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**Amendments**

Applicable For  
**MAY / NOV 2025 EXAMS**

**By CA Vishal Bhattad**

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# CONCEPT OF SUPPLY

## Clarification on the taxability of ESOP/ESPP/RSU provided by a company to its employees through its overseas holding company [Cir. No.213/07/2024 ]

### Facts:-

- 1) Indian companies offer Employee Stock Option Plan (ESOP)/Employee Stock Purchase Plan (ESPP)/Restricted Stock Unit (RSU) options of their foreign holding company to its employees as per the employment contract.
- 2) Upon employees exercising these options, the foreign holding company directly allots shares to the employees, and the cost is reimbursed by the Indian subsidiary to the foreign holding company.

**Issue:-** Whether these transactions should be considered as import of financial services and thus be liable for GST under RCM?

### Clarification:-

- ESOP/ESPP/RSU is a part of employees remuneration as per their contract & thus, it is not a supply as per para 1 of Schedule III
- Securities/shares are neither goods nor services under the GST law & thus, its sale or purchase is not a supply.
- Thus, the reimbursement from the Indian subsidiary to the foreign holding company, when done on a cost-to-cost basis, is not subject to GST.
- However, if any additional fee, markup, commission, etc is charged by foreign holding company from the domestic subsidiary for such issuance, it will be considered as a supply of services of facilitating the transaction in securities and GST will be levied on the additional amount (being import of services) under reverse charge.

**Case Study:-** ABC Tech Pvt. Ltd., an Indian subsidiary of Global Tech Inc., a US-based company, offers its employees ESOPs as part of their compensation package. When an employee decides to exercise their stock options, Global Tech Inc. directly transfers the shares to the employee. ABC Tech Pvt. Ltd. reimburses Global Tech Inc. for the cost of these shares on a cost-to-cost basis.

**Are ESOP/ESPP/RSU transactions considered as supply of goods or services under GST?**

**Hint:-** No, ESOP/ESPP/RSU transactions are not considered as supply of goods or services under GST. Securities/shares are neither goods nor services as per the definitions in the GST Act.

## Clarification on whether GST is payable by insurance company on salvage/wreck value earmarked in the claim assessment of the damage caused to the motor vehicle [Cir. No.215/09/2024 ]

### Facts:-

- Insurance company insures the vehicles for any damages & in return, charges premium from owner of vehicle.
- The responsibility of the insurance company is to either repair the damaged vehicle or compensate the insured as per the terms of the insurance policy. What is the GST impact if,
  - a) Deduction of Salvage Value

b) Full Insured Declared Value (IDV) Settlement without deducting Salvage Value

**Clarification:-**

a) **Deduction of Salvage Value:** When the claim is settled after deducting the salvage value, the ownership of the salvage remains with the insured. The salvage does not become the property of the insurance Co., and the deduction of salvage value from the claim amount is not considered a supply, hence insurance company is not liable to pay GST on the same.

b) **Full Insured Declared Value (IDV) Settlement:**

- If the insurance contract stipulates settlement on full IDV without deducting salvage value/wreckage (as per the contract), the salvage becomes the property of the insurance Co. after settling the full claim amount.
- Thus, insurance company is liable to discharge GST on supply of the salvage to the salvage buyer.

**Applicability of GST on Preferential Location Charges (PLC) collected along with consideration for sale/ transfer of residential / commercial properties (Cir. No. 234/28/2024)**

- Allowing choice of location of apartment is **integral part** of supply of construction services.
- It is clarified that location charges or PLC paid along with consideration for the construction services of residential / commercial / industrial complex **forms part of composite supply**.
- The supply of construction services is main service & **PLC is naturally bundled** with it.
- It is eligible for **same tax** treatment as the main supply of construction service before issuance of completion certificate.





# REVERSE CHARGE & ECO

Goods and services notified under reverse charge mechanism under section 9(3) of the CGST Act/ section 5(3) of the IGST Act are as follows:

## Liability under RCM for Supply of Goods (N/N 4/2017 Central Tax(Rate))

S. No.	Description of supply of Goods	Supplier of goods	Recipient of supply (Liable to Pay Tax)
8.	<b>Metal Scrap</b> <span>Newly Inserted by N/No. 06/2024</span>	Any unregistered person	Any registered person

## 5AB Renting of any immovable property other than residential dwelling

Reverse Charge	Services	100 % Liability
<span>Newly Inserted by N/N 09.2024</span>	Service by way of <b>Renting of any immovable property other than residential dwelling</b> <div><div>By</div><div>Any unregistered person</div><div>To</div><div>Any registered person</div></div>	<b>Any registered person</b>

## Newly added or updated questions from questionnaire

### CCP 03.03.13.00

State, with reason, the person liable to pay GST in each of following independent cases:-

Assume recipient is located in taxable territory.

(vi) Mr. Chirag who is not registered under GST rents out its commercial property (non-residential) to ABC Pvt. Ltd. (R.P.) for the purpose of setting up their office.

Answer:-

- (vi) **Legal provision:** As per **section 9(3)** of CGST Act, if service of renting of immovable property other than residential dwelling is provided by the **any unregistered person to any registered person** located in the taxable territory, then GST is payable by **recipient** under reverse charge.
- Discussion & Conclusion:**
- ➔ In the given case, Mr. Chirag who is unregistered person and provides services of **renting of immovable property for commercial purposes** to ABC Pvt. Ltd. (R.P.)
  - ➔ Thus ABC Pvt. Ltd. is liable to pay GST under Reverse charge mechanism.



