods	2,52,500

**Commission and packing charges [Sec. 15(2)(c) of CGST Act]:**

The transaction value will include commission and packing charges charged by the supplier to the recipient of supply and transaction value to include any amount charged by the supplier for anything done in respect of supply either at the time or before delivery of goods or services.

**ILLUSTRATION: 17**



**ILLUSTRATION: 18**

*Mr. A is a seller of furniture. He supplied the furniture for ₹ 5,75,000 to Mr. B with the condition that to remove old furniture from the premises of Mr. B by charging ₹ 5,000. Find the value of taxable supply of goods in the hands of Mr. A.*

**Answer:**

*The value of taxable supply of goods is ₹ 5,80,000.*

**Interest or late fee or penalty for delayed payment [Sec. 15(2)(d) of the CGST Act, 2017]:**

It is specifically provided that interest or late fee or penalty for delay in payment of any consideration for supply will form part of the value of supply.

**ILLUSTRATION: 19**

*Penal interest charged by the banker for delay in payment of dues is subject to GST.*

**Subsidy directly linked to the price (other than Govt. Subsidies) [Sec. 15(2)(e) of CGST Act, 2017]:**

Subsidy provided in any form or manner linked to the supply will also be included in the transaction value.

**ILLUSTRATION: 20**

*Bharat Gas sells cooking gas cylinders. Subsidy directly transferred to the account of the customer. Selling price per cylinder is ₹ 800. Customer received subsidy ₹ 200 directly from Government to his bank account. Net outflow of the buyer is ₹ 600. Find the value of supply of goods (per cylinder) in the hands of Bharat Gas.*

**Answer:**

*Since, the amount of subsidy is directly credited to the account holder and not received by the Bharat Gas making the supply. Therefore, such subsidy will not be considered as part of transaction value as it is not received by the Bharat Gas making the supply. Hence, transaction value is ₹ 800 per cylinder.*

**ILLUSTRATION: 21**

*The Government provides subsidy, for the benefit of farmers but it is given to the manufacturer of fertilizers. Such subsidy will form part of value of supply?*

**Answer:**

*The buyer of goods does not provide subsidy, but the Government as per the scheme provides it. Therefore, this will not form part of value of supply as it is specifically specified that such subsidy provided by the Government will not form part of the value of supply.*

**Discount under GST [Sec. 15(3) of the CGST Act, 2017]:**

S. No.	Nature of Discount	Treatment in GST	
1	If the discount is given before or at the time of supply, and is recorded in the invoice	Value of goods	XXX
		Less: Discount	( XX )
		Transaction value	XXX
2	If the discount is given after supply, but agreed upon before or at the time of supply, and can be specifically linked to relevant invoices.	Can be claimed as deduction from transaction value	
3	If the discount is given after supply, and not known at the time of supply	Cannot be claimed as deduction from transaction value	

**ILLUSTRATION: 23**

*M/s Ashok Enterprise sells mineral water bottles, with MRP ₹ 20 per bottle. However, customers availing discount of ₹ 4 per bottle. In the month of Oct 2017, M/s Ashok Enterprise sold 2,000 bottles. Applicable rate of GST 18%.*

*Find the tax liability.*

*Answer:*

<i>Particulars</i>	₹
<i>Transaction value</i>	<i>32,000</i>
<i>Add: CGST 9% on ₹ 32,000</i>	<i>2,880</i>
<i>Add: SGST 9% on ₹ 32,000</i>	<i>2,880</i>
<i>Invoice price</i>	<i>37,760</i>
<i>Working note:</i>	
<i>MRP value</i> (₹ 20 x 2000 pcs)	<i>40,000</i>
<i>Less: Discount</i> (₹ 4 x 2000 pcs)	<i>(8,000)</i>
<i>Transaction value</i>	<i>32,000</i>

**ILLUSTRATION: 24**

*Best Cars Ltd. sells a car worth ₹ 5,00,000 to Sundar Automobiles. Best Cars Ltd. incurred packing charges of ₹ 6,000 on the car. Best Cars Ltd provided a discount of 1% on the car price, as part of Diwali scheme.*

*Best Cars Ltd agreed to provide a further discount of 0.5% if Sundar Automobiles makes payment by 31st of the month via net banking. Sundar Automobiles makes the payment by 31st of the month using net banking. Find the Net GST liability in the hands of Best Cars Ltd. Applicable rate of GST 18%. Answer:*

<i>Particulars</i>	<i>Value in ₹</i>
<i>Value of the product</i>	<i>5,00,000</i>
<i>Add: packing charges</i>	<i>6,000</i>
<i>Sub-total</i>	<i>5,06,000</i>
<i>Less: Discount 1% on Rs 5 lakh</i>	<i>(5,000)</i>
<i>Transaction value</i>	<i>5,01,000</i>
<i>Add: CGST 9%</i>	<i>45,090</i>
<i>Add: SGST 9%</i>	<i>45,090</i>
<i>Invoice price</i>	<i>5,91,180</i>

**Note:** Since, the discount was known at the time of supply, and can be linked to this specific invoice, the discount amount can be reduced from the transaction value.

For this, Best Cars Ltd will issue a credit note to Sundar Automobiles for ₹ 2,500 (0.5% of ₹ 5,00,000 = ₹ 2,500 + GST @ 18% on ₹ 2,500 = ₹ 450), and the same must be linked to the relevant tax invoice.

Discount given after supply but agreed upon before or at the time of supply and can be specifically linked to relevant invoices, can be deducted from the transaction value.

**ILLUSTRATION: 25**

*However, due to a severe cash crunch, Best Cars Ltd requests Sundar Automobiles to make the payment within 2 days, promising a discount of 2% on doing so. Sundar Automobiles makes the payment within 2 days.*

*Answer:*

*Since, the discount was not known at the time of supply, it couldn't be claimed as a deduction from the transaction value for GST calculation.*

**Example : 90**

M/s Nambiar & Co., an Audit firm based in Cochin undertake an audit assignment of his client based in Chennai. The Contract mentioned about the audit fees of ₹ 5,00,000 and arrangement of taxi by the Client which may be worth ₹ 15,000.

Find the transaction value on which M/s Nambiar and Co., is liable to pay GST.

Answer:

Transaction value in the hands of M/s Nambiar & Co., is ₹ 5,15,000.

Note: Not only audit fees but also the expenditure incurred in connection with the taxi ₹ 15,000 constitute the sole consideration.

<b>ILLUSTRATION: 27</b>	
<p>M/s X Ltd. is engaged in doing job work for M/s Y Ltd. M/s Y Ltd. supplies raw material for ₹ 2,00,000 and packing material for ₹ 22,500 to M/s X Ltd. for completion of job work. M/s X Ltd. has agreed to supply services for the purpose of performing the activities specified by M/s Y Ltd. for ₹ 1,00,000. Job worker profit of ₹ 70,000 and material consumed for ₹ 3,500. Find transaction value (i.e. sole consideration) to levy GST in the hands of M/s X Ltd.</p>	
Answer:	
Particulars	Value in ₹
Service charges	1,00,000
Add: Material consumed	3,500
Add: Jobworker profit	70,000
Transaction value (i.e. taxable value of supply of service in the hands of M/s X Ltd.)	1,73,500
<p>Note: "Although, it includes materials worth ₹ 3,500, still the entire supply including value of material would be treated as services.</p>	
<b>ILLUSTRATION: 28</b>	
<p>Asha Ltd. supplies raw material to a job worker Kareena Ltd. After completing the job-work, the finished product of 5,000 packets are returned to Asha Ltd. putting the retail sale price as ₹ 20 on each packet. The product in the packet is covered under MRP provisions. Determine the transaction value in the hands of Kareena Ltd. under GST law from the following details:</p>	
Particulars	Value in ₹
Cost of raw material supplied	30,000
Job worker's charges including profit	10,000
Transportation charges for sending the raw material to the job worker	3,000
Transportation charges for returning the finished packets to Asha Ltd.	4,500
Asha Ltd. paid certain technology transfer fees to 'Reena Ltd', so that 'Kareena Ltd' can use the said technology in the given job-work operation.	22,500
<p>Note: Kareena Ltd offered discount ₹ 2,000, provided full payment is made at the time of raising invoice and the same is mentioned in the invoice. Asha Ltd. made full payment at the time of issue of invoice.</p>	
Answer:	
Statement showing transaction value of Kareena Ltd.	
Particulars	Value in ₹
Cost of raw material supplied	Exempted supply
Job worker's charges including profit	10,000

<i>Transportation charges for sending the raw material to the job worker</i>	<i>Exempted supply</i>
<i>Transportation charges for returning the finished packets to Asha Ltd. [Sec. 15(2)(b) of the CGST Act, 2017]</i>	<i>4,500</i>
<i>Technology fee [Sec. 15(2)(b) of the CGST Act, 2017]</i>	<i>22,500</i>
<i>Sub-total</i>	<i>37,000</i>
<i>Less: Discount [Sec. 15(3) of CGST Act, 2017]</i>	<i>(2,000)</i>
<i>Transaction value (i.e. sole consideration)</i>	<i>35,000</i>
<i>Note: It is very clear that principal to jobworker and jobworker to principal can not be treated as supply as per section 143 of the CGST Act, 2017.</i>	

**ILLUSTRATION: 29**

*Mr. Bhanu makes supply of ₹ 2,00,000 to Mr. Renu. The contract provides that Mr. Renu will pay ₹ 50,000 to Mr. Bhanu and ₹ 1,50,000 to Mr. Venu to settle the debt of Mr. Bhanu. Find the transaction value and GST liability in the hands of Mr. Bhanu. Applicable rate of CGST and SGST 9% each.*

*Answer:*

*Statement showing transaction value and GST liability:*

<i>Particulars</i>	<i>Value in ₹</i>
<i>Payment from Renu to Bhanu</i>	<i>50,000</i>
<i>Payment from Renu to Venu for settling the debt of Bhanu</i>	<i>1,50,000</i>
<i>Transaction value (i.e. Sole consideration)</i>	<i>2,00,000</i>
<i>CGST 9%</i>	<i>18,000</i>
<i>SGST 9%</i>	<i>18,000</i>

**Transaction value not available [Sec. 15(4) read with CGST Rules, 2017 (i.e. Determination of value of supply)]:**

[ To be discussed in Final Level ]

**Rate of exchange of currency for determination of value [Rule 34 of the CGST Rules, 2017]:**

The rate of exchange for the determination of the value of taxable goods or services or both shall be the applicable reference rate for that currency as determined by the Reserve Bank of India (RBI) on the date of time of supply in respect of such supply in terms of section 12 or as the case may be, section 13 of the Act.

**NOTIFICATION No. 17/2017–**

**Central Tax New Delhi, the**

**27th July, 2017**

for rule 34, the following shall be substituted, namely:

“34. Rate of exchange of currency, other than Indian rupees, for determination of value.—(1) The rate of exchange for determination of value of taxable goods shall be the applicable rate of exchange as notified by the Board under section 14 of the Customs Act, 1962 for the date of time of supply of such goods in terms of section 12 of the Act.

(2) The rate of exchange for determination of value of taxable services shall be the applicable rate of exchange determined as per the generally accepted accounting principles for the date of time of supply of such services in terms of section 13 of the Act”;

**ILLUSTRATION: 30**

Compute the duty payable under the Customs Act, 1962 for imported equipment based on the following information:

- (i) Assessable value of the imported equipment US \$10,100.  
 (ii) Date of Bill of Entry 25.10.2017 exchange rate notified by the Central Board of Excise and Customs US \$ 1 = ₹ 65.  
 (iii) Date of Entry inwards 01.11.2017 exchange rate notified by the Central Board of Excise and Customs US \$ 1 = ₹ 60.

Find the taxable value of imported goods.

Answer:

*Statement showing taxable value of imported goods:*

Particulars	Value in ₹	Remarks
Assessable value of imported goods	6,56,500	10,100 USD x ₹ 65 Exchange rate as on the date of submission of bill of entry is relevant as per section 14 of the Customs Act, 1961.

**Value of supply inclusive of integrated tax, State tax, Union territory tax [Rule 35 of the CGST Rules, 2017]:**

Where the value of supply is inclusive of integrated tax or, as the case may be, central tax, State tax, Union territory tax, the tax amount shall be determined in the following manner, namely:-

$$\text{Tax Amount} = \frac{\text{Value inclusive of tax}}{100 + \text{Rate of GST}} \times \text{Rate of GST}$$

This formula is very useful in case where supplier may treat the particular supply as exempted from GST and therefore will not indicate the tax amount separately in the bill of supply prepared by him. In fact it is taxable supply with GST. In such case transaction value will be determined with help of rule 35.

**Example : 95**

*An assessee was under impression that his product is exempt from GST and hence sold the goods @ ₹100 per piece without charging GST. Later, it was found that actually, the product was chargeable with IGST 18%. Department claimed that since goods were removed without GST, transaction value should be ₹100 and GST is payable accordingly. Assessee contended that price of ₹100 should be taken as inclusive of GST and actual GST payable should be calculated by back calculations. Determine the correct GST payable per piece.*

Answer:

*As per rule 35 of the CGST Rules, 2017 transaction value and GST liability is as follows:*

*The Transaction value should be taken, as cum-tax-price and tax payable should be calculated by making back calculations. Hence, the transaction value is as follows:*

*The transaction value = ₹100 x 100/118 = ₹ 84.75*

*IGST = ₹100 x 18/118 = ₹ 15.25*

*Total invoice price = ₹100.00*

*[ CCE v MarutiUdyog Ltd. (2002) 141 ELT 3 (SC) ]*

## **CHAPTER 6**

### **Input Tax Credit [ITC] U/S 16 to 21**

#### **INTRODUCTION**

In earlier indirect tax regime, the credit mechanism for indirect taxes levied by the Union Government was governed by the CENVAT Credit Rules, 2004; and the credit mechanism for state-level VAT on sale of goods was governed by the States under their respective VAT Acts and Rules. The VAT legislations allowed ITC of VAT on inputs and capital goods in transactions within the state, but not on inputs and capital goods coming in the State from outside the state, on which central sales tax was paid. CENVAT Credit Rules, 2004 allowed availing and utilization of credit of duty/tax paid on both goods (capital goods and inputs) and services by the manufacturers and the service providers across the country. The credit across goods and services was integrated vide the CENVAT Credit Rules, 2004 in the year 2004 to mitigate the cascading effects of central levies namely, central excise and service tax. However, the credit chain remained fragmented on account of State-Level VAT as the credit of central taxes could not be set off against a State levy and vice versa. The chain further got distorted as ITC was not available on inter-State purchases. This resulted in cascading of taxes leading to increase in costs of goods and services. The GST regime promises seamless credit on goods and services across the entire supply chain with some exceptions like supplies charged to tax under composition scheme and supply of exempted goods and/or services. ITC is considered to be the backbone of the GST regime. In fact, it is the provisions of ITC which essentially make GST a value added tax i.e., collection of tax at all points of supply chain after allowing credit of tax paid at earlier points. Chapter V of the CGST Act [Sections 16 to 21] & Chapter V: Input Tax Credit of the CGST Rules [Rules 36-45] prescribe the provisions relating to ITC. State GST laws also prescribe identical provisions in relation to ITC. In this Chapter, provisions of sections 16, 17 and 18 have been discussed; first the statutory provisions of these sections together with the relevant rules have been extracted followed by their analysis.