# EXEMPTIONS FROM GST

Entry No.	Renting of Immovable Property Sector	
12	<b>Renting of Residential Dwelling</b>	
	<b>Exemption</b>	Services by way of <b>renting</b> of <b>residential dwelling</b> for use as residence <b>except where the residential dwelling is rented to a registered person</b> <b>Comment:-</b> This service is exempt when recipient is unregistered person.
	<b>Explanation 1</b>	For the purpose of exemption under this entry, this entry shall cover services by way of renting of residential dwelling to a registered person where, – ➤ the registered person is <b>proprietor of a proprietorship concern</b> & rents the residential dwelling in his personal capacity for use as his own residence and ➤ such renting is on his <b>own account</b> and not for the proprietorship concern
	<b>Explanation 2 (inserted) i.e. Non-applicability</b> <b>newly inserted by N/No. 04/2024 w.e.f. 15/07/24</b>	<b>Nothing contained in this entry shall apply to-</b> a) <b>accommodation services for students in student residences;</b> b) <b>accommodation services provided by Hostels, Camps, Paying Guest accommodations &amp; the like.</b> <b>Comment:-</b> ➤ Student residences refer to accommodations provided to students specifically. It includes student hostels/apartments, university/college dormitories, off-campus student housing & similar living quarters. ➤ Services provided by educational institutions, including housing as composite supply, is exempt from GST, but taxability of such individual service supplied depends on its nature & type of institution providing it.
12A	<b>Accommodation services</b> <b>newly inserted by N/No. 04/2024 w.e.f. 15/07/24</b>	
	<b>Supply of accommodation services having value of supply less than or equal to ₹20,000 per person per month provided that the accommodation service is supplied for a minimum continuous period of 90 days</b>	
	<b>Non-applicability:-</b>	➤ VOS exceeds ₹ 20,000 per person per month or ➤ Accommodation services supplied for less than 90 days or ➤ Accommodation services supplied for minimum non-continuous 90 days.
	<b><u>GST liability on certain accommodation services [Cir. No. 228/22/2024]</u></b>	
	<b><u>Issue:-</u></b>	<b>1. Whether service of hostel accommodation, service apartments/hotels booked for longer period is a service of renting of residential dwelling for use as residence &amp; exempted under Sl. No. 12?</b> <b>2. Whether service of hostels for poor &amp; middle-class students run by charitable trusts is exempt?</b>



<b>Clarification:-</b>	<p>⇒ It is not exempt under entry 12 but it will be exempt under entry 12A, if it satisfies the conditions given thereunder.</p> <p>⇒ Also, If VOS of accommodation services supplied between <b>01.07.2017 to 14.07.2024</b> was <b>≤ ₹20,000</b> per person per month &amp; was supplied for a minimum continuous period of 90 days, then GST liability on the same is regularized on 'as is where is' basis for such period.</p>
<b>Meaning of As is Where is (Cir No. 236/30/2024)</b>	<p>⇒ If matters are regularized on 'as is' or 'as is, where is basis', for 2 competing rates &amp; GST is paid at lower of them, or at nil rate by some suppliers while other suppliers have paid at higher rate,</p> <p>⇒ payment at lower rate shall be treated as tax fully paid for regularized period. If taxpayers had paid at higher GST rate, they shall not be entitled to any refund.</p>

Sl.No.12	Renting of Residential Dwelling (RD) - for use as residence		
Supplier	Receipient	Taxability	Who will pay tax
⇒ Any Person [RP + URP]	URP(if use for residence)	Exempt	—
⇒ Any Person [RP + URP]	RP But if RP is - Proprietor - using RD in Personal capacity for own residence - Renting on own account	Taxable Exempt	Under RCM recipient (RP) is liable to pay tax —
Sl.No.12A	Accommodation Services ( Hostels, residence for student, Camps, Paying Guest accommodations & the like. ) - Value 20,000 PP/PM for Continuous period of 90 days		
⇒ Any Person [RP + URP]	Any Person [RP + URP]	Exempt	—
<b>When tax payable on accommodation services:-</b> <ul style="list-style-type: none"> <li>➤ Value &gt; 20,000 PP/PM or</li> <li>➤ Supplied for non-continuous period of 90 days</li> <li>➤ If charges on daily basis &amp; not on monthly basis</li> </ul>			
Renting of Immovable property other than Residential Dwelling (Fully taxable)			
⇒ RP	Any Person [RP + URP]	Taxable	Supplier (FCM)
⇒ URP	RP	Taxable	Under RCM recipient (RP) is liable to pay tax



## Newly added or updated questions from questionnaire

### CCP.04.08.14.00

A hotel offers accommodation services with a value of supply at ₹18,000 per person per month. A customer books a room for 95 continuous days. Under the GST law, is this accommodation service subject to GST?

**Answer:-**

**Legal Provision:**

- ➔ Accommodation services with a value of supply **less than or equal to ₹20,000** per person per month, provided for a minimum continuous period of 90 days, are **exempt** from GST.

**Discussion & Conclusion:**

- ➔ In this case, the hotel offers accommodation at ₹18,000 per person per month, and the customer books the room for 95 continuous days.
- ➔ Since both conditions are met (value of supply is less than ₹20,000 per person per month and the accommodation is for more than 90 days). **Therefore**, this service is **exempt** from GST.

### CCP.04.08.14.01

Roshan(RP) of Bengaluru owns 9 properties in different parts of Karnataka. From the information given below, find out GST payable by him for the quarter ending on 31st March, 20XX. GST rate is 18 per cent (i.e., CGST 9 % + SGST 9 %) Municipal tax pertaining to these properties is ₹44,000. Expenditure on repair is ₹1,32,000. Fire insurance premium paid by Roshan is ₹48,000. [CMA Final RTP Dec 18] [CA Final RTP Dec 2018-Similar]

Particulars	Amount
Rent of residential Building I (given on rent to A, a salaried employee & unregistered under GST, for his residence)	10,00,000
Rent of residential Building II [given on rent to a bank, registered under GST, for residence of a branch manager)	15,00,000
Rent of vacant plot of Land III (given on rent to a manufacturing company)	8,00,000
Rent of vacant plot of Land IV (given on rent for agriculture purposes)	4,50,000
Rent of residential Building V (given on rent to B Ltd., an unregistered person under GST, for residence of employees)	3,00,000
Rent of commercial Building VI (given on rent to C, who has a sole proprietary business)	1,50,000
Rent of residential building VII (it is situated in residential area but used for commercial purposes and it is given on rent on the understanding that the tenant, who is unregistered under GST, can use it for commercial purposes if there is no objection by the municipal corporation)	6,50,000
Accommodation of residential building VIII (i.e Greenwood Hostel, given on rent to college student for 3 months whose rent is ₹25,000 per person per month)	75,000
Accommodation of Students Residence building IX for 60 days, rent is ₹18,000 per person per month	36,000

**Answer:- Computation of GST of Roshan for the quarter ending on 31st March, 20XX:-**

Particulars	Amount (₹)	Explanation
Rent of residential Building I	-	Renting of residential dwelling for use as residence to an unregistered person is <b>exempt</b> .
Rent of residential Building II	-	Letting out of residential building for residential purposes to a registered person is <b>liable to GST</b> , but the tax thereon is to be paid by recipient (i.e. bank) under reverse charge.
Rent of vacant plot of Land III	8,00,000	It is not covered under any exemption & hence, <b>taxable</b> . (Roshan is RP, hence RCM is not applicable)
Rent of vacant plot of Land IV	-	Letting out of vacant plot for agricultural purposes is <b>exempt</b> .
Rent of residential Building V	-	Letting out of residential building for residential purposes to an unregistered person is <b>exempt</b> .
Rent of commercial Building VI	1,50,000	Letting out of commercial property is <b>liable to GST</b> .
Rent of residential building VII	6,50,000	Letting out of residential property to unregistered person for commercial purposes is <b>chargeable to tax under forward charge</b> .
Rent of residential building VIII	75,000	Renting of residential dwelling to student is <b>taxable</b> under GST under Entry no 12 & also under Entry no. 12A as value <b>exceeds ₹20,000 per person per month</b> .
Rent of Students Residence Building IX	36,000	Renting of residential dwelling to student is <b>taxable</b> under GST under Entry no 12 & also under Entry no. 12A as value <b>not exceeding ₹20,000 per person per month but it is for a period of 60 days</b> .
<b>Taxable value of supply</b>	<b>17,11,000</b>	
CGST @ 9%	1,53,000	
SGST @ 9%	1,53,000	
<b>Total GST charged by Roshan</b>	<b>3,06,000</b>	

Roshan has paid fire insurance premium and expenditure on repair of buildings. These expenses are not deductible while calculating taxable value of supply. However, input tax credit pertaining to these expenses can be claimed, subject to provision of section 17 of CGST Act read with Rule 42 of CGST Rules.

## Education Sector

### 66 Education & Training

#### Exemption

Education as a part of an **approved vocational education course**.

**Notes:-** Approved vocational education course includes

➔ **Approved Vocational Course:** A course by ITI/ ITC affiliated to **NCVET** or SCVT offering courses in trades notified under the Apprentices Act, 1961.

**Private ITI :-** Services given by private ITIs exclusively for trades designated under the Apprentices Act, 1961 are exempt from GST. However, services relating non-designated trades are subject to GST.

➔ **Modular Employable Skill Course (Skills for gainful employment to school drop-outs, workers etc.):** A course approved by NCVET, run by Directorate General of Training, Ministry of Skill Development and Entrepreneurship.

**NCVET = National Council for Vocational & Educational Training, SCVT = State Council for Vocational Training**

Substituted by  
N/No. 08/2024

#### Clarification

**GST on flying training courses conducted by FTO (Flying training Organizations) approved by the DGCA [Cir.No. 234/28/2024]**

**Education as a part of an approved vocational education course :-** It is **clarified** that approved flying training courses conducted by Flying training Organizations (FTOs) approved by Directorate General of Civil Aviation (DGCA), wherein the DGCA mandates the requirement of a completion certificate, **are exempt**.

### 66A Affiliation Services by Educational Boards or Councils to Government-Controlled Schools

newly inserted by  
N/No. 08/2024

#### Exemption

Services of affiliation provided

➔ **by** a Central or State Educational Board or Council or any other similar body,  
➔ **To** a school established, owned or controlled by the CG, SG, UT, LA, Govt. authority or Govt. entity.

**CBIC Clarification:-** GST on Affiliation services provided by Universities to Colleges & Education Board to Schools [Cir. No. 234/28/2024 ]

1. ➔ Universities' affiliation services to colleges does not involve student admissions or exams.  
➔ These services are **not exempt** from taxes, so an 18% GST applies.

2. ➔ Affiliation services provided to schools by Education board or Councils does not include student admissions or exams  
➔ These services are **taxable**.



## Government Sector

9E	Certain services provided by Indian Railways:-		newly inserted by N/No. 04/2024 w.e.f. 15/07/24
	Exemption	Services provided by Ministry of Railways (Indian Railways) to <b>individuals</b> by way of- a) Sale of platform tickets; b) Facility of retiring rooms/waiting rooms; c) Cloak room services; d) Battery operated car services.	
9F	Services provided by one zone/division under Ministry of Railways		
	Exemption	Services provided by one zone/division under Ministry of Railways (Indian Railways) to another zone(s)/division(s) under Ministry of Railways (Indian Railways).	
		<b>Analysis:</b> Intra railway transactions between different zones/divisions are exempt.	
9G	Services provided by Special Purpose Vehicles (SPVs) to Ministry of Railways		
	Exemption	Services provided by Special Purpose Vehicles (SPVs) to Ministry of Railways (Indian Railways) by way of allowing Ministry of Railways (Indian Railways) ➔ <b>to use the infrastructure</b> built & owned by them during the concession period against consideration & ➔ <b>services of maintenance</b> supplied by Ministry of Railways (Indian Railways) to SPVs in relation to the said infrastructure built & owned by the SPVs during the concession period against consideration	newly inserted by N/No. 04/2024 w.e.f. 15/07/24
	Definition of Special Purpose vehicles (SPVs)	A <b>special-purpose vehicle (SPV)</b> is a legal entity that allows multiple investors to pool their capital and make an investment in a single company. SPVs have multiple use-cases in the business world.	
25A	Ancillary Services in Electricity Transmission & Distribution		Newly Inserted by N/N 08/2024
	Exemption	Supply of services by way of ➔ providing metering equipment on rent, testing for meters / transformers / capacitor etc., releasing electricity connection, ➔ shifting of meters/service lines, issuing duplicate bills etc., which are incidental or ancillary to the supply of transmission and distribution of electricity provided by electricity transmission and distribution utilities to their consumers.	
44A	Research & Development Services Funded by Govt Entities & Notified Institutions		
	<b>Exemption:</b> –Research and development services against consideration received in the form of grants supplied by – (a) a Government Entity; or (b) a research association, university, college or other institution, notified u/s 35(1)(ii)/(iii) of Income Tax Act, 1961. <b>Proviso:</b> – Research association, university, college or other institution, notified u/s 35(1)(ii)/(iii) of Income Tax Act, 1961 is so notified at the time of supply of the research and development service.		