<i>Section 16</i>	<i>Eligibility and conditions for taking input tax credit</i>	
<i>Sub-section</i>	<i>Clause</i>	<i>Particulars</i>
(1)		<i>Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.</i>
(2)		<i>Notwithstanding anything contained in this section, no registered</i>

	<i>person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,—</i>
<i>(a)</i>	<i>he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;</i>
<i>(b)</i>	<i>he has received the goods or services or both.</i>
	<i>Explanation.—For the purposes of this clause, it shall be deemed that the registered person has received the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;</i>
<i>(c)</i>	<i>subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and</i>
<i>(d)</i>	<i>he has furnished the return under section 39:</i>
	<i>Provided that where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment:</i>
	<i>Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed:</i>
	<i>Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.</i>

(3)	Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961, the input tax credit on the said tax component shall not be allowed.
(4)	A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.
<b>Chapter V: Input Tax Credit of the CGST Rules</b>	
<b>Rule 36</b>	<b>Documentary requirements and conditions for claiming input tax credit</b>
(1)	The input tax credit shall be availed by a registered person, including the Input Service Distributor, on the basis of any of the following documents, namely:-
	(a) an invoice issued by the supplier of goods or services or both in accordance with the provisions of section 31;
	(b) an invoice issued in accordance with the provisions of clause (f) of sub-section (3) of section 31, subject to the payment of tax;
	(c) a debit note issued by a supplier in accordance with the provisions of section 34;
	(d) a bill of entry or any similar document prescribed under the Customs Act, 1962 or rules made thereunder for the assessment of integrated tax on imports;
	(e) an input service distributor invoice or input service distributor credit note or any document issued by an input service distributor in accordance with the provisions of sub-rule (1) of rule 54.
(2)	Input tax credit shall be availed by a registered person only if all the applicable particulars as specified in the provisions of Chapter

	<i>VI are contained in the said document, and the relevant information, as contained in the said document, is furnished in FORM GSTR-2 by such person.</i>
<i>(3)</i>	<i>No input tax credit shall be availed by a registered person in respect of any tax that has been paid in pursuance of any order where any demand has been confirmed on account of any fraud, willful misstatement or suppression of facts.</i>
<b>Rule 37</b>	<b><i>Reversal of input tax credit in the case of non-payment of consideration</i></b>
<i>(1)</i>	<i>A registered person, who has availed of input tax credit on any inward supply of goods or services or both, but fails to pay to the supplier thereof the value of such supply along with the tax payable thereon within the time limit specified in the second proviso to sub-section (2) of section 16, shall furnish the details of such supply, the amount of value not paid and the amount of input tax credit availed of proportionate to such amount not paid to the supplier in FORM GSTR-2 for the month immediately following the period of one hundred and eighty days from the date of the issue of the invoice.  Provided that the value of supplies made without consideration as specified in Schedule I of the said Act shall be deemed to have been paid for the purposes of the second proviso to sub-section (2) of section 16.</i>
<i>(2)</i>	<i>The amount of input tax credit referred to in sub-rule (1) shall be added to the output tax liability of the registered person for the month in which the details are furnished.</i>
<i>(3)</i>	<i>The registered person shall be liable to pay interest at the rate notified under sub-section (1) of section 50 for the period starting from the date of availing credit on such supplies till the date when the amount added to the output tax liability, as mentioned in sub-rule (2), is paid.</i>
<i>(4)</i>	<i>The time limit specified in sub-section (4) of section 16 shall not apply to a claim for re- availing of any credit, in accordance with the provisions of the Act or the provisions of this Chapter, that had been reversed earlier.</i>

### **Eligibility for taking ITC [Section 16(1)]**

- Registration under GST Every registered person shall be entitled to ITC charged on inward supply of goods and / or services. This is subject to the provisions relating to use of ITC under section 49 and the conditions and restrictions in the rules. [Section 49 prescribes provisions

relating to payment of tax, interest, penalty & other amounts. The same has been discussed in detail in Chapter 9: Payment of Tax.]

- Goods/services to be used for business purposes ITC will be available on goods and/or services which are used in the course or furtherance of the business [See definition of business]; the “intention to use” the goods and/or services in the course or furtherance of business would also lead to availing of credit on such goods and/or services. Thus, tax paid on goods and or/services which are used or intended to be used for non-business purposes cannot be availed as credit. ITC will be credited in Electronic Credit Ledger.

**ILLUSTRATION 1:**

*Mr. K of Kolkata sold taxable goods to Mr. C of Chennai. Mr. B being a buyer of goods is eligible to claim the IGST as credit on purchases based on the tax invoice issued by Mr. K of Kolkata.*

*Step by step approach:*

- 1. Mr K will upload the details of all tax invoices issued in GSTR 1.*
- 2. The details with respect to sales to Mr C will auto populate/ get reflected in GSTR 2A, the same data will be pulled when Mr C will file GSTR 2 (i.e details of inward supply).*
- 3. Mr C will then accept the details that the purchase has been made and reported by the seller correctly and subsequently the tax on purchases will be credited to ‘Electronic Credit Ledger’ of Mr C and he can adjust it against future output tax liability.*
- 4. against future output tax liability.*

## Utilization of ITC:

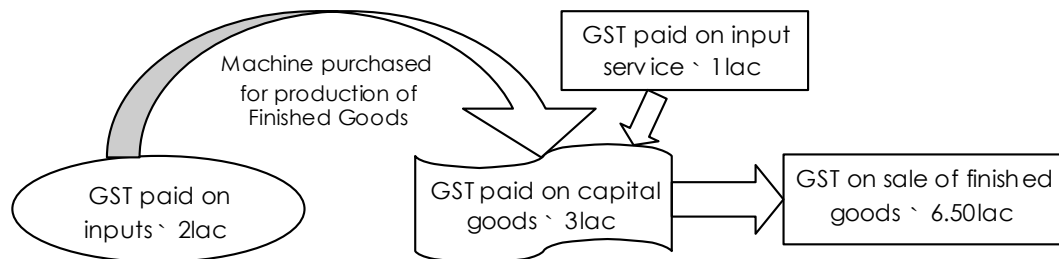
Inward supply	Outward supply			Remarks
	CGST	SGST	IGST	
ITC of CGST	Allowed	Not allowed	Allowed	1 st CGST next IGST in that order
ITC of SGST	Not allowed	Allowed	Allowed	1 st SGST next IGST in that order
ITC of IGST	Allowed	Allowed	Allowed	1 st IGST next CGST and next SGST in that order

### ITC is an integration of Goods and Services:

Since GST is charged on both goods and services, input tax credit can be availed on both goods and services ( except those which are on the exempted/negative list).Input tax credit is allowed on capital goods.

#### Example 2:

*X Ltd. being manufacturer cum seller of taxable goods*



<i>Particulars</i>	<i>GST · in lac</i>
<i>Output supply of goods</i>	<b>6.50</b>
<i>Less: ITC on inward supply of goods</i>	(2)
<i>Less: ITC on capital goods</i>	(3)
<i>Less: ITC on input supply of services</i>	(1)
<b>Net GST liability</b>	<b>0.50</b>

**Note:** Goods or services or both which are used or intended to be used in the course or furtherance of business and the said amount shall be credited to the electronic credit ledger of such person.

## Conditions for taking ITC [Section 16(2)]

The registered person will be entitled to ITC on a supply only if ALL the following four conditions are fulfilled:

### Possession of tax paying document [Section 16(2)(a) read with rule 36 of the CGST Rules]

ITC can be availed on the basis of any of the following documents:

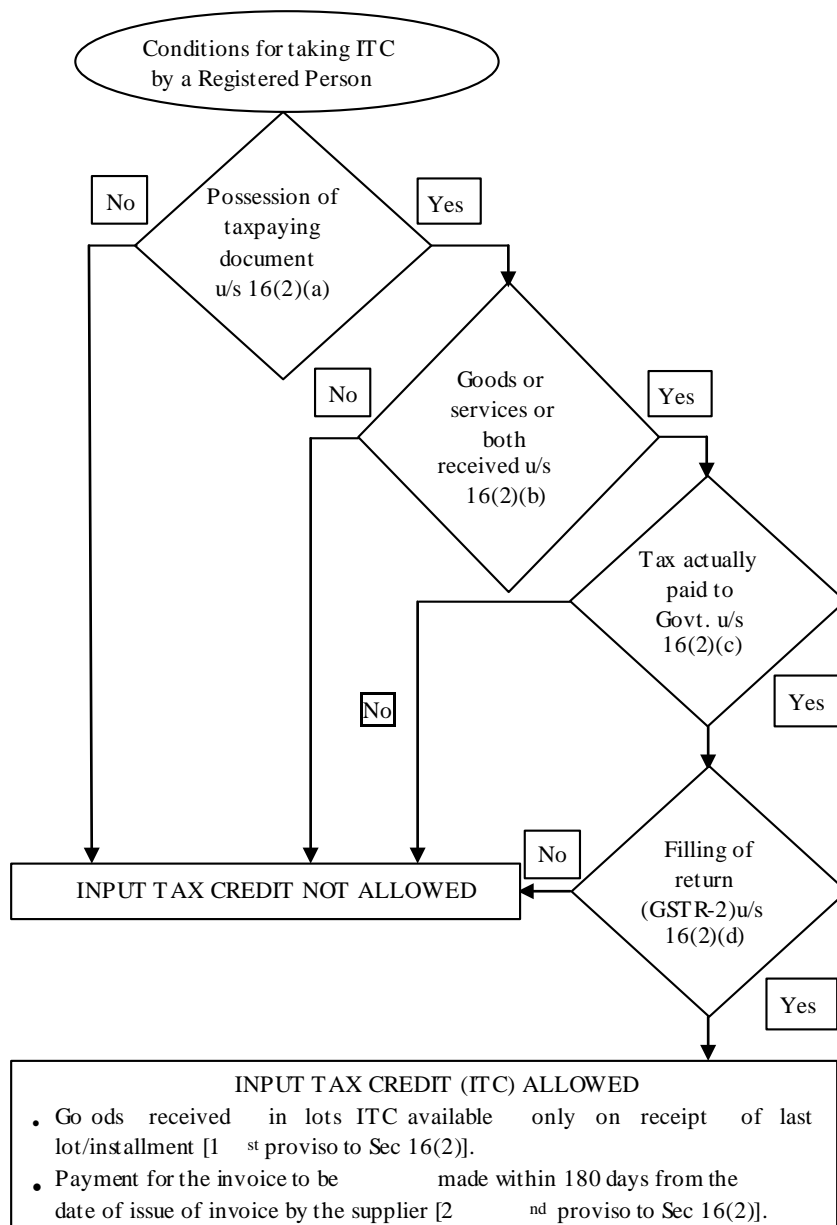
- Invoice issued by a supplier of goods and/or services
- Invoice issued by recipient (receiving goods and/or services from unregistered supplier) along with proof of payment of tax (in case of reverse charge)
- A debit note issued by supplier
- Bill of entry or similar document prescribed under Customs Act
- Revised invoice
- Document issued by Input Service Distributor

The documents basis which ITC is being taken should have all the relevant particulars as prescribed in rule 46 of the CGST Rules. [Rule 46 relating to tax invoice has been discussed in detail in Chapter 8: Tax Invoice, Credit and Debit Notes.]

Note: Section 16 and the CGST Rules do not specify that a particular copy of the invoice alone will form the basis of taking ITC. However, rule 48 of the CGST Rules specifies that the original copy is for the recipient of goods. The original copy may preferably be kept for record to support the credit entry. [Rule 48 has also been discussed in detail in Chapter 8: Tax Invoice, Credit and Debit Notes.]

**Section 16(3) of the CGST Act, 2017:** Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961, the input tax credit on the said tax component shall not be allowed.

**Section 16(4) of the CGST Act, 2017:** A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.



**ILLUSTRATION: 3**

**M/s. X Ltd. supplied taxable goods from the factory after manufacture in the month of Oct 2017 for sale to a distributor for ₹ 8,00,000. M/s X Ltd has suppressed this transaction. However, he deposited the GST @12% on these goods on 10-1-2018 against show cause notice issued under Section 74 (when there is fraud) of the CGST Act, 2017 by the Central Tax Officer and passed the order accordingly.**

**Whether distributor namely recipient of these goods is eligible to take input tax credit.**

**Answer:**

**As per rule 36(3) of the CGST Rules, 2017, No credit on payment of tax due to fraud, willful-misstatement or suppression of fact etc. shall be allowed.**

**In the given case no input tax credit was available to registered person if the supplier has paid tax in pursuance of order where any demand has been confirmed on account of any fraud, willful-misstatement or suppression of**

facts and so on under Sec. 74 of the CGST Act, 2017.  
Hence, input tax credit is not allowed to recipient of these goods (i.e. distributor in the given case).