## 71 Training Service under Deen Dayal Upadhyaya Grameen Kaushalya Yojana

**Exemption:-** Services provided by training providers (Project implementation agencies) under **Deen Dayal Upadhyaya Grameen Kaushalya Yojana** implemented by the Ministry of Rural Development, Government of India by way of offering skill or vocational training courses certified by the **National Council for Vocational Education and Training**.

Substituted by N/N 08/2024

### Life/ General Insurance Sector

#### 36A Re-Insurance Services

**Exemption:-** Services by way of reinsurance of the insurance schemes specified in serial number **35 or 36 or 40**

**Note:-** entry no. 36- Life Insurance Services, entry no.40- Insurance Scheme for Government Services, entry no.35 - Specified General Insurance Scheme

#### Inclusion of retrocession services in reinsurance. :-

- ➔ As per IRDAI (Re-insurance) Regulations, 2018, 'Retrocession' means a re-insurance transaction whereby a part of assumed reinsured risk is further ceded to another Indian Insurer or a CBR (Cross Border Re-insurer).
- ➔ Thus, 'reinsurance' under Sl.No. 36A of exemption notification **includes 'retrocession' services.**

### List of Services exempt under IGST

#### 10L Import of services by Foreign Airline Establishment

##### Exemption

Import of services by an establishment of a foreign company in India, which is an airline company, from a related person or from any of its other establishments outside India, when made without consideration.

Newly Inserted by  
N/no. 08/24

##### Explanation

Foreign co. shall have meaning as assigned u/s 2(42) of Companies Act, 2013.

##### Proviso

GST at applicable rates is paid by the establishment of foreign airline co. in India on transport of goods & passengers as may be applicable.

##### Proviso

Ministry of Civil Aviation certifies that the establishment of foreign co. in India is that of an airline co. which has been designated by foreign govt. under the applicable bilateral air services agreement with India.

##### Proviso

Ministry of Civil Aviation certifies that on a reciprocal basis, designated Indian airlines are not subject to levy of similar taxes by whatever name called for the same services appearing under the entry, by Govt. of the country designating the foreign airline co.

## Training Sector

### 69 Service by NSDC etc.

Substituted by N/N 08/2024

**Exemption:-** Any services provided by –

- a. the National Skill Development Corporation set up by the Government of India;
  - b. the National Council for Vocational Education and Training;
  - c. an Awarding Body recognized by the National Council for Vocational Education & Training;
  - d. an Assessment Agency recognized by the National Council for Vocational Education and Training;
  - e. a Training Body accredited with an Awarding Body that is recognized by the National Council for Vocational Education and Training,
- in relation to–
- i) the National Skill Development Programme or any other scheme implemented by the National Skill Development Corporation; or
  - ii) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or
  - iii) any National Skill Qualification Framework aligned qualification or skill in respect of which the National Council for Vocational Education and Training has approved a qualification package.

## CBIC Clarifications

**GTA with cargo handline services eg. packing charges, loading, unloading charges etc. (Cir. No. 234/28/2024)**

- ➔ **Bundle Invoice:-** Ancillary/incidental services provided by GTA in the course of transportation of goods by road is a composite supply of transport of goods, irrespective of invoicing method used by it.
- ➔ **Separate Invoice:-** If such services are not provided in the course of transportation of goods and are invoiced separately, then these services will not be treated as composite supply of transport of goods & taxable individually as cargo handling service

**Clarification on taxability of transaction of providing loan by an overseas affiliate to its Indian affiliate or by a person to a related person (Cir. No. 218/12/2024 dt 26.06.24):-**

**Issue:-** Whether processing fee/ administrative charges/ loan granting charges etc. or interest/discount charged for granting of loan by a person to a related person or by an overseas affiliate to its Indian affiliate is a deemed taxable supply or not u/s 7(1)(c) read with para 2 & 4 of Sch I?

**Clarification:-**

<b>Supply of services</b>	As per <b>sec 7(1)(c) &amp; Para 2 &amp; 4 Sch I</b> , supply of goods &/or services or import of service between/from related persons, when made in the course or furtherance of business, shall be treated as supply, even if made without consideration.
<b>Exemption</b>	Granting loans/ credit/ advances, for consideration being interest or discount, is exempt.

<b>Charges other than interest/discount</b>	<ul style="list-style-type: none"> <li>➤ Processing fee/service fee/facilitation fee/ loan granting charges/ administrative charges is one-time charge to apply for loan to cover administrative cost to process loan &amp; is non-refundable.</li> <li>➤ These are generally charged by bank/FI &amp; independent lender for checking financial standing, credibility of applicant, etc.</li> <li>➤ Overseas affiliates or domestic related persons generally do not charge processing fee/ service fee, except interest/discount on loan because they may not require to follow such processes.</li> <li>➤ Even between unrelated parties (bank/ independent lender &amp; borrower), processing fee/ administrative charges/ loan granting charges etc., might not be there or might be waived based on their relations.</li> <li>➤ Thus, if amount charged except interest/discount are consideration that are liable to GST.</li> </ul>
<b>Conclusion</b>	<p>1. <u>If consideration (other than interest/discount) is not charged from related person, or by overseas affiliate from Indian party for extending loan/ credit:-</u></p> <ul style="list-style-type: none"> <li>➤ There is no supply of service between them u/s 7(1)(c) read with para 2 &amp; 4 of Sch I.</li> <li>➤ There is <b>no question of levy of GST</b> on it by resorting to OMV as per rule 28.</li> </ul> <p>2. <u>If consideration (in addition to interest/discount) is charged from related person, or by overseas affiliate from Indian party for extending loan/ credit:-</u></p> <ul style="list-style-type: none"> <li>➤ It <b>is a supply of services</b> of processing/facilitating/ administering, etc. of loan.</li> <li>➤ Such consideration will be <b>liable</b> to GST.</li> </ul>

#### **GST on statutory collections made by Real Estate Regulatory Authority (RERA) [Cir. No. 228/22/2024]**

- RERA is constituted under Real Estate (Regulation & Development) Act, 2016 to regulate real estate development & construction of building entrusted to them under Indian Constitution.
- RERA is a governmental authority as per definition in exemption notification.
- **Thus, statutory collections made by RERA are exempt.**



# TIME OF SUPPLY

**Clarification on TOS for payment of GST on spectrum usage services when payments are made in instalments by telecom operators (Cir. No. 222/16/2024)**

**Facts:-** Telecom operators bid for spectrum rights from the govt. Service provider is the Govt. of India, and recipient is the telecom operator. GST is paid by the telecom operator on a reverse charge basis.