## ITC on receipt of goods or services [Section 16(2)(b) of the CGST Act, 2017]:

### (a) No credit when tax paid on advance receipt:

As we are aware of that time of supply of goods (Sec 12 of the CGST Act, 2017) or time of supply of supply of service (Sec 13 of the CGST Act, 2017) where time of supply is the date on which the supplier receives the payment if the payment is received prior to raising of invoice/supply of goods or services (except where supply of goods turnover does not exceed ` 150 lacs. In such case date of invoice namely supply of goods is the time of supply).

GST paid by supplier on advance is not auto populated to the account of receipt of goods or services. The recipient of goods or services is not entitled for credit of tax paid on advances by the supplier. Section 16(2) (b) provides that the receiver should have received the goods or services for availment of credit. When the payments are made on advance receipt of supplier, the recipient has not received the goods or services. Therefore, he is not entitled for credit on input tax paid. **(b) Receipt of goods and services:**

Registered person shall receive the goods or services and used or intended to be used in the course or furtherance of business. In case of input or input services are not received, by the registered person, the question of its use in the course or furtherance of business does not arise and hence, ITC not allowed. In case goods received in installment:

#### ILLUSTRATION: 4

*M/s C Ltd. Chennai procured goods 10,000 Kgs @ ` 100 per Kg. from M/s D Ltd. of Delhi. These goods came to M/s C Ltd. of Chennai in the following manner:*

<i>Date of dispatch</i>	<i>No. of Kgs dispatched</i>	<i>Date of receipt</i>	<i>Normal loss in transit kgs</i>	<i>Abnormal loss in transit Kgs</i>	<i>No. Kgs received</i>
<i>10th Oct</i>	<i>2,000</i>	<i>15th Nov</i>	<i>2</i>	<i>Nil</i>	<i>1,998</i>
<i>2nd Nov</i>	<i>5,000</i>	<i>20th Nov</i>	<i>5</i>	<i>Nil</i>	<i>4,995</i>
<i>3rd Dec</i>	<i>3,000</i>	<i>1st Jan</i>	<i>1</i>	<i>20</i>	<i>2,979</i>

Invoice shows 10,000 Kgs. and

GST @18%. You are required to

answer:

(a) M/s C Ltd. can avail the proportionate credit on 15th Nov and 20th Nov.

(b) M/s C Ltd. is eligible for input tax credit if so when.

(c) How much credit is allowed to M/s C Ltd.

Answer:

(a) M/s C Ltd. cannot take proportionate credit on the quantity received on 15th Nov and 20th Nov.

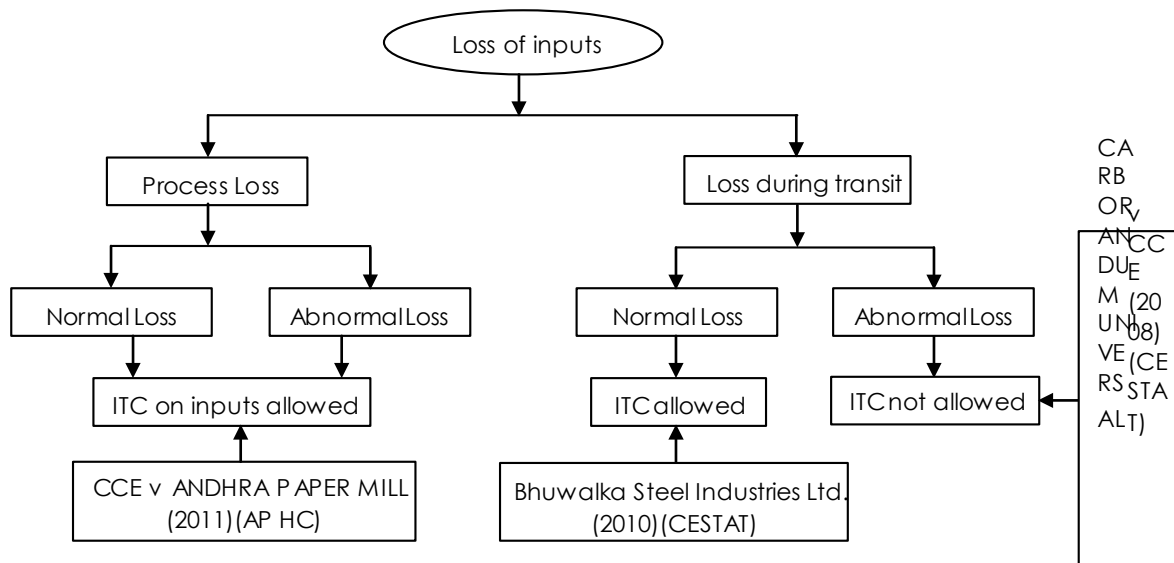
(b) M/s C Ltd. is eligible to avail the input tax credit on 1st Jan.

(c) Input tax credit allowed = 1,79,640/- (10,000 Kgs x 100) x 18% x 9980 kgs/10,000 kgs. Note:

(i) Goods received in lots ITC available only on receipt of last lot/installment [1st proviso to Sec 16(2)]

(ii) Entire input tax credit is allowed in case of transit loss (i.e. normal loss). Whereas input tax credit is not allowed to the extent of transit loss (i.e. abnormal loss).

### Loss of Inputs



## SECTION 17: APPORTIONMENT OF CREDIT & BLOCKED CREDITS



## STATUTORY PROVISIONS

### Section 17

#### Sub-section

#### Clause

#### *Apportionment of credit and blocked credits*

(1)

*Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.*

(2)

*Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.*

(3)

*The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.*

(4)

*A banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances shall have the option to either comply with the provisions of sub-section (2), or avail of, every month, an amount equal to fifty per cent. of the eligible input tax credit on inputs, capital goods and input services in that month and the rest shall lapse:*

*Provided that the option once exercised shall not be withdrawn during the remaining part of the financial year:*

	<i>Provided further that the restriction of fifty per cent. shall not apply to the tax paid on supplies made by one registered person to another registered person having the same Permanent Account Number.</i>	
(5)	<i>Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18, input tax credit shall not be available in respect of the following, namely:—</i>	
	(a)	<i>motor vehicles and other conveyances except when they are used—</i>
	(i)	<i>for making the following taxable supplies, namely:—</i>
	(A)	<i>further supply of such vehicles or conveyances; or</i>
	(B)	<i>transportation of passengers; or</i>
	(C)	<i>imparting training on driving, flying, navigating such vehicles or conveyances;</i>
	(ii)	<i>for transportation of goods;</i>
	(b)	<i>the following supply of goods or services or both:—</i>
	(i)	<i>food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery except where an inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;</i>
	(ii)	<i>membership of a club, health and fitness centre;</i>
(iii)	<i>rent-a-cab, life insurance and health insurance except where —</i>	
(A)	<i>the Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force; or</i>	

		(B)	<i>such inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as part of a taxable composite or mixed supply; and</i>
		(iv)	<i>travel benefits extended to employees on vacation such as leave or home travel concession;</i>
	(c)		<i>works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;</i>
	(d)		<i>goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business</i>
			<i>Explanation.—For the purposes of clauses (c) and (d), the expression "construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property</i>
	(e)		<i>goods or services or both on which tax has been paid under section 10;</i>
	(f)		<i>goods or services or both received by a non-resident taxable person except on goods imported by him;</i>
	(g)		<i>goods or services or both used for personal consumption;</i>
	(h)		<i>goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and</i>
	(i)		<i>any tax paid in accordance with the provisions of sections 74, 129 and 130.</i>
(6)	<i>The Government may prescribe the manner in which the credit referred to in sub-sections (1) and (2) may be attributed.</i>		

	<p><i>Explanation.— For the purposes of this Chapter and Chapter VI, the expression “plant and machinery” means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes—</i></p>
(i)	<i>land, building or any other civil structures;</i>
(ii)	<i>telecommunication towers; and</i>
(iii)	<i>pipelines laid outside the factory premises.</i>
<b>Chapter V: Input Tax Credit of the CGST Rules</b>	
<b>Rule 38</b>	<p><b><i>Claim of credit by a banking company or a financial institution</i></b></p> <p><i>A banking company or a financial institution, including a non-banking financial company, engaged in the supply of services by way of accepting deposits or extending loans or advances that chooses not to comply with the provisions of sub-section (2) of section 17, in accordance with the option permitted under sub-section (4) of that section, shall follow the following procedure, namely,-</i></p>
(a)	<p><i>the said company or institution shall not avail the credit of,-</i></p>
(i)	<i>the tax paid on inputs and input services that are used for non-business purposes; and</i>
(ii)	<i>the credit attributable to the supplies specified in sub-section (5) of section 17, in FORM GSTR-2;</i>
(b)	<i>the said company or institution shall avail the credit of tax paid on inputs and input services referred to in the second proviso to sub-section (4) of section 17 and not covered under clause (a);</i>
(c)	<i>fifty per cent. of the remaining amount of input tax shall be the input tax credit admissible to the company or the institution and shall be furnished in FORM GSTR-2;</i>

	(d)	<i>the amount referred to in clauses (b) and (c) shall, subject to the provisions of sections 41, 42 and 43, be credited to the electronic credit ledger of the said company or the institution.</i>
<b>Rule 42</b>	<b><i>Manner of determination of input tax credit in respect of inputs or input services and reversal thereof</i></b>	
(1)	<p><i>The input tax credit in respect of inputs or input services, which attract the provisions of sub-section (1) or sub-section (2) of section 17, being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies, shall be attributed to the purposes of business or for effecting taxable supplies in the following manner, namely,-</i></p>	
	(a)	<i>the total input tax involved on inputs and input services in a tax period, be denoted as 'T';</i>
	(b)	<i>the amount of input tax, out of 'T', attributable to inputs and input services intended to be used exclusively for the purposes other than business, be denoted as 'T<sub>1</sub>';</i>
	(c)	<i>the amount of input tax, out of 'T', attributable to inputs and input services intended to be used exclusively for effecting exempt supplies, be denoted as 'T<sub>2</sub>';</i>
	(d)	<i>the amount of input tax, out of 'T', in respect of inputs and input services on which credit is not available under sub-section (5) of section 17, be denoted as 'T<sub>3</sub>';</i>
	(e)	<p><i>the amount of input tax credit credited to the electronic credit ledger of registered person, be denoted as 'C<sub>1</sub>' and calculated as-</i></p> $C_1 = T - (T_1 + T_2 + T_3);$
	(f)	<i>the amount of input tax credit attributable to inputs and input services intended to be used exclusively for effecting supplies other than exempted but including zero rated supplies, be denoted as 'T<sub>4</sub>';</i>
	(g)	<i>'T<sub>1</sub>', 'T<sub>2</sub>', 'T<sub>3</sub>' and 'T<sub>4</sub>' shall be determined and declared by the registered person at the invoice level in FORM GSTR-2;</i>

	(h)	<p>input tax credit left after attribution of input tax credit under clause (g) shall be called common credit, be denoted as 'C<sub>2</sub>' and calculated as-</p> $C_2 = C_1 - T_4;$
	(i)	<p>the amount of input tax credit attributable towards exempt supplies, be denoted as 'D<sub>1</sub>' and calculated as-</p> $D_1 = (E \div F) \times C_2$ <p>where,  'E' is the aggregate value of exempt supplies during the tax period, and  'F' is the total turnover in the State of the registered person during the tax period:</p> <p>Provided that where the registered person does not have any turnover during the said tax period or the aforesaid information is not available, the value of 'E/F' shall be calculated by taking values of 'E' and 'F' of the last tax period for which the details of such turnover are available, previous to the month during which the said value of 'E/F' is to be calculated;</p> <p>Explanation: For the purposes of this clause, it is hereby clarified that the aggregate value of exempt supplies and the total turnover shall exclude the amount of any duty or tax levied under entry 84 of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule;</p>
	(j)	<p>the amount of credit attributable to non-business purposes if common inputs and input services are used partly for business and partly for non-business purposes, be denoted as 'D<sub>2</sub>', and shall be equal to five per cent. of C<sub>2</sub>; and</p>
	(k)	<p>the remainder of the common credit shall be the eligible input tax credit attributed to the purposes of business and for effecting supplies other than exempted supplies but including zero rated supplies and shall be denoted as 'C<sub>3</sub>', where,-</p> $C_3 = C_2 - (D_1 + D_2);$

	(l)	<i>the amount 'C<sub>3</sub>' shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax;</i>
	(m)	<i>the amount equal to aggregate of 'D<sub>1</sub>' and 'D<sub>2</sub>' shall be added to the output tax liability of the registered person:</i>
	<i>Provided that where the amount of input tax relating to inputs or input services used partly for the purposes other than business and partly for effecting exempt supplies has been identified and segregated at the invoice level by the registered person, the same shall be included in 'T<sub>1</sub>' and 'T<sub>2</sub>' respectively, and the remaining amount of credit on such inputs or input services shall be included in 'T<sub>4</sub>'.</i>	
(2)	<i>The input tax credit determined under sub-rule (1) shall be calculated finally for the financial year before the due date for furnishing of the return for the month of September following the end of the financial year to which such credit relates, in the manner specified in the said sub-rule and,-</i>	
	(a)	<i>where the aggregate of the amounts calculated finally in respect of 'D<sub>1</sub>' and 'D<sub>2</sub>' exceeds the aggregate of the amounts determined under sub-rule (1) in respect of 'D<sub>1</sub>' and 'D<sub>2</sub>', such excess shall be added to the output tax liability of the registered person in the month not later than the month of September following the end of the financial year to which such credit relates and the said person shall be liable to pay interest on the said excess amount at the rate specified in sub-section (1) of section 50 for the period starting from the first day of April of the succeeding financial year till the date of payment; or</i>
	(b)	<i>where the aggregate of the amounts determined under sub-rule (1) in respect of 'D<sub>1</sub>' and 'D<sub>2</sub>' exceeds the aggregate of the amounts calculated finally in respect of 'D<sub>1</sub>' and 'D<sub>2</sub>', such excess amount shall be claimed as credit by the registered person in his return for a month not later than the month of September following the end of the financial year to which such credit relates.</i>

## **SECTION 18 - CREDIT IN SPECIAL CIRCUMSTANCES**

Section 18		Availability of credit in special circumstances
Sub-section	Clause	Particulars
(1)	<i>Subject to such conditions and restrictions as may be prescribed—</i>	
	(a)	<i>a person who has applied for registration under this Act within thirty days from the date on which he becomes liable to registration and has been granted such registration shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act;</i>
	(b)	<i>a person who takes registration under sub-section (3) of section 25 shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of grant of registration;</i>
	(c)	<i>where any registered person ceases to pay tax under section 10, he shall be entitled to take credit of input tax in respect of inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on</i>

		<p><i>capital goods on the day immediately preceding the date from which he becomes liable to pay tax under section 9:</i></p>
		<p><i>Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed;</i></p>
	(d)	<p><i>where an exempt supply of goods or services or both by a registered person becomes a taxable supply, such person shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock relating to such exempt supply and on capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable:</i></p>
		<p><i>Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed.</i></p>
(2)	<p><i>A registered person shall not be entitled to take input tax credit under sub-section (1) in respect of any supply of goods or services or both to him after the expiry of one year from the date of issue of tax invoice relating to such supply.</i></p>	
(3)	<p><i>Where there is a change in the constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person shall be allowed to transfer the input tax credit which remains unutilised in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed.</i></p>	
(4)	<p><i>Where any registered person who has availed of input tax credit opts to pay tax under section 10 or, where the goods or services or both supplied by him become wholly exempt, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods, reduced by such percentage points as may be prescribed, on the day immediately</i></p>	

	<i>preceding the date of exercising of such option or, as the case may be, the date of such exemption:</i>
	<i>Provided that after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.</i>
(5)	<i>The amount of credit under sub-section (1) and the amount payable under sub-section (4) shall be calculated in such manner as may be prescribed.</i>
(6)	<i>In case of supply of capital goods or plant and machinery, on which input tax credit has been taken, the registered person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery reduced by such percentage points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery determined under section 15, whichever is higher:</i>
	<i>Provided that where refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, the taxable person may pay tax on the transaction value of such goods determined under section 15.</i>

## **INPUT TAX CREDIT IN SPECIAL CIRCUMSTANCES**

### **Availability of credit in special circumstances [Section 18 of the CGST Act, 2017]:**

Section 18 (1) Subject to such conditions and restrictions as may be prescribed—

- (a) a person who has applied for registration under this Act within thirty days from the date on which he becomes liable to registration and has been granted such registration shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act;
- (b) a person who takes registration under sub-section (3) of section 25 (i.e. voluntary registration) shall be entitled  
to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of grant of registration;
- (c) where any registered person ceases to pay tax under section 10 (i.e. from composition levy to normal levy of GST), he shall be entitled to take credit of input tax in respect of inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the day immediately preceding the date from which he becomes liable to pay tax under section 9:

Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed;

- (d) where an exempt supply of goods or services or both by a registered person becomes a taxable supply, such person shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock relating to such exempt

supply and on capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable:

Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed.

(2) A registered person shall not be entitled to take input tax credit under sub-section (1) in respect of any supply of goods or services or both to him after the expiry of one year from the date of issue of tax invoice relating to such supply.

(3) Where there is a change in the constitution of a registered person on account of sale, merger, demerger,

amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person shall be allowed to transfer the input tax credit which remains unutilised in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed.

(4) Where any registered person who has availed of input tax credit opts to pay tax under section 10 or, where the goods or services or both supplied by him become wholly exempt, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods, reduced by such percentage points as may be prescribed, on the day immediately preceding the date of exercising of such option or, as the case may be, the date of such exemption:

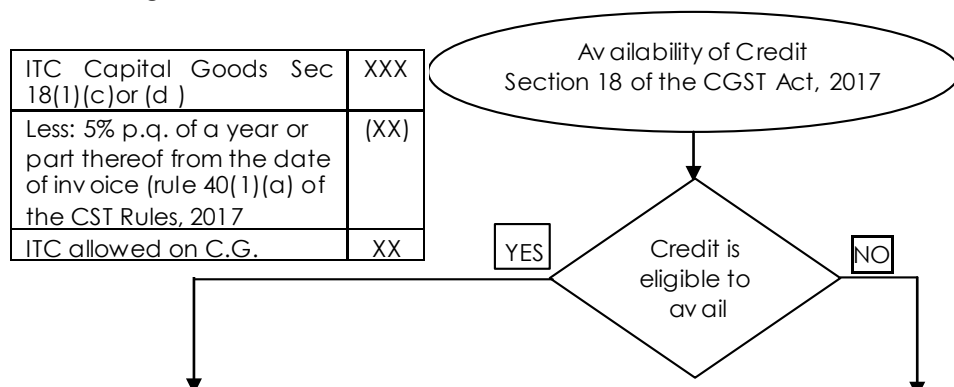
Provided that after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.

(5) The amount of credit under sub-section (1) and the amount payable under sub-section (4) shall be calculated in such manner as may be prescribed.

(6) In case of supply of capital goods or plant and machinery, on which input tax credit has been taken, the registered person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery reduced by such percentage points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery determined under section 15, whichever is higher:

Provided that where refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, the taxable person may pay tax on the transaction value of such goods determined under section 15.

**Simplified approach with regard to Section 18 of the CGST Act, 2017:**



Provision	Goods eligible for ITC	Provision	Goods not eligible for ITC
Sec. 18(1)(a): Person got registered ≤ 30 days from date need arises.	Inputs held in stock, WIP or F.G. as on the day immediately preceding the date from which he becomes liable to pay GST.	Sec. 18(2):	ITC not allowed to take under Sec. 18(1) in respect of goods > 1 Year from the date of issue of tax invoice.
Sec. 18(1)(b): Person voluntarily registered	Inputs held in stock, WIP or F.G. as on the day immediately preceding the date of grant of registration	Sec. 18(4): Person opted to pay GST u/s 10 or goods or services are wholly exempt.	Total ITC as on the day other than C.G. XX
Sec. 18(1)(c): Person who ceases to pay composition tax	Inputs held in stock, WIP or F.G. and capital goods as on the day immediately preceding the date from which he becomes liable to pay GST under regular scheme. ITC on capital goods as stated in rule 40(1) ( a ) of the CGST Rules, 2017.		Less: Input tax on RM, WIP or F.G. ( XX )
Sec. 18(1)(d): Exempt supply becomes taxable	Inputs held in stock, WIP or F.G. and capital goods as on the day immediately preceding the date from which such supply becomes taxable. ITC on capital goods as stated in rule 40(1) (a) of the CGST Rules, 2017.		Pay an amount though electronic cash ledger account (If excess ITC if any shall lapse). [In case of input tax credit on C.G. involved in the remaining useful life in months shall be computed on pro-rata basis, taking useful life as 5 Years (Rule 44(1)(b) of the CGST Rules, 2017)] XX
Sec. 18(3): Change in constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business	ITC remains unutilized in his electronic credit ledger to such sold, merged, demerged, amalgamated, lease or transferred business.	Sec. 18(6): Supply of capital goods	ITC taken on Capital Goods XX
			Less: 5% p.q. of a year or part thereof from the date of invoice (rule 40(2) of the CGST Rules, 2017 ( XX )
			Balance ITC (i.e., Tax on notional value) or XX
			Tax on Transaction value u/s 15 XX
			Whichever is higher, shall pay an amount.

Proviso to section 18(6) of the CGST Act, 2017 where refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, the taxable person may pay tax on the transaction value of such goods determined under Sec. 15. It means 5% p.q. reduction not required to apply.

As per Rule 40(1)(b) of the CGST Rules, 2017 the registered person shall within a period of 30 days from the date of his becoming eligible to avail the input tax credit under sub-section (1) of section 18 shall make a declaration, electronically, on the common portal in FORM GST ITC-01 to the effect that he is eligible to avail the input tax credit as aforesaid;

As per Rule 40(1)(d) of the CGST Rules, 2017 the details furnished in the declaration under clause (b) shall be duly certified by a practicing Chartered Accountant or a Cost Accountant if the aggregate value of the claim on account of central tax, State tax, Union territory tax and integrated tax exceeds ` 2,00,000; **Manner of reversal of credit under special circumstances:**

**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 =  $C \times 5/60$ .

Therefore, input tax credit attributable to remaining useful life shall be revised or pay as an amount.

As per Rule 44(1)(b) of the CGST Rules, 2017 the amount of tax credit relating to capital goods held in stock shall, for the purpose of Section 18(4) of the CGST Act, 2017 (i.e. person opted to pay composition scheme or supplies are exempted wholly from GST) or section 29(5) of the CGST Act, 2017 (i.e. registration cancelled), be determined in the following manner, namely:-

For capital goods held in stock, the input tax credit involved in the remaining useful life in months shall be computed on pro-rata basis, taking the useful life as FIVE Years.

<b>ILLUSTRATION: 5</b>		
<i>M/s X Ltd. becomes liable to pay tax on 1st December and has obtained registration on 15th December. The GST paid goods lying in the premises of M/s X Ltd. as on 30th November are as follows:</i>		
<i>Particulars</i>	<i>Value in ` (Excluding tax)</i>	<i>GST `</i>
<i>Raw material</i>	<i>2,00,000</i>	<i>36,000</i>
<i>Capital goods</i>	<i>5,00,000</i>	<i>1,40,000</i>
<i>Raw material lying work in progress</i>	<i>3,00,000</i>	<i>54,000</i>
<i>Raw material lying in Finished Goods</i>	<i>12,00,000</i>	<i>2,16,000</i>
<i>You are required to answer the following:</i>		
<i>(a) Eligible amount of input tax credit.</i>		
<i>(b) Time limit to submit declaration on common portal.</i>		
<i>(c) Whether any certification required while availing the credit, if so from whom.</i>		
<i>Answer:</i>		
<i>(a) Eligible input tax credit is ` 3,06,000/-</i>		
<i>(b) Declaration in Form GST ITC-01 on or before 14th January should be submitted on common portal of GSTN.</i>		
<i>(c) Declaration regarding inputs tax credit shall be duly certified by a practicing Chartered Accountant or a Cost Accountant if the aggregate value of the claim on account of central tax, State tax, Union territory tax and integrated tax exceeds ` 2,00,000.</i>		
<i>In the give case, since, input tax credit declared is ` 3,06,000. Therefore, certificate from a practicing Chartered Accountant or a Cost Accountant is required.</i>		
<i>Note: M/s X Ltd. cannot take ITC on capital goods.</i>		
<b>ILLUSTRATION: 6</b>		
<i>Mr. A applies for voluntary registration on 22nd November and obtained registration on 25th November.</i>		
<i>Mr. A has stock on the following two dates:</i>		

Date	Opening balance (units)	Purchased (units)	Sold (units)
21st November	12,000	20,000	8,000
<p>On 24th November, Mr. A purchased 5,000 units and sold 15,000 units.</p> <p>On 24th November, Mr. A is also purchased plant and machinery for 2,00,000 plus GST 28 %.</p> <p>Mr. A purchased good at uniform rate through out the year at 100 per unit plus GST paid 18 %.</p> <p>You are required to find the eligible input tax credit to Mr. A.</p> <p><b>Answer:</b></p> <p>Stock as on 24th November = 14,000 units</p> <p>Value of stock = 14,00,000</p> <p>(i.e. 14,000 units x 100 per unit).</p> <p>Input tax credit eligible is 2,52,000/-.</p> <p>Note: ITC on capital goods not allowed.</p>			
<p><b>ILLUSTRATION : 7</b></p> <p>Mr. C a registered taxable person, was paying tax at composition scheme upto 30th July. However, w.e.f. 31st July, Mr. C becomes liable to pay tax under regular scheme. Other information:</p> <p>(a) Input as on 30th July for 3,54,000 (inclusive of GST paid @18%).</p> <p>(b) Capital goods purchased for 5,00,000 (invoice date 22nd April 2017, GST 18 %)</p> <p>Find the eligible ITC to Mr. C.</p> <p>Note: Mr. C not availed depreciation on the GST paid on capital goods.</p> <p><b>Answer:</b></p> <p>ITC allowed on inputs = 54,000</p> <p>ITC allowed on capital goods</p> <p>ITC on capital goods = 90,000</p> <p>Less: 5% p.q</p> <p>85,500 ( 90,000 x 5 % x 1)</p> <p>Total ITC allowed to Mr. C as on 31st July = 1,39,500</p>			

**ILLUSTRATION: 8**

M/s A Ltd. sold plant and machinery after being used in the manufacture of taxable goods for ₹ 4,00,000 on 1st November 2018. GST is payable on transaction value of plant and machinery 18%. M/s A Ltd. was purchased this machine vide invoice dated 22nd November 2017 for ₹ 5,50,000/- plus GST 18%.

M/s A Ltd. availed the credit on said plant and machinery. Find the amount payable by M/s A Ltd. under section 18(6) of the CGST Act, 2017.

**Answer:**

Particulars	Amount in ₹	Working note
ITC taken on capital goods	99,000	5,50,000 x 18 %
Less: 25% reduction	(24,750)	No. of quarters = 5
5 % x 5 = 25 % reduction		
Balance ITC	74,250	
Tax on Transaction value	72,000	4,00,000 x 18 %

**Note:** M/s A Ltd. shall pay amount equal to the input tax credit taken on the said capital goods reduced by 5% per quarter or part thereof from the date of the issue of the invoice for such goods or the tax on the transaction value of such capital goods u/s 15 of the CGST Act, 2017 whichever is higher.

Therefore, M/s A Ltd. is liable to pay an amount of ₹ 74,250/-.