**Issue :-** How to determine TOS?

**Clarification:-**

<b>Type of supply:</b>	For spectrum allocation services where telecom operators opt for deferred payments, the supply is treated as a <b>continuous supply of service</b> as it is agreed to be continuously provided for more than 3 months with periodic payment obligations.
<b>Tax invoice:</b>	As per <b>sec 31(5)(a)</b> , invoices must be issued on or before the due date of payment by recipient which is ascertainable from the contract.
<b>TOS u/s 13(3):</b>	<ul style="list-style-type: none"><li>➔ If <b>full upfront payment</b> is made by telecom operator, GST is payable when the payment is due or made, whichever is earlier.</li><li>➔ For <b>deferred payments</b>, GST is payable as and when each instalment is due or paid, whichever is earlier.</li></ul>
<b>Other services:</b>	This principle also applies to other government-allocated natural resources with similar payment options (i.e. upfront or deferred payments).

**Clarification on TOS of services of construction of road and maintenance thereof of National Highway Projects of National Highways Authority of India (NHAI) in Hybrid Annuity Mode (HAM) model i.e. (Cir. No. 221/15/2024):-**

<b>Nature of HAM Contracts</b>	<ul style="list-style-type: none"><li>➔ HAM contracts are single agreements covering both construction &amp; O&amp;M of highways along with the required payments for both.</li><li>➔ Certain portion of Bid Project Cost is received during construction period &amp; remaining payment through deferred payment (annuity) spread over 15-17 years.</li><li>➔ Payment for each instalment is to be made after specified periods, or on completion of an event, as specified in the contract.</li></ul>
<b>Type</b>	This model is covered under 'continuous supply of services'
<b>TOS as per sec 13(2) read with sec 31(5)</b>	<ul style="list-style-type: none"><li>➔ If <b>invoices are issued within time</b>, TOS shall arise at the time of issuance of invoice, or receipt of payments, whichever is earlier, if the invoice is issued on or before specified date or date of completion of event specified in contract.</li><li>➔ If <b>invoices are not issued</b> on or before the specified date or completion of event as per contract, TOS shall be earlier of - date of provision of service (i.e. due date of payment) or date of receipt of payment.</li></ul> <div><b>Note:</b> Date of provision of service = due date of payment as per contract, as invoice is required to be issued on or before the due date of payment u/s 31(5).</div>
<b>Interest from NHAI</b>	The annuity/instalment payable from NHAI to concessionaire, which may include an <b>interest component</b> , are included in value & taxable <b>u/s 15(2)(d)</b> .





# VALUE OF SUPPLY

## Rule 28 :- Value of supply of goods or services or both between distinct or related persons, other than through an agent

### VOS for corporate guarantee (Rule 28(2))

Notwithstanding anything contained in sub-rule (1), the **value of supply** of services by a supplier to a recipient who is a related person **located in India**, by way of providing **corporate guarantee** to any banking company or FI on behalf of the said recipient, shall be deemed to be

- ⇒ 1% of the amount of such guarantee offered **per annum**, or
- ⇒ the actual consideration, **whichever is higher.**

Newly inserted by  
N/No. 12/2024  
Dt. 10/07/24  
w.e.f. 26/10/23

Newly inserted by  
N/No. 12/2024  
Dt. 10/07/24  
w.e.f. 26/10/23

#### Proviso

**Provided that where the recipient is eligible for full ITC, the value declared in the invoice shall be deemed to be the value of said supply of services.**

## CBIC Clarifications

### Clarification on taxability & valuation of supply of services of providing corporate guarantee between related persons based on amended provisions (Cir. No. 225/19/2024)

1	<b>Whether rule 28(2) apply to corporate guarantees issued prior to 26/10/23 or issued prior but still in force?</b>	<ul style="list-style-type: none"><li>⇒ The supply of corporate guarantees to banks by a supplier for a related recipient was always taxable.</li><li>⇒ Rule 28(2) (w.e.f. 26/10/23) is just for valuing these taxable supplies.</li><li>⇒ Guarantees issued or renewed before this date follow the old Rule 28 for valuation, <b>while those issued or renewed on/after this date follow new sub-rule (2).</b></li></ul>
2	<b>VOS of corporate guarantee given if loan is partly availed or not availed &amp; ITC available:-</b>	<ul style="list-style-type: none"><li>⇒ Value of service of providing a corporate guarantee is <b>based</b> on the <b>amount guaranteed (i.e. taking on risk of default)</b>, not loan actually disbursed to recipient of corporate guarantee.</li><li>⇒ Recipients <b>can avail full ITC</b> regardless of when or how much of the loan is actually disbursed, subject to other specified conditions.</li></ul>
3	<b>GST on takeover of existing loans which involves merely an assignment of an already issued corporate guarantee:-</b>	<ul style="list-style-type: none"><li>⇒ Supplier of corporate guarantee service is the corporate entity providing guarantee to bank/FI, &amp; recipient is related entity for whom such guarantee is given.</li><li>⇒ If loan issued by banking Co./FI is taken over by another banking Co./FI, this activity of takeover is not considered as a service of providing a corporate guarantee.</li><li>⇒ <b>Thus, it does not impact GST.</b></li></ul>

		<p>⇒ However, if the takeover of loan is followed/ accompanied by issuance of <b>fresh</b> corporate guarantee or an existing one is <b>renewed</b>, then <b>GST would be payable</b> on the same.</p>
4	<b>Amount on which GST is payable in case of multiple co-guarantor:-</b>	<p>⇒ When multiple related entities provide a corporate guarantee, value of service is the <b>sum of actual consideration</b> paid/payable to co-guarantors, if this total amount exceeds <b>1% of guaranteed amount</b>.</p> <p>⇒ If <b>total consideration is less than 1%</b> of guarantee offered, GST is payable by each co-guarantor proportionately on 1% of guaranteed amount.</p> <p>⇒ <b>For example</b>, if co-guarantors A and B guarantee ₹ 1 crore equally, each pays GST on 0.5% of the guaranteed amount. If A guarantees 60% and B guarantees 40%, A pays GST on 1% of ₹ 60 lakhs, and B on 1% of ₹ 40 lakhs.</p>
5	<b>GST under intra-group guarantees:-</b>	<p>⇒ For domestic corporates issuing intra-group guarantees, GST must be paid under the forward charge mechanism, with an invoice issued by the supplier to the related recipient u/s 31.</p> <p>⇒ If foreign/overseas entity provides such a guarantee for a related entity in India, GST is payable under RCM by the Indian related recipient.</p>
6	<b>Frequency of tax payment of tax (i.e. one time or on yearly/ monthly basis for a fixed term of 5/10 years as per tenure of loan):-</b>	<p>⇒ VOS of providing service of corporate guarantee to a bank/FI on behalf of a related recipient = 1% of guaranteed amount <b>per annum</b> or the actual consideration, whichever is higher.</p> <p>⇒ For multi-year guarantees, <b>value is 1% of guarantee offered per year multiplied by the number of years, or the actual consideration, whichever is higher</b>.</p> <p>⇒ For guarantees of <b>less than a year</b>, valuation is proportionate (e.g., c0.5% for six months) or the actual consideration, whichever is higher.</p> <p>⇒ <b>Example:-</b> A 5-year corporate guarantee is valued at higher of 5% (1% x 5 years) of guaranteed amount or the actual consideration, with GST payable on this amount at time of issuance of such guarantee. If 1 year guarantee is renewed annually for 5 years, GST is payable each year on higher of 1% of the guaranteed amount or the actual consideration in 1st year &amp; on every renewal in subsequent years.</p>
7	<b>Benefit of value declared in invoice = VOS</b>	<p>⇒ <b>Proviso to rule 28(2) is inserted</b> to provide benefit in cases involving supply of service of corporate guarantees provided between related persons also, where full ITC is available to recipient.</p> <p>⇒ Thus, <b>value declared in invoice shall be deemed to be VOS</b>.</p>
8	<b>Applicability of rule 28(2) for export of services</b>	<p>⇒ The retrospectively amended rule 28(2) (w.e.f. 26/10/23) shall not apply if the recipient of corporate guarantee services between related persons is located outside India.</p> <p>⇒ Therefore, these provisions <b>do not apply to export of such services</b>.</p>

## Newly added or updated questions from questionnaire

CCP 06.05.19.01

ABC Pvt. Ltd., an Indian company, provides a corporate guarantee of ₹15,00,00,000 to a bank on behalf of its related company, XYZ Pvt. Ltd., also located in India. The actual consideration for the guarantee is ₹2,00,000. XYZ Pvt. Ltd. is eligible for full Input Tax Credit (ITC). What will be the value of the supply of services for GST purposes, and how much GST will be payable if the applicable GST rate is 18%?

**Answer:-**

**Legal Provision:**

- As per **Rule 28(2)** of CGST Rules 2017, The value of supply of services by a supplier to a related recipient in India, by providing a corporate guarantee to a bank or financial institution, shall be deemed to be 1% of the guarantee amount per annum or the actual consideration, **whichever is higher**.
- If the recipient is eligible for full ITC, the value declared in the invoice shall be **deemed to be the value of said supply of services**.

**Discussion & Conclusion:**

- In the given case, 1% of the guaranteed amount is  $₹15,00,00,000 \times 1\% = ₹15,00,000$ , which is higher than the actual consideration of ₹2,00,000.
- Therefore, the deemed value for GST purposes is **₹15,00,000**.
- However, since XYZ Pvt. Ltd. is **eligible for full ITC**, the value declared in the invoice can be **₹2,00,000**.
- Hence, GST will be calculated on ₹2,00,000. The GST payable at 18% is  $₹2,00,000 \times 18\% = ₹36,000$ .

### Question

In above case, would your answer differ if recipient is not eligible for full ITC &

- i) **Guarantee is given for 3 years** (VOS = 45,00,000 [15 Crores  $\times$  1%  $\times$  3yrs or ₹ 2 Lakhs, WIH])
- ii) **Guarantee is given for 4 months** (VOS = 5,00,000 [15 Crores  $\times$  1%  $\times$  4/12 or ₹ 2 Lakhs, WIH])

### Clarification on valuation of supply of import of services by a related person where recipient is eligible to full ITC (Cir. No. 210/4/2024):-

#### Issue:

- Demands are raised on RP in India for tax payable under RCM for activities undertaken by their related persons outside India, even when no consideration is involved, deeming it as supply under para 4 of Sch I.
- Whether there shall be same treatment for foreign entities providing services to related parties in India (where full ITC is available to recipient) as is given to domestic related parties or distinct persons as per circular 199/11/2023?

#### Legal Provision:-

- The above transaction is supply as per **para 4 of Sch I**.
- For import of services by a RP in India from a related person located outside India, tax is payable by RP under RCM & recipient shall issue self-invoice **u/s 31(3)(f)**.
- As per **2nd proviso to Rule 28**, the value declared in invoice is deemed to be OMV when recipient is eligible for full ITC.
- If services are provided without an invoice, value may be declared as nil i.e. OMV is deemed as Nil.

**Clarification:** This **2nd proviso also applies** where services are provided between distinct or related persons, including foreign affiliate providing services to related domestic entity (**i.e. import of service**).

## Clarification on availability of ITC for warranty replacement of parts and repair services during warranty period [Cir. No. 195/07/2023 ]

- 1) d) What will be the answer if distributor replaces goods/its parts to customer under warranty out of his own stock on behalf of manufacturer & on requisition raised, later gets replenishment of said parts/goods from manufacturer? [Circular No. 216/10/2024 dt. 26.06.24]
  - The manufacturer provides the said goods/parts to distributor through a **delivery challan, without separately charging any consideration** at the time of such replenishment.
  - Thus, **no GST is payable** on such replenishment.
  - Further, **no reversal of ITC** is required to be made by manufacturer for goods/parts so replenished.
- 2) **Issue :- Nature of supply of extended warranty in certain cases [Cir. No. 216/10/2024]**  
**Clarification:**
  - (a) **If customer enters into agreement of extended warranty with supplier of goods at the time of original supply, :-**
    - Consideration for extended warranty becomes part of value of **composite supply, principal supply being SOG**, & GST is payable accordingly.
    - If supplier of extended warranty & supplier of goods are different, then extended warranty will be treated as a **separate taxable supply of service**.
  - Comment:-** Sometimes supplier of goods may be a dealer while supplier of extended warranty may be OEM or 3rd party. Thus, both are different.
  - (b) **If consumer enters into an agreement of extended warranty at any time after the original supply:**  
 Supplier of extended warranty shall treat it as **supply of services distinct from original SOG** & pay GST accordingly on this service.