**ILLUSTRATION: 9**

The goods manufactured by Royal Ltd. have been exempted from GST with effect from 15th November 2017. Earlier these goods were liable to tax @18%. Its inputs were liable to GST @12%. Following information is supplied on 15th November 2017:

- (i) The inputs costing ₹ 1,44,720 are lying in stock.
- (ii) The inputs costing ₹ 77,184 are in process.
- (iii) The finished goods valuing ₹ 4,82,400 are in stock, the input cost is 50 % of the value.
- (iv) The balance in electronic credit ledger account shows credit balance of ₹ 2,79,104.
- (v) Royal Ltd. also purchased capital goods for ₹ 2,00,000 by paying GST 28% (invoice dated 10th July 2017) The department has asked Royal Ltd. to reverse the credit taken on inputs referred above. However, Royal Ltd. contends that credit once validly taken is indefeasible and not required to be reversed. Decide. What would be your answer if the balance in electronic credit ledger

receivable account as on 15th November 2017 were ₹ 29,104?

Answer:

Statement showing amount to be paid by Royal Ltd. as on 15th November 2017

S.No.	Particulars	Amount to be paid (₹)	Workings
(i)	Inputs lying in stock	17,366	₹ 1,44,720 x 12/100 = ₹ 17,366
(ii)	Inputs in process (i.e. Work in Progress)	9,262	₹ 77,184 x 12/100 = ₹ 9,262
(iii)	Inputs contained in finished goods lying in stock	28,944	₹ 4,82,400 x 50% x 12/100 = ₹ 28,944
(iv)	Capital goods	51,333	Useful life as per rule 44(1)(b) = 5 years (i.e. 60 months). No. of months capital goods have been in use = 4 months 5 days (i.e. 5 months) The useful remaining life in months = 55 months 2,00,000 x 28% x 55/60 = ₹ 51,333
	Amount to be paid by Royal Ltd.	1,06,906	

Amount payable by Royal Ltd. = ₹ 1,06,906

Less: ITC Receivable = ₹

(2,79,104) Excess ITC =

₹ (1,72,198)

Excess ITC in electronic credit ledger of ₹ 1,72,198 shall lapse as 15th November 2017.

If the balance in electronic credit ledger as on 15th November 2017 is ₹ 29,104, then amount payable is as follows:

Amount payable by Royal Ltd.	=	₹ 1,06,906
Less: ITC Receivable	=	₹
<u>(29,104) Amount payable</u>	=	<u>₹ 77,802</u>

## Comparison Between Old and New Law on GST Set-Off

The table below highlights the differences in the order of ITC utilisation between the old system and the new system. As per the old set-off rules, the following is the order and priority for ITC utilisation—

Liability of →	IGST	CGST	SGST
ITC of ↓			
IGST	1	2	3
CGST	2	1	Not permitted
SGST	2	Not permitted	1

From onwards the below mode of off-set functionality has been made available, the following is the order and priority for ITC utilisation

Liability of →	IGST	CGST	SGST
ITC of ↓			
IGST	1	2*	

CGST	4	3	Not permitted
SGST	6	Not permitted	5

\*The order of utilisation of IGST credit post offset to IGST liability can be in any order or proportion between CGST/SGST but the only pre-condition is exhausting IGST completely before using other credits. Hence, from the above table for new rules, it can be concluded that any taxpayer must begin with set-off process starting with ITC of IGST and utilise it completely before proceeding to utilise the ITC of CGST or ITC of SGST.

## Illustrations on How GST Set-Off Works

Let us discuss the applicability of provisions using two illustrations.

### Illustration I: To understand the order of IGST credit set-off

There is an only procedural change in utilising IGST credit. To understand the set-off from a practical perspective, let us take an example. Suppose, Mr X has the following GST liabilities and GST inputs.

(all figures in INR)

Type of GST	Output Liability	Input Tax Credit
IGST	500	2000
CGST	1000	150
SGST/ UTGST	1000	150
Total	2500	2300

As per the existing system, the set-off takes place as follows-

(all figures in INR)

Type of Tax	Liability	Credit Available	Set-off of Liability	Balance to be paid in cash	Balance credit available
-------------	-----------	------------------	----------------------	----------------------------	--------------------------

IGST	500	2,000	500 (from IGST)	–	–
CGST	1,000	150	150 (from CGST) 850 (from IGST)	–	–
SGST/ UTGST	1,000	150	150 (from SGST) 650 (from IGST)	200	–

You can see that CGST or SGST payable needs to be paid first with CGST credit or SGST credit respectively.

However, as per the new procedure of set-off, the IGST credit available will need to be set-off and the following are the three possible ways in which this can be done-

**Scenario 1: Set off of unutilised IGST credit completely towards CGST**

(all figures in INR)

Type of Tax	Liability	Credit Available	Set-off of Liability	Balance to be paid in cash	Balance credit available
IGST	500	2,000	500 (from IGST)	–	–
CGST	1,000	150	1000* (from IGST)	–	150
SGST/ UTGST	1,000	150	500 (from IGST) 150 (from SGST)	350	–

**Scenario 2: Set off of unutilised IGST credit completely towards SGST**

(all figures in INR)

Type of Tax	Liability	Credit Available	Set-off of Liability	Balance to be paid in cash	Balance credit available
IGST	500	2,000	500 (from IGST)	–	–
CGST	1,000	150	500 (from IGST)  150 (from CGST)	350	–
SGST/ UTGST	1,000	150	1000* (from IGST)	–	150

**Scenario 3: Set-off of unutilised IGST credit partly towards CGST & SGST liability in an equal proportion**

(all figures in INR)

Type of Tax	Liability	Credit Available	Set-off of Liability	Balance to be paid in cash	Balance credit available
IGST	500	2,000	500 (from IGST)	–	–
CGST	1,000	150	750* (from IGST)  150 (from CGST)	100	–
SGST/ UTGST	1,000	150	750* (from IGST)  150 (From SGST)	100	–

**\*Note:**In this illustration, we came up with only three scenarios, whereas the law does not place any strict rule of attributing entire unutilised IGST credit to CGST or SGST liability. A

taxpayer can utilise IGST credit in any proportion and in any order, but the condition is to completely utilise the IGST credit before using CGST or SGST credit.

So as you can see in the example, IGST credit has been utilised first as per the new system of set-off, only after which, can CGST or SGST/UTGST be set-off. To optimise credit utilisation it is advisable to follow Scenario 3.

**Illustration II: To understand business Impact due to the new rule**

From the illustration 1, we can observe that the overall GST output liability was higher than the overall GST input and now we are going to see a case where overall GST input is higher than the overall GST output.

Suppose, Mr X has the following liability and input credit for a tax period as follows-

(all figures in INR)

Type of GST	Output Liability	Input Tax Credit
IGST	500	1,000
CGST	500	300
SGST/ UTGST	500	300
Total	1500	1600

Let us see how the ITC of IGST can be utilised in different ways from the following three scenarios:

**Scenario 1: Set off of unutilised IGST credit completely towards CGST**

(all figures in INR)

Type of GST	Liability	Credit available	Set-off liability of	Balance to be paid in cash	Balance credit available
IGST	500	1,000	500 (From IGST)	–	–
CGST	500	300	500* (From IGST)	–	300
SGST/	500	300	300	200	–

UTGST			(From SGST/ UTGST)		
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**Scenario 2: Set off of unutilised IGST credit completely towards SGST**

(all figures in INR)

Type of GST	Liability	Credit available	Set-off of liability	Balance to be paid in cash	Balance credit available
IGST	500	1,000	500 (From IGST)	–	–
CGST	500	300	300 (From CGST)	200	–
SGST/ UTGST	500	300	500* (From IGST)	–	300

**Scenario 3: Set-off of unutilised IGST credit partly towards CGST & SGST liability in an equal proportion**

(all figures in INR)

Type of GST	Liability	Credit available	Set-off of liability	Balance to be paid in cash	Balance credit available
IGST	500	1,000	500 (From IGST)	–	–
CGST	500	300	250* (From IGST)  250 (From	–	50

			CGST)		
SGST/ UTGST	500	300	250* (From IGST)	–	50
			250 (From SGST)		

**\*Note:** In this illustration, we came up with only three scenarios whereas the law does not place any strict rule of attributing entire unutilised IGST credit wholly to either CGST or SGST liability. A taxpayer can utilise IGST credit in any proportion and in any order, but the condition is to completely utilise the IGST credit before using CGST or SGST credit. In the first two scenarios, the taxpayer has to pay either CGST or SGST and either there is a balance of CGST credit or SGST credit lying in Electronic Credit Ledger (ECL) respectively. But if the taxpayer follows scenario 3, there is no need for a cash payment of either CGST or SGST liability and he can also carry forward an equal amount of CGST and SGST in ECL so that in succeeding months if the purchase or sales pattern changes from inter-state to intra-state or vice-versa, retaining an equal balance in both the ledgers will help optimising the utilisation of credits in future as well. This measure has to be carefully monitored.

## Updates on GST Portal

The validations based on the changes in the rule has been updated on the portal from July 2019 onwards.

## Impact on Business

Let us discuss how exactly does this impact your business-

The new GST offset rules mandates for complete utilisation of IGST input credit before using the CGST or SGST input credit.

In illustration 2 we can observe that the taxpayer has a higher credit due to interstate purchases when compared to the intrastate purchase. In turn, the sales are more within the state when compared to outside the state. It leads to the accumulation of more IGST input credit. Accordingly, if this is not properly utilised it may lead to blockage of working capital.

If the taxpayer follows either of the scenario 1 or 2 in the illustration II, they are evidently deferring the respective CGST or SGST credits balance (as the case may be) to be utilised over several tax periods. It results in blockage of working capital for a considerable period of time. Alternatively, the taxpayer should wait for a future day where his interstate sales (IGST liability) are higher than intrastate sales to completely utilise the balance credit of CGST or SGST brought forward. If the taxpayer goes with scenario 3 by utilising available credit in equal proportion of CGST and SGST, he can avoid the payment of tax and the blockage of working capital that can follow.

However, from the government's point of view, the new provision is an immediate measure to allow smooth distribution of IGST revenue.

**Takeaway:**

The GST portal allows taxpayers to manually set off the input tax credit against the output liabilities. It is advisable that the taxpayers make optimum utilisation of ITC available to them by careful allocation of credits every tax period. The new off-set mechanism in no way leads to additional working capital requirements compared to the old mechanism if properly optimised.

Further in case of carrying forward credits it is very much advisable to strike a balance & retain equal credits in both CGST and SGST/UTGST ledgers for optimising credits in future as well. The easiest way to accomplish this is after using the IGST credits for the IGST liability, the balance available in IGST credits to be equally utilised for CGST/SGST credits.

If businesses have missed out doing it in the last two months in the next month they can optimise on it to arrive at an equal balance in both CGST/SGST credit ledgers in case of excess ITC availability and continue the same henceforth.

## TEST YOUR KNOWLEDGE

1. In which of the following situations, taxpayer needs to reverse the credit already taken?

- (a) If payment is not made to the supplier within 45 days from the date of invoice
- (b) If payment is not made to the supplier within 90 days from the date of invoice
- (c) If payment is not made to the supplier within 180 days from the date of invoice
- (d) None of the above

**(Answer – If payment is not made to the supplier within 180 days from the date of invoice)**

2. What is the time limit for taking ITC?

- (a) 180 days
- (b) 1 year
- (c) 20th October of the next financial year or the date of filing annual return whichever is earlier
- (d) No limit

**(Answer – 20th October of the next financial year or the date of filing annual return whichever is earlier)**

3. If the goods are received in lots/installment, -----

- (a) 50% ITC can be taken on receipt of 1st installment and balance 50% on receipt of last installment.
- (b) ITC can be availed upon receipt of last installment.
- (c) 100% ITC can be taken on receipt of 1st installment.
- (d) Proportionate ITC can be availed on receipt of each lot/installment.

**(Answer – ITC can be availed upon receipt of last installment)**

4. For banking companies using inputs and input services partly for taxable supplies and partly for exempt supplies, which of the statement is true?

- (a) ITC shall be compulsorily restricted to credit attributable to taxable supplies including zero rated supplies
- (b) 50% of eligible ITC on inputs, capital goods, and input service shall be mandatorily taken in a

month and the rest shall lapse.

- (c) Banking company can choose to exercise either option (a) or option (b)
- (d) None of the above

**(Answer – Banking company can choose to exercise either option (a) or option (b))**

5. A supplier takes deduction of depreciation on the GST component of the cost of capital goods as per Income- tax Act, 1961. The supplier can-

- (a) avail only 50% of the said tax component as ITC
- (b) not avail ITC on the said tax component
- (c) avail 100% ITC of the said tax component
- (d) avail only 25% of the said tax component as ITC

**(Answer - not avail ITC on the said tax component)**

6. Which of the following inward supplies are not eligible for ITC in case of a company manufacturing shoes?

- (a) Food and beverages
- (b) Outdoor catering
- (c) Health services
- (d) All of the above

**(Answer – All of the above)**

7. If there is a mis-match of supplier's outward supply and recipient's claim for ITC on the same transaction (tax paid is claimed to be more by the recipient than the tax shown as payable in the invoice of the supplier)-

- (a) The disputed amount shall be added as output tax liability in the return of the recipient
- (b) The disputed amount shall be reduced from the ITC of the recipient
- (c) The disputed amount shall be increased in the outward supply of the supplier
- (d) A demand notice will be issued on the recipient for the disputed amount

**(Answer – The disputed amount shall be added as output tax liability in the return of the recipient)**

8. Which of the following statement is true for a composition tax payer?

- (a) A composition tax payer can avail only 50% of ITC on capital goods.
- (b) A composition tax payer can avail 100% ITC on inputs.
- (c) ITC is not available on inward supplies made by a composition tax payer.
- (d) Composition tax will be available as ITC to the recipient only if the tax is mentioned separately in the invoice raised by the composition tax payer.

**(Answer –ITC is not available on inward supplies made by a composition tax payer)**

9. What is input tax?

10. What are the conditions necessary for obtaining ITC?

11. Can a person take ITC without payment of consideration for the supply along with tax to the supplier?

12. What is the time limit for taking ITC and reasons therefor?

13. What is the ITC entitlement of a newly registered person?

14. What is the tax implication of supply of capital goods by a registered person who had taken ITC on such capital goods?

15. What happens where the details of inward supplies furnished by the recipient do not match with the outward supply details furnished by the supplier in his valid return?

16. A flying school imports an aircraft for use in its training activity, and takes ITC of the IGST paid on the import. The departmental audit raises an objection that aircrafts fall within the definition of "conveyance" in section 2(34) of the Act and that ITC is not allowed on conveyances. Offer your comments.

17. A taxable person is in the business of information technology. He buys a motor vehicle for use of his Executive Directors. Can he avail the ITC in respect of GST paid on purchase of such motor vehicle?

18. A technical testing agency tests and certifies each batch of machine tools before dispatch by BMT Ltd. Some of these tools are dispatched to a unit in a SEZ without payment of GST as these supplies are not taxable. The finance personnel of BMT Ltd. want to know whether they need to carry out

reversal of ITC on the testing agency's services to the extent attributable to the SEZ supplies. Give your comments.

19. A garment factory receives a Government order for making uniforms for a commando unit. This supply is exempt from tax under a special notification. The fabric is separately procured for the supply, but thread and lining material for the collars are the ones which are used for other taxable products of the factory. The turnover of the other products of the factory and exempted uniforms in July is ` 4 crore and ` 1 crore respectively, the ITC on thread and lining material procured in July is ` 5000 and ` 15000 respectively. Calculate the eligible ITC on thread and lining material.

20. Mr. A, a registered person was paying tax under Composition Scheme up to 30th July. However, w.e.f. 31st July, Mr. A becomes liable to pay tax under regular scheme. Is he eligible for ITC?

# Chapter 7

## Registration U/S 22-30

### INTRODUCTION

Under any taxation system, registration is the most fundamental requirement for identification of tax payers ensuring tax compliance in the economy. Under indirect tax regime, without registration, a person can neither collect tax from his customers nor claim any credit of tax paid by him. Registration legally recognizes a person as supplier of goods or services and legally authorizes him to collect taxes from his customers and pass on the credit of the taxes paid on the goods or services supplied to the purchasers/recipients. He can claim the input tax credit of taxes paid and can utilize the same for payment of taxes due on supply of goods or services. There is seamless flow of input tax credit from suppliers to recipients at the national level. Prior to introduction of GST, a service provider was required to be registered with the Service Tax Department, while a trader of goods had to be registered with the VAT Department. Similarly, a manufacturer of goods has to be registered with Central Excise and VAT Department with respect to the goods manufactured as also with the Service Tax Department in respect of services availed which were taxed under reverse charge mechanism. The Central Excise law prescribed factory wise registration with few exceptions where centralized registration was permitted, VAT laws provided for State-wise registrations while the Service Tax law provided for either centralised or premise-wise registration. The registration numbers allotted under central laws were PAN-based which was not the case under State laws. Under GST, registrations need to be taken State-wise, i.e. there are no centralized registrations under GST. A business entity having its branches in multiple States will have to take separate State wise registration for the branches in different States. Further, within a State, an entity with different branches would have single registration wherein it can declare one place as principal place of business (PPOB) and other branches as additional place(s) of business (APOB). However, a business entity having separate business verticals in a State may obtain separate registration for each of its business verticals otherwise a given PAN based legal entity would have one registration number – Goods and Services Tax Identification Number (GSTIN) per State. Registration under GST is not tax specific, which means that there is single registration for all the taxes i.e. CGST, SGST/UTGST, IGST and cesses. Registration [Sections 22 to 30] of the CGST Act stipulates the provisions relating to registration. State GST laws also prescribe identical provisions in relation to Registration.

### CONCEPT OF TAXABLE PERSON

As per section 2(107) of the CGST Act, taxable person means a person who is registered or liable to be registered under section 22 or section 24. Persons liable to be registered under sections 22 and 24 have been discussed in detail in the preceding paras. From the definition of ‘taxable person’ provided above, it may be inferred that even an unregistered person who is liable to be registered is a taxable person. Similarly, a person not liable to be registered, but has taken voluntary registration and got himself registered is also a taxable person.

### Advantages of registration:

The following are advantages to a taxpayer who obtain registration under GST:

- (i) He is legally recognized as supplier of goods or services or both.

- (ii) He is legally authorized to collect taxes from his customers and pass on the credit of the taxes paid on the goods or services supplied to the purchasers/recipients.
- (iii) He can claim Input Tax Credit of taxes paid and can utilize the same for payment of taxes due on supply of goods or services.
- (iv) Seamless flow of Input Tax Credit from suppliers to recipients at the national level.
- (v) Registered person is eligible to apply for Government bids or contracts or assignments.
- (vi) Registered person under GST can easily gain trust from customers.

## Exception of One Registration for One State:

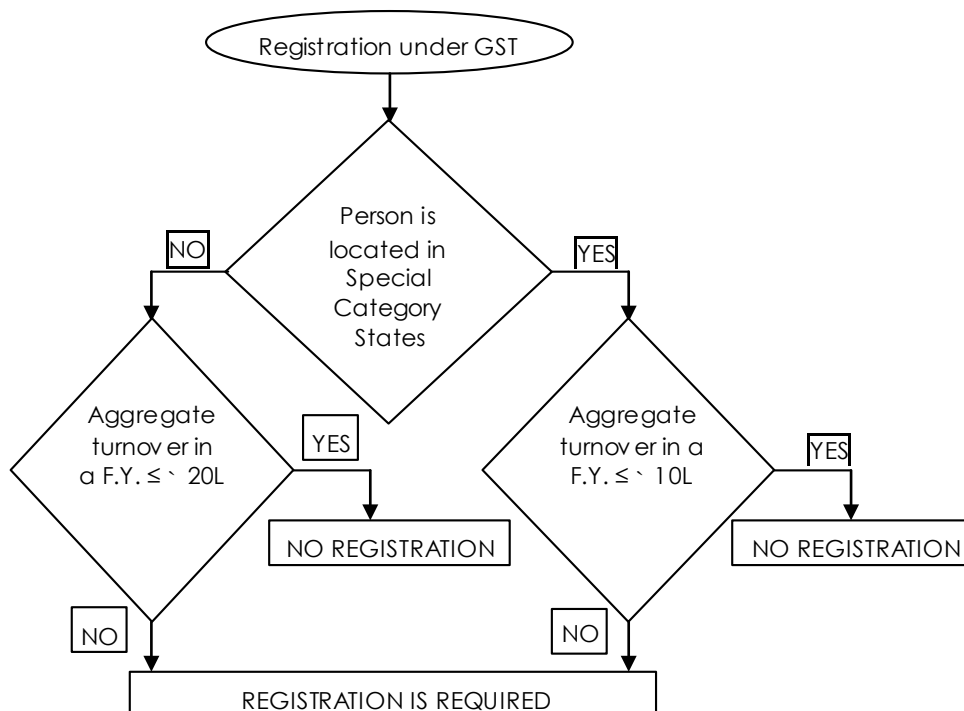
- (i) Multiple registrations permitted for separate business vertical.
- (ii) One as an input service distributor and other for outward supply

### **ILLUSTRATION : 1**

*Apple manufactures computers, tablets, phones, headphones, music players and more. Management at Apple can divide the overall company performance into smaller segments based on these products to measure where the company is succeeding.*

*Note: It is similar to AS 17 Business Segments*

**Sec. 22 (1):** Every supply shall be liable to be registered under the GST other than special category States, from where he makes a taxable supply of goods and services or both, if his aggregate turnover in a financial year exceeds ` 20 Lakh (in case of special category States ` 10 lakhs).



### Special Category States under GST:

As per Explanation (3) of Section 22 of CGST act 2017, " special category States " shall mean the States as specified in sub-clause (g) of clause (4) of article 279A of the Constitution. List of which is as follows: –

1. Arunachal Pradesh
2. Assam
3. Jammu & Kashmir
4. Manipur
5. Meghalaya
6. Mizoram
7. Nagaland
8. Sikkim
9. Tripura
10. Himachal Pradesh
11. Uttarakhand

**Note:**

- (1) Registration is required if the aggregate turnover exceeds ` 10 Lakhs in case of special category States except Jammu & Kashmir. It means person located in Jammu & Kashmir may enjoy the benefit of minimum threshold limit of ` 20 lakh.
- (2) The small businesses, having turnover below the threshold limit can, however, voluntarily opt to register.

**Advantages of voluntary registration under GST:**

- (i) Legally recognized as supplier of goods or services; This helps in attracting more customers.
- (ii) Provide input tax credit to customers. As they can issue taxable invoices, they can collect GST. Their customers can take input credit on their purchases.
- (iii) They will be more competitive than other small business as buying from them will ensure input credit.
- (iv) Voluntarily registered persons can take input credit on their own purchases and input services like legal fees, consultation fees etc.
- (v) They can make inter-state sales without many restrictions.

**Aggregate turnover in a Financial Year [Sec. 2(6) of CGST]:**

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 person having the same PAN, to be computed on all India basis but excludes Central Tax, State Tax, Union Territory Tax, integrated tax and Cess.

Aggregate turnover includes	Aggregate turnover excludes
-----------------------------	-----------------------------

The value of exported goods/services	Inward supplies on which the recipient is required to pay tax under Reverse Charge Mechanism (RCM).
Exempted goods/services or both which attracts nil rate of tax or wholly exempt from tax and includes nontaxable supply.	<ul style="list-style-type: none"> <li>• Central tax (CGST),</li> <li>• State tax (SGST),</li> <li>• Union territory tax and</li> <li>• Integrated tax (IGST)</li> </ul>
Inter-State supplies between distinct persons having same PAN	• Compensation Cess
Supply on own account and on behalf of principal.	

## Important points:

- (i) The turnover will be computed PAN wise.
- (ii) The partner and partnership firm will have different PAN Nos. Thus the turnover of the partner and partnership firm will not be aggregated.
- (iii) The HUF and individual coparcener of the family have different PAN Nos. Hence, turnover of Karta of HUF in his individual capacity and turnover of Karta as a Karta of HUF will not be aggregated.
- (iv) Supply of goods, after completion of jobwork, by a registered jobworker shall be treated as the supply of goods by the principal referred to in Sec. 143 of the CGST Act, 2017, and the value of such goods shall not be included in the aggregate turnover of the registered jobworker. It will be included in the turnover of turnover of principal.

### **ILLUSTRATION: 2**

*Mr. J has been involved in supplying taxable material in J&K, since, 1st July 2017. His turnover in the month of Nov 2017 exceeded the limit of ` 20 lacs. Mr. J is required to register under GST law?*

*Answer:*

*Taxable turnover exceeds ` 20 lacs, and then the supplier shall apply for registration in the month of Nov 2017. Therefore, Mr. J is required to register under GST law.*

**ILLUSTRATION: 3** *Mr. C of Calicut is trading on his own goods and also acting as an agent of Mr. B of Bengaluru. Mr. C turnover in the financial year 2017-18 is ` 12 lacs in his own account and ` 9 lacs on behalf of principal. Whether Mr. C is liable to register compulsorily under GST law. Answer:*

*As per explanation 1 in computing the total turnover, both the value of supply on his own account that is ` 12 lacs and on behalf of principal ` 9 lacs will be aggregated. Hence, the aggregate turnover will be ` 21 lacs. Mr. C is liable to register compulsorily under the GST law.*

### **ILLUSTRATION: 4**

*Mr. Rajan is a farmer with an annual turnover in relation to agriculture of ` 18,00,000 lakh. Since this income is agriculture-related, the turnover is exempt from GST. However, Mr. Rajan also supplies plastic bags worth of ` 2,50,000 (taxable goods) along with his crop and charges separately for this. Mr. Rajan is required to register under GST? Advise.*

**Answer:**

*Mr. Rajan is required to register under GST because his aggregate turnover exceeds the threshold limit of ₹ 20 lakh.*

**ILLUSTRATION 5:**

*Mr. X a dealer dealing with Intra State supply of goods and services has place of business in India furnished the following information in the financial year 2017-18:*

1. *Sale of taxable goods by Head Office located in Chennai for ₹ 1,00,000*
2. *Supply of taxable services by Branch office at Bengaluru for ₹ 50,000*
3. *Supply of goods exempted from GST ₹ 10,000*
4. *Export of goods and services for ₹ 2,00,000*
5. *Sale of goods acting as agent on behalf of principal for ₹ 15,00,000*

*Statement showing aggregate turnover in a Financial Year*

<i>Particulars</i>	<i>Value in ₹</i>
<i>Sale of taxable goods by Head Office located in Chennai</i>	<i>1 , 00,000</i>
<i>Supply of taxable services by Branch office at Bengaluru</i>	<i>50,000</i>
<i>Supply of goods exempted from GST</i>	<i>10,000</i>
<i>Export of goods and services</i>	<i>2 , 00,000</i>
<i>Sale of goods acting as agent on behalf of principal</i>	<i>15 , 00,000</i>
<i>Aggregate turnover</i>	<i>18 , 60,000</i>
<i>Since, aggregate turnover does not exceeds ₹ 20 lakhs, Mr. X is not required to register under GST.</i>	

**Registration effective w.e.f. 1st July 2017 under GST**

**Sec. 22(2):** Every person who, on the day immediately preceding, the appointed day, is registered or holds a licence under an existing law shall be liable to be registered under this Act with effect from the appointed day.

**Registration under GST in case of transfer of going concern**

**Sec. 22(3):** Where a business carried on by a taxable person registered under this Act is transferred, whether on account of succession or otherwise, to another person as a going concern, the transferee or the successor, as the may be, shall be liable to be registered w.e.f. The date of such transfer or succession.


**Registration under GST in case of amalgamation or demerger**

**Sec. 22(4):** in case of transfer pursuant to sanction of a scheme or an arrangement for amalgamation or, as the case may be, demerger of two or more companies pursuant to an order of High Court, Tribunal or otherwise, the transferee should be liable to be registered, w.e.f the date on which the Registrar of Companies issues a certificate of incorporation giving effect to such order of the High Court or Tribunal.