## Clarification on the requirement of reversal of ITC for the portion of premium for life insurance policies which is not included in taxable value (Cir. No. 214/8/2024)

**Facts:** Whether life insurance premium which is not included in taxable value as per Rule 32(4) will be treated as pertaining to an exempt supply/ non-taxable supply and whether ITC availed for such amount to be reversed or not as per sec 17(1) read with rule 42 & 43?

### Clarification:-

- ⇒ The amount of premium for taxable life insurance policies, which is not included in taxable value as per rule 32(4), **cannot be considered as pertaining to a non-taxable or exempt supply.**
- ⇒ Thus, there is **no requirement of reversal of ITC** as per sec 17(1) & (2) read with rule 42/43 for it.

## Mechanism for providing evidence of compliance of conditions of Sec 15(3)(b)(ii) by suppliers (Cir. No.-212/6/2024)

**Issue:** There is a need for a mechanism to verify whether ITC attributable to discounts given through tax credit notes (after supply is effected) has been proportionately reversed by recipient, as required by Sec 15(3)(b)(ii), as there is no existing facility for suppliers or tax officers to verify this on common portal.

### Clarification:

<b>Temporary Solution to verify</b>	Until a functionality is available on common portal, suppliers should obtain a certificate from recipient, issued by a CA or CMA, certifying the proportionate reversal of ITC by recipient for credit note issued by supplier.
<b>Details in Certificate</b>	<ul style="list-style-type: none"> <li>➤ Details of credit notes and corresponding invoice no.</li> <li>➤ Amount of ITC reversal for each credit note.</li> <li>➤ Details of FORM GST DRC-03/ return / any other relevant document through which such reversal of ITC is made.</li> </ul>
<b>Verification of Certificate</b>	CA/CMA certificates should include the Unique Document Identification Number (UDIN), which can be verified online from ICAI or ICMAI website.
<b>Simplified Procedure for Small Amount</b>	If tax amount (CGST+SGST+IGST+ compensation cess) involved in such discount does not exceed Rs 5,00,000 in a F.Y., an undertaking or certificate with above details from recipient can be accepted instead of CA/CMA certificate.
<b>Acceptable Evidence</b>	<ul style="list-style-type: none"> <li>⇒ CA/CMA certificates or recipient undertakings/certificate will be considered admissible evidence for compliance with Sec 15(3)(b)(ii).</li> <li>⇒ These shall be produced if tax officers require it during scrutiny, audits, or investigations, etc. for both current &amp; past periods, if required.</li> </ul>

## Whether GST is applicable on incentive amount shared by acquiring banks with other stakeholders in the digital payment ecosystem under the notified Incentive Scheme for promotion of RuPay Debit Cards & low value BHIM-UPI transactions (Cir. No. 228/22/2024)

<b>Clarification</b>	<p>Further sharing of incentive amount by acquiring bank with other stakeholders,</p> <ul style="list-style-type: none"> <li>- up to the point where the incentive is distributed in the proportion &amp; manner as decided by NPCI</li> <li>- in consultation with the participating banks under such notified Incentive Scheme,</li> </ul>
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# INPUT TAX CREDIT

## Sec 16 :- Eligibility & Conditions of ITC

5.	<b>Extension of Time limit</b>	Notwithstanding anything contained in sec 16 (4), in respect of an invoice or debit note for supply of goods or services or both <ul style="list-style-type: none"><li>➤ pertaining to the Financial Years 2017-18, 2018-19, 2019-20 &amp; 2020-21,</li><li>➤ the RP shall be entitled to take ITC in any return u/s 39 which is filed upto the 30th Nov 2021.</li></ul>						
6.	<b>Claiming ITC for Invoices Post-Revocation of Registration Cancellation</b>	Where registration of a RP is cancelled u/s 29 and subsequently the cancellation of registration is revoked <ul style="list-style-type: none"><li>➤ by any order, either u/s 30 or</li><li>➤ pursuant to any order made by the Appellate Authority or the Appellate Tribunal or court and</li></ul> where availment of ITC in respect of an invoice or debit note was not restricted u/s 16(4) on the date of order of cancellation of registration, the said person <b>shall be entitled to take the ITC in respect of such invoice or debit note</b> for supply of goods or services or both, in a return u/s 39,—						
	<b>Newly Inserted by F.A. 2024 retrospectively effective from 01/07/17</b>	<table><tr><td>i.</td><td><ul style="list-style-type: none"><li>➤ Filed upto 30th November following the F.Y. to which such invoice or debit note pertains or</li><li>➤ Furnishing of the relevant annual return,</li></ul><b>whichever is earlier</b></td></tr><tr><td colspan="2"><b>OR</b></td></tr><tr><td>ii.</td><td><p>for the period</p><ul style="list-style-type: none"><li>➤ from the date of cancellation of registration or the effective date of cancellation of registration, as the case may be,</li><li>➤ till the date of order of revocation of cancellation of registration, where such return is filed within 30 days from the date of order of revocation of cancellation of registration,</li></ul><b>whichever is later of above (i) &amp; (ii) .</b></td></tr></table> <p><b>Note:-</b> No refund shall be made of all the tax paid or ITC reversed, which would not have been so paid, or not reversed, had sub-sec (5) &amp; (6) been in force at all material times.</p> <p><b>Example:-</b> Can ABC Pvt. Ltd. claim ITC for a ₹1,00,000 invoice dated 20th July 2022, given that their GST registration was cancelled on 15th August 2022, revoked on 5th December 2023, and the return for the cancelled period was filed on 25th December 2023 with the annual return filed on 15th December 2023? Would your answer differ if, invoice date is 20th July 2020?</p> <p><b>HINT:</b> 1) Yes, ITC for the invoice dated 20th July 2022 can be claimed 25th December 23 as this is the later of:-</p> <ul style="list-style-type: none"><li>a. 30th November 2023 i.e. the earlier of 30th November 2023 or 15th December 2023 or</li><li>b. 25th December 2023 i.e. the date of filing return for the period from 15th August 2022</li></ul>	i.	<ul style="list-style-type: none"><li>➤ Filed upto 30th November following the F.Y. to which such invoice or debit note pertains or</li><li>➤ Furnishing of the relevant annual return,</li></ul> <b>whichever is earlier</b>	<b>OR</b>		ii.	<p>for the period</p> <ul style="list-style-type: none"><li>➤ from the date of cancellation of registration or the effective date of cancellation of registration, as the case may be,</li><li>➤ till the date of order of revocation of cancellation of registration, where such return is filed within 30 days from the date of order of revocation of cancellation of registration,</li></ul> <b>whichever is later of above (i) &amp; (ii) .</b>
i.	<ul style="list-style-type: none"><li>➤ Filed upto 30th November following the F.Y. to which such invoice or debit note pertains or</li><li>➤ Furnishing of the relevant annual return,</li></ul> <b>whichever is earlier</b>							
<b>OR</b>								
ii.	<p>for the period</p> <ul style="list-style-type: none"><li>➤ from the date of cancellation of registration or the effective date of cancellation of registration, as the case may be,</li><li>➤ till the date of order of revocation of cancellation of registration, where such return is filed within 30 days from the date of order of revocation of cancellation of registration,</li></ul> <b>whichever is later of above (i) &amp; (ii) .</b>							