## SECTION 22 - PERSONS LIABLE FOR REGISTRATION

Section 22	<i>Persons liable for registration</i>				
Sub-section	<i>Particulars</i>				
(1)	<p><i>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.</i></p> <p><i>Provided that where such 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.</i></p>				
(2)	<p><i>Every person who, on the day immediately preceding the appointed day, is registered or holds a license under an existing law, shall be liable to be registered under this Act with effect from the appointed day.</i></p>				
(3)	<p><i>Where a business carried on by a taxable person registered under this Act is transferred, whether 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.</i></p>				
(4)	<p><i>Notwithstanding anything contained in sub-sections (1) and (3), in a case of transfer pursuant to sanction of a scheme or an arrangement for amalgamation or, as the case may be, demerger of two or more companies pursuant to an order of a High Court, Tribunal or otherwise, 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 or Tribunal.</i></p>				
(5)	<p><i>Explanation—For the purposes of this section, —</i></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center; width: 10%; vertical-align: top;"><i>(i)</i></td> <td><i>the expression “aggregate turnover” shall include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals</i></td> </tr> <tr> <td style="text-align: center; vertical-align: top;"><i>(iii)</i></td> <td><i>the expression “special category States” shall mean the States as specified in sub-clause (g) of clause (4) of article 279A of the Constitution.</i></td> </tr> </table>	<i>(i)</i>	<i>the expression “aggregate turnover” shall include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals</i>	<i>(iii)</i>	<i>the expression “special category States” shall mean the States as specified in sub-clause (g) of clause (4) of article 279A of the Constitution.</i>
<i>(i)</i>	<i>the expression “aggregate turnover” shall include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals</i>				
<i>(iii)</i>	<i>the expression “special category States” shall mean the States as specified in sub-clause (g) of clause (4) of article 279A of the Constitution.</i>				

## SECTION 23 - PERSONS NOT LIABLE FOR REGISTRATION

 <b>STATUTORY PROVISIONS</b>					
<i>Section 23</i>	<i>Persons not liable for registration</i>				
<i>Sub-section</i>	<i>Particulars</i>				
<i>(1)</i>	<p><i>The following persons shall not be liable to registration, namely:—</i></p> <table border="1"> <tr> <td><i>(a)</i></td> <td><i>any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act</i></td> </tr> <tr> <td><i>(b)</i></td> <td><i>an agriculturist, to the extent of supply of produce out of cultivation of land</i></td> </tr> </table>	<i>(a)</i>	<i>any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act</i>	<i>(b)</i>	<i>an agriculturist, to the extent of supply of produce out of cultivation of land</i>
<i>(a)</i>	<i>any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act</i>				
<i>(b)</i>	<i>an agriculturist, to the extent of supply of produce out of cultivation of land</i>				
<i>(2)</i>	<i>The Government may, on the recommendations of the Council, by notification, specify the category of persons who may be exempted from obtaining registration under this Act.</i>				

**SECTION 24:** the following categories of persons shall be required to be registered under GST: i. Person making any inter-state taxable supply; ii. Causal taxable persons making taxable supply; iii. Person who are required to pay tax under reverse charge; iv. Person who are required to pay tax under sec. 9(5) of CGST (i.e. Electronic Commerce Operator); v. Non-resident taxable person making taxable supply; vi. Persons who are required to deduct tax under Sec 51, whether or not separately registered under this Act; vii. Persons who make taxable supply of goods or services or both on behalf of other taxable person whether as an agent or otherwise;

viii. Input Service Distributor, whether or not separately registered under CGST; ix. Persons who supply of goods or services or both, other than supplies specified under Sec 9(5), through such electronic commerce operator who is required to collect tax at source under Sec 52;

x. Every electronic commerce operator; xi. Every person supplying online information and database access or retrieval services from place outside India to a person in India, other than a registered person; and

xii. Such other person or class of persons as may be notified by the Govt. on the recommendation of the Council.

**(i) Person making any inter state taxable supplies;**



If a person makes a single inter-state supply, he will be liable to obtain registration and pay GST.

**Inter State supply of services exempted from registration:**

The GST Council, in its 22nd meeting held on 6th October 2017, has recommended that it has now been decided to exempt those service providers whose annual aggregate turnover is less than ₹ 20 lacs (₹ 10 lacs in special category states. ₹ 20 lacs for J & K) from obtaining registration even if they are making inter-State taxable supplies of services (vide Notification No. 10/2017 – Integrated Tax Dt 13th Oct 2017).

**ILLUSTRATION : 6**

*Mr. CMA Manish, an unregistered person under GST, has place of profession in Bhubaneswar, Odisha, supplies taxable services to Infosys Ltd, a registered person under GST in Bangalore. Answer the following: ( a) Is it inter-State supply or intra-State supply.*

*( b) Who is liable to pay GST.*

*Note: Mr. CMA Manish turnover in the P.Y. is ₹ 18 lakhs.*

*Answer:*

*Any person making inter-state supply has to compulsorily obtain registration and therefore in such cases, section 5(4) of IGST will not come into play.*

*However, Services providers providing aggregate supplies including inter-state services up to ₹ 20 lakh will be exempted from GST.*

*(a) It is inter-State supply.*

*(b) Mr. C is not liable to pay IGST. Since, registration is not made mandatory to him.*

**ILLUSTRATION: 7**

*M/s Moon Pvt. Ltd. incorporated in Chennai on 1st July 2017 has the following details for the year 2017-18:*

S.No.	Particulars	Value (₹ in lacs)
i	Inter-State exempted supply of goods	4.0
ii	Intra-State supplies of services	5.0
iii	Non-taxable supplies	2.0
iv	Exempted supplies of services	0.60
V	Value of export of goods	7.0

*M/s Moon Pvt. Ltd. is required to register compulsorily under GST Law, advise.*

*Whether your answer is different if S.No. (i) above, inter-State taxable supply goods for ₹ 4 lac s.*

*Answer:*

*Aggregate turnover is as follows:*

S.No.	Particulars	Value (₹ in lacs)
I	Inter-State exempted supply of goods	4.0
ii	Intra-State supplies of services	5.0

<i>iii</i>	<i>Non-taxable supplies</i>	<i>2.0</i>
<i>iv</i>	<i>Exempted supplies of services</i>	<i>0.60</i>
<i>V</i>	<i>Value of export of goods</i>	<i>7.0</i>
	<i>Aggregate turnover</i>	<i>18.60</i>

*Advise: Since, aggregate turnover of Moon Pvt. Ltd. does not exceeds ` 20 lakhs, registration is not compulsory in the financial year 2017-18.*

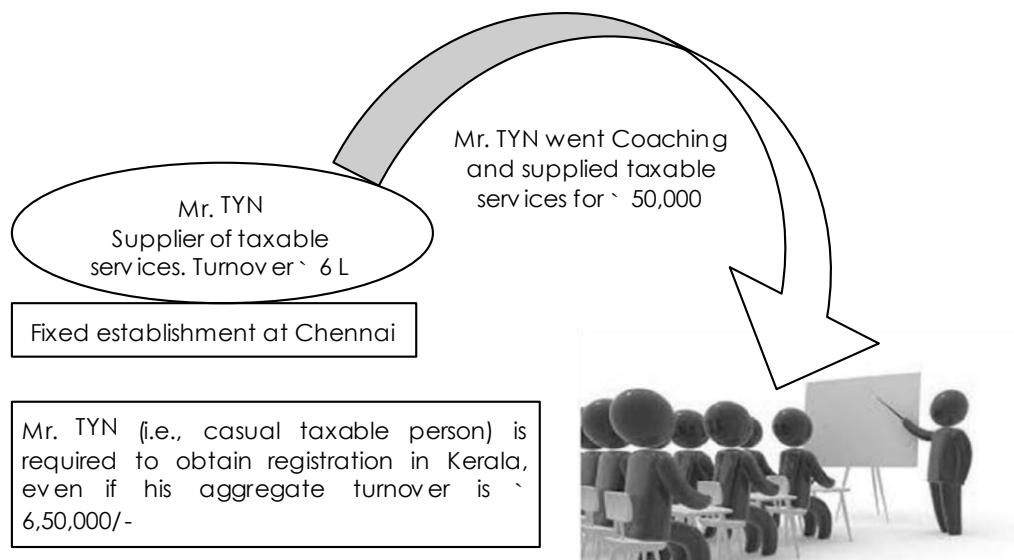
*Yes. Our answer is different in the case of M/s Moon Pvt. Ltd. made inter state taxable supply of goods. As per*

*Sec. 24 of the CGST Act, 2017 Person making any inter-state taxable supply of goods is required to register under GST Law irrespective of his aggregate turnover. Therefore, M/s Moon Pvt. Ltd. is required to register under GST Law.*

**(ii) Causal taxable persons making taxable supply [Sec 2(20)]:**

Causal taxable person means a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, in a State or a Union territory where he has no fixed place of business.

**ILLUSTRATION: 8**



**Registration compulsory:**

A casual taxable person making taxable supply in India has to compulsorily take registration. There is no threshold limit for registration. A casual taxable person cannot exercise the option to pay tax under composition levy. **Application for Registration:**

Casual taxable persons are required to obtain GST registration under a special category at least 5 days prior to the undertaking business.

There is no special form to register as a casual taxable person. Casual taxable person can use the normal form GST REG-01 which is used by other taxable persons for registration.

A casual taxable person, before applying for registration, declare his:

- Permanent Account Number,

- mobile number,
- e-mail address,
- State or Union territory

in Part A of FORM GST REG-01 on the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

The Permanent Account Number shall be validated online by the common portal from the database maintained by the Central Board of Direct Taxes. The mobile number declared shall be verified through a one-time password sent to the said mobile number; and the e-mail address shall be verified through a separate one-time password sent to the said e-mail address.

On successful verification of the Permanent Account Number, mobile number and e-mail address, a temporary reference number shall be generated and communicated to the applicant on the said mobile number and e-mail address. Using this reference number generated, the applicant shall electronically submit an application in Part B of FORM GST REG-01, duly signed or verified through electronic verification code, along with the documents specified in the said Form at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

## **PROCEDURE FOR REGISTRATION (SECTIONS 25, 26 & 27)**

<b>Section 25</b>	<b>Procedure for registration</b>
<b>Sub-section</b>	<b>Particulars</b>
(1)	Every person who is liable to be registered under section 22 or section 24 shall apply for registration in every such State or Union territory in which he is so liable within thirty days from the date on which he becomes liable to registration, in such manner and subject to such conditions as may be prescribed. Provided that a casual taxable person or a non-resident taxable person shall apply for registration at least five days prior to the commencement of business.
(2)	A person seeking registration under this Act shall be granted a single registration in a State or Union territory.

	Provided that a person having multiple business verticals in a State or Union territory may be granted a separate registration for each business vertical, subject to such conditions as may be prescribed.
(3)	A person, though not liable to be registered under section 22 or section 24 may get himself registered voluntarily, and all provisions of this Act, as are applicable to a registered person, shall apply to such person.
(4)	A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act
(5)	Where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.
(6)	Every person shall have a Permanent Account Number issued under the Income- tax Act, 1961 in order to be eligible for grant of registration: Provided that a person required to deduct tax under section 51 may have, in lieu of a Permanent Account Number, a Tax Deduction and Collection Account Number issued under the said Act in order to be eligible for grant of registration.
(7)	Notwithstanding anything contained in sub-section (6), a non-resident taxable person may be granted registration under sub-section (1) on the basis of such other documents as may be prescribed
(8)	Where a person who is liable to be registered under this Act fails to obtain registration, the proper officer may, without prejudice to any action which may be taken under this Act or under any other law for the time being in force, proceed to register such person in such manner as may be prescribed
(9)	Notwithstanding anything contained in sub-section (1),—

	(a)	any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries ; and
	(b)	any other person or class of persons, as may be notified by the Commissioner,
		shall be granted a Unique Identity Number in such manner and for such purposes, including refund of taxes on the notified supplies of goods or services or both received by them, as may be prescribed.
(10)		The registration or the Unique Identity Number shall be granted or rejected after due verification in such manner and within such period as may be prescribed
(11)		A certificate of registration shall be issued in such form and with effect from such date as may be prescribed
(12)		A registration or a Unique Identity Number shall be deemed to have been granted after the expiry of the period prescribed under sub-section (10), if no deficiency has been communicated to the applicant within that period
<b>Section 26</b>		<b>Deemed registration</b>
(1)		The grant of registration or the Unique Identity Number under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act shall be deemed to be a grant of registration or the Unique Identity Number under this Act subject to the condition that the application for registration or the Unique Identity Number has not been rejected under this Act within the time specified in sub-section (10) of section 25.
(2)		Notwithstanding anything contained in sub-section (10) of section 25, any rejection of application for registration or the Unique Identity Number under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act shall be deemed to be a rejection of application for registration under this Act.