- (cancellation date) to 5th December 2023 (revocation order date).
- 2) If invoice date is 20th July 2020 then last date of availing ITC is 30th Nov 2021 on that date registration was not cancelled. Hence, subsequent eligibility of ITC is restricted u/s 16(4). So, Provision of 16(6) is not applicable.

## Newly added or updated questions from questionnaire

### CCP 07.01.03.01

ABC Pvt. Ltd. is engaged in the supply of electronic goods. During the FY 2022-23, the company's GST registration was cancelled on 15th August 2022. Subsequently, the cancellation was revoked on 5th February 2023 by an order from Appellate Authority. ABC Pvt. Ltd. filed return for the period for which registration stood cancelled on 25th February 2023. ABC Pvt. Ltd. has an invoice dated 20th July 2022 for goods supplied worth ₹1,00,000. Can ABC Pvt. Ltd. claim the ITC for the invoice dated 20th July 2022. Discuss with relevant provisions.

**Note:** ABC Pvt. Ltd. has furnished annual return on 15th December 2023.

**Answer:- Legal Provision:**

- As per **Sec 16(6)** of CGST Act, if the registration of a registered person is cancelled u/s 29 and subsequently revoked u/s 30 or by an order from the Appellate Authority, Appellate Tribunal, or court, the registered person can claim ITC for the invoices or debit notes that were not restricted u/s 16(4) on the date of cancellation.
- Its ITC can be claimed in the return filed till the **later of** following dates:
  - Earlier of 30th Nov of following year or date of furnishing Annual return.
  - Return filed for period from the date of cancellation of registration or the effective date of cancellation of registration till the date of the order revoking the cancellation, if such return is filed within 30 days from the date of the revocation order.

**Discussion & Conclusion:**

- In the given case, ITC for the invoice dated 20th July 2022 will be claimed by the **later of:-**
  - a) 30th November 2023 i.e. the earlier of 30th November 2023 or 15th December 2023 or
  - b) 25th February 2023 i.e. the date of filing return for the period from 15th August 2022 (cancellation date) to 5th February 2023 (revocation order date).
- Thus ABC Pvt. Ltd. must claim the **ITC by 30th November 2023.**

## Rule 36: Documentary requirements and conditions for claiming ITC

- |     |   |
|-----|---|
| (3) | <b>No ITC of tax paid towards demands involving fraud</b> <span style="background-color: red; color: white; padding: 2px;">Inserted by N/No. 20/2024</span><br>Tax paid in pursuance of any order where any demand has been confirmed on account of any <u>fraud, willful misstatement or suppression of facts u/s 74</u> cannot be availed as ITC. <span style="background-color: red; color: white; padding: 2px;">Inserted by N/No. 12/2024</span> |
| (4) | <b>Details of invoices/debit notes uploaded by the supplier in his GSTR-1, as amended in GSTR-1A if any, or using IFF &amp; such details are communicated in Form GSTR-2B of RP availing ITC</b>  |

## CBIC Clarifications

### Clarification on time limit for availing ITC u/s 16(4) for RCM supplies received from URPs & tax paid under RCM (Cir. No. 211/5/2024):-

- Clarification:-** ➔ Registered recipient receiving supply from URP & also liable to pay tax under RCM has to issue invoice himself u/s 31(3)(f) & pays tax.
- ➔ Based on such invoice, recipient becomes eligible to avail ITC.
- ➔ Thus, **the relevant F.Y. for calculation of time limit u/s 16(4) to avail ITC shall be the F.Y. in which invoice is issued by recipient u/s 31(3)(f), subject to payment of tax & other conditions of sec 16 & 17.**
- ➔ The F.Y. in which the supply was received is irrelevant here.
- ➔ If recipient issues **invoice after its TOS** & pays tax, he has to pay interest on such delayed payment of tax & is also liable to **penal action u/s 122.**

## Availability of ITC in respect of Demo Vehicles purchase by dealer from manufacturer (Cir.no. 231/25/2024):-

<b>Issue 1</b>	<b>Authorised dealers purchase demo vehicles(seating capacity 13 or less) from manufacturers against tax invoices are used for trial run &amp; demonstrate its features to potential buyers &amp; then sold at WDV by paying GST.</b>
<b>Clarification</b>	Demo vehicles are used for trial run & demonstrate its features to potential buyers. It's used to promotes sale & thus, <b>are used for making 'further supply of such motor vehicles'</b> . Thus, ITC for demo vehicles is not blocked u/s 17(5)(a) i.e ITC is available. If demo vehicle is used for other purposes like transportation of its employees/ management etc. where, they are not used for making 'further supply of such motor vehicles' & thus, ITC is blocked u/s 17(5)(a).
<b>Issue 2</b>	<b>If dealer merely acts as an agent/service provider to manufacturer for providing marketing service or test drive to potential customers on its behalf.</b>
<b>Clarification</b>	<ul style="list-style-type: none"> <li>➡ Dealer doesn't buy &amp; sell vehicles directly on its own account.</li> <li>➡ Instead, manufacturer issues sale invoice