Section 27	Special provisions relating to casual taxable person and non-resident taxable person
(1)	<p>The certificate of registration issued to a casual taxable person or a non- resident taxable person shall be valid for the period specified in the application for registration or ninety days from the effective date of registration, whichever is earlier and such person shall make taxable supplies only after the issuance of the certificate of registration.</p> <p>Provided that the proper officer may, on sufficient cause being shown by the said taxable person, extend the said period of ninety days by a further period not exceeding ninety days.</p>
(2)	<p>A casual taxable person or a non-resident taxable person shall, at the time of submission of application for registration under sub-section (1) of section 25, make an advance deposit of tax in an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought.</p> <p>Provided that where any extension of time is sought under sub-section (1), such taxable person shall deposit an additional amount of tax equivalent to the estimated tax liability of such person for the period for which the extension is sought.</p>
(3)	<p>The amount deposited under sub-section (2) shall be credited to the electronic cash ledger of such person and shall be utilised in the manner provided under section 49.</p>

## Procedure for registration [Section 25 read with rule 10]

Provisions relating to procedure for application for registration, verification of the application and approval & issue of registration certificate are contained in the rules 8, 9 and 10 of the CGST Rules, 2017 respectively. The same have to be read in conjunction with section 25 provisions. However, procedure so laid down will not apply to:

- Non-resident taxable person
- A person required to deduct tax at source under section 51
- A person required to collect tax at source under section 52
- A person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient referred to in section 14 of IGST Act who is liable to be registered under section 25(1)

Thus, procedure for registration prescribed under rules 8, 9 and 10 are also applicable to a person paying tax under composition levy, every person seeking voluntary registration under section 25(3) as well as a casual taxable person. Such persons shall apply for registration in Form GST REG 01. The application for registration in GST Form REG 01 is divided into two parts – Part A and Part B. In order to cater to the needs of tax payers who are not IT savvy, Facilitation centres have been established which help the taxpayer in submitting the application for registration,

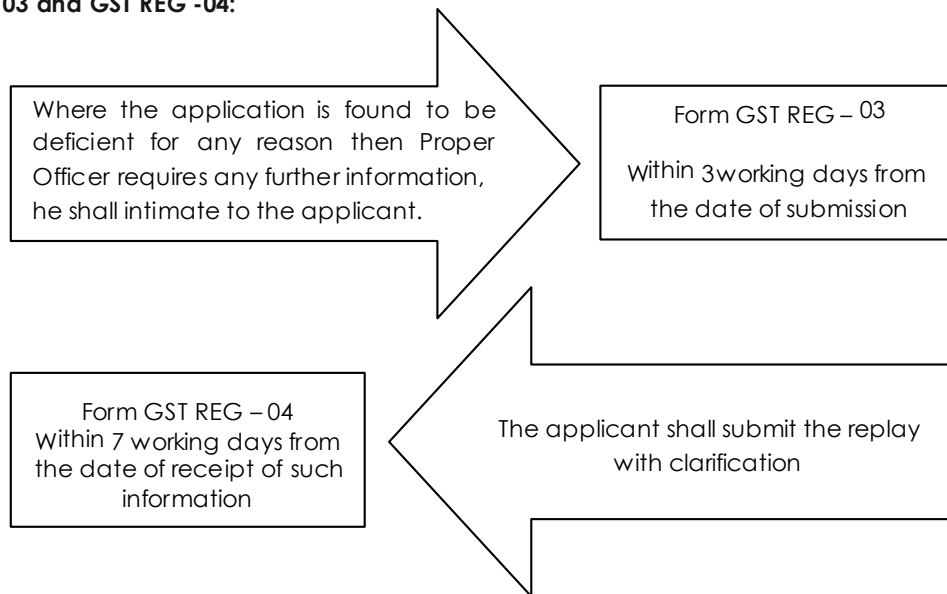
amending the registration certificate, submitting application for cancellation of registration, revocation of cancellation of registration, etc. Facilitation Centre shall be responsible for the digitization and/or uploading of the forms and documents.

**Physical verification of business premises in certain cases after grant of registration [Rule 25]** Where the proper officer is satisfied that the physical verification of the place of business of a registered person is required after grant of registration, he may get such verification done and the verification report along with other documents, including photographs, shall be uploaded in the prescribed form on the GST Common Portal, within 15 working days following the date of such verification.

**Issuance of registration certificate [Rule 10]** Where the application for grant of registration has been approved, a certificate of registration [duly signed or verified through EVC by the proper officer] in **FORM GST REG-06** showing the principal place of business (PPoB) and additional place(s) of business (APoB) is made available to the applicant on the Common Portal and a Goods and Services Tax Identification Number (hereinafter referred to as “GSTIN”) i.e. the GST registration no. is communicated to applicant, within 3 days after the grant of registration.

If the Proper Officer fails to take action in 3 working days from the date of submission, the registration is deemed to have been approved.

**Form GST REG -03 and GST REG -04:**



The Proper Officer is satisfied with the clarification; he may approve the grant of registration to the applicant within 7 working days on receipt of such clarification.

If no reply is furnished by applicant in response to notice issued or Proper Officer is not satisfied with the clarification, he shall reject such application with reasons in writing and inform the applicant in Form GST REG-05.

Where no action is taken in 7 working days on the clarification received from the applicant, the registration is deemed to have been granted.

**Certificate of Registration:**

Certificate of registration shall be granted in Form GST REG-06.

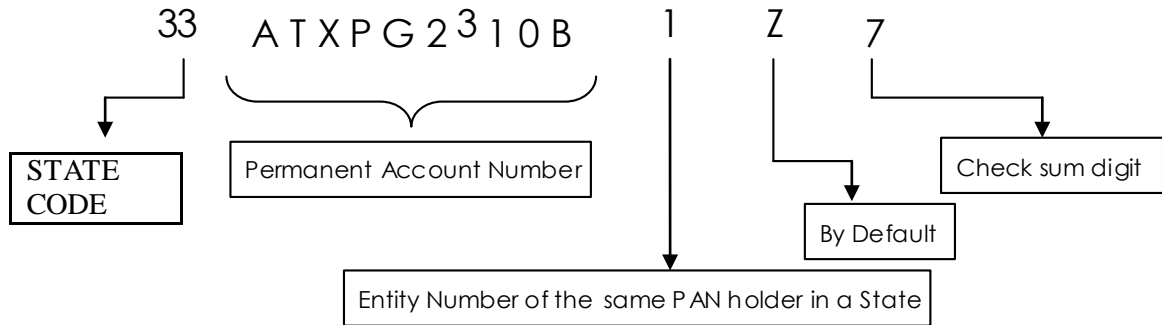
Certification of registration contains Goods and Service Tax Identification Number (GSTIN):

- Two characters for the State code
- Ten characters for the PAN

- Two characters for the entity code; and
- One checksum character

**Structure of GSTIN**

Each taxpayer is assigned a state-wise PAN-based 15 - digit Goods and Services Taxpayer Identification Number ( GSTIN ).



**SECTION 28 - AMENDMENT OF REGISTRATION**

Section 28	<i>Amendment of registration</i>
Sub-section	<i>Particulars</i>
(1)	<i>Every registered person and a person to whom a Unique Identity Number has been assigned shall inform the proper officer of any changes in the information furnished at the time of registration or subsequent thereto, in such form and manner and within such period as may be prescribed.</i>
(2)	<i>The proper officer may, on the basis of information furnished under sub-section (1) or as ascertained by him, approve or reject amendments in the registration particulars in such manner and within such period as may be prescribed.</i> <i>Provided that approval of the proper officer shall not be required in respect of amendment of such particulars as may be prescribed.</i> <i>Provided further that the proper officer shall not reject the application for amendment in the registration particulars without</i>

	<i>giving the person an opportunity of being heard.</i>
<b>(3)</b>	<i>Any rejection or approval of amendments under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a rejection or approval under this Act.</i>

The provisions relating to amendment of registration are contained in section 28 read with rule 19 of CGST Rules, 2017. The significant aspects of the same are discussed hereunder:

- Where there is any change in the particulars furnished in registration application/UIN application, registered person shall submit an application in prescribed manner, within **15 days** of such change, along with documents relating to such change at the Common Portal.
- **In case of amendment of core fields of information**, the proper officer may, on the basis of information furnished or as ascertained by him, approve or reject amendments in the registration particulars in the prescribed manner. Such amendment shall take effect from the date of occurrence of event warranting such amendment.
- However, where change relates to non-core fields of information, registration certificate shall stand amended upon submission of the application for amendment on the Common Portal.
- **Where a change in the constitution of any business results in change of PAN of a registered person**, the said person shall apply for fresh registration. The reason for the same is that GSTIN is PAN based. Any change in PAN would warrant a new registration.

## CANCELLATION OF REGISTRATION AND REVOCAION OF CANCELLATION [SECTIONS 29 &30]

<i>Section 29</i>	<i>Particulars</i>
<i>Sub-section</i>	<i>Cancellation of registration</i>
<b>(1)</b>	<i>The proper officer may, either on his own motion or on an application filed by the registered person or by his legal heirs, in case of death of such person, cancel the registration, in such manner and within such period as may be prescribed, having regard to the circumstances where:</i>
<b>(a)</b>	<i>the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of</i>
<b>(b)</b>	<i>there is any change in the constitution of the business</i>
<b>(c)</b>	<i>the taxable person, other than the person registered under sub-section (3) of section 25, is no longer liable to be registered under section 22 or section 24</i>

(2)	<p><i>The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where,—</i></p>
	<p>(a) <i>a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed</i></p>
	<p>(b) <i>a person paying tax under section 10 has not furnished returns for three consecutive tax periods</i></p>
	<p>(c) <i>any registered person, other than a person specified in clause (b), has not furnished returns for a continuous period of six months</i></p>
	<p>(d) <i>any person who has taken voluntary registration under sub-section (3) of section 25 has not commenced business within six months from the date of registration</i></p>
	<p>(e) <i>registration has been obtained by means of fraud, wilful misstatement or suppression of facts</i></p>
<p><i>Provided that the proper officer shall not cancel the registration without giving the person an opportunity of being heard.</i></p>	
(3)	<p><i>The cancellation of registration under this section shall not affect the liability of the person to pay tax and other dues under this Act or to discharge any obligation under this Act or the rules made thereunder for any period prior to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation.</i></p>
(4)	<p><i>The cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a cancellation of registration under this Act.</i></p>
(5)	<p><i>Every registered person whose registration is cancelled shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in</i></p>

	<p><i>respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock or capital goods or plant and machinery on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher, calculated in such manner as may be prescribed.</i></p> <p><i>Provided that in case of capital goods or plant and machinery, the taxable person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery, reduced by such percentage points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery under section 15, whichever is higher.</i></p>
(6)	<i>The amount payable under sub-section (5) shall be calculated in such manner as may be prescribed.</i>
<b>Section 30</b>	<b><i>Revocation of cancellation of registration</i></b>
(1)	<i>Subject to such conditions as may be prescribed, any registered person, whose registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within thirty days from the date of service of the cancellation order.</i>
(2)	<p><i>The proper officer may, in such manner and within such period as may be prescribed, by order, either revoke cancellation of the registration or reject the application.</i></p> <p><i>Provided that the application for revocation of cancellation of registration shall not be rejected unless the applicant has been given an opportunity of being heard.</i></p>
(3)	<i>The revocation of cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a revocation of cancellation of registration under this Act.</i>

**1) Cancellation by the registered person himself [Sec. 29(1)]:**

Registered person under GST can himself/herself cancel their registration in any one of the following cases:

- Business has been discontinued.
- The business has been sold or transferred to some other party. That other party needs to register under GST.

- There is any change in the constitution of the business (like Partnership firm now converted into Private Limited company and so on).
- Turnover is not more than ₹ 20 lakh (₹ 10 lakh in the case of special category States except J&K).

**2) Cancellation by a GST officer [Section 29(2)]:**

GST registration of a person or business can be cancelled by a proper GST officer in one of the following cases:

- If the registered person has violated any of GST provisions or laws.
- A composition registered person has not filed tax returns for three consecutive quarters.
- A normal registered person who has not filed returns consecutively for six months.
- A voluntarily registered person who has not commenced any business in the six months from the registration date.
- If the registration is obtained by fraud methods, the proper officer has the right to cancel the registration with retrospective effect.

Provided that the proper officer shall not cancel the registration without giving the person an opportunity of being heard.

Section 29(3) of the CGST Act, 2017, the cancellation of registration under this section shall not affect the liability of the person to pay tax and other dues under this Act or to discharge any obligation under this Act or the rules made thereunder for any period prior to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation.

Section 29(4) of the CGST Act, 2017, the cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a cancellation of registration under this Act.

Section 29 (5) Every registered person whose registration is cancelled shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock or capital goods or plant and machinery on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher, calculated in such manner as may be prescribed:

Provided that in case of capital goods or plant and machinery, the taxable person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery, reduced by such percentage points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery under section 15, whichever is higher.

**(3) The legal heir of the registered person:**

The legal heir of the registered person can request cancellation through an application, in case of death of the person.

**Procedure for Cancellation of Registration under GST:**

GST registration can be cancelled by using the forms below.

Particulars	Relevant Form
Application for cancellation Note: The voluntary registrations can only be cancelled after one year or more from the date of GST registration.	GST REG 16
A proper officer can send the show cause / cancellation notice to a registered person	GST REG 17
The concerned person must reply back in this form within 7 days of notice explaining why his/her registration should not be cancelled	GST REG 18
This form will be used by the proper officer to issue a formal order for cancellation of registration. The order is to be sent within 30 days from the application date or from the date of response in GST REG 18 form.	GST REG 19
If the proper officer is satisfied with the explanation, he can use this form to drop the cancellation proceeding and pass a formal order.	GST REG 20

## TEST YOUR KNOWLEDGE

1. Mr. A has started supply of goods in Delhi. He is required to obtain registration if his aggregate turnover exceeds \_\_\_\_\_ during a financial year.

- (a) ` 10 lakh
- (b) ` 20 lakh
- (c) ` 30 lakh
- (d) ` 50 lakh

**(Answer – ` 20 lakh)**

2. Aggregate turnover includes:

- (a) Taxable supplies
- (b) Exempt supplies
- (c) Exports
- (d) All of the above

**(Answer – All of the above)**

3. Which of the following persons are compulsorily required to obtain registration?

- (a) Persons making any inter-State taxable supply
- (b) Non-resident taxable persons making taxable supply
- (c) Casual taxable persons making taxable supply
- (d) All of the above

**(Answer – All of the above)**

4. Which of the following persons are not liable for registration?

- (a) Any person engaged exclusively in supplying services wholly exempt from tax
- (b) Casual Taxable Person
- (c) Both (a) and (b)
- (d) None of the above

**(Answer – Any person engaged exclusively in supplying services wholly exempt from tax)**

7. State the time-period within which registration needs to be obtained in each of the following independent cases:

- (a) Casual taxable person
- (b) Person making inter-State taxable supply

8. In order to be eligible for grant of registration, a person must have a Permanent Account Number issued under the Income- tax Act, 1961. State one exception to it.

9. State which of the following suppliers are liable to be registered:
- (a) Agent supplying goods on behalf of some other taxable person and its aggregate turnover does not exceed ` 20 lakh during the financial year.
  - (b) An agriculturist who is only engaged in supply of produce out of cultivation of land.
10. What are the advantage of taking registration in GST?
11. Can a person without GST registration collect GST and claim ITC?
12. If a person is operating in different States, with the same PAN number, can he operate with a single registration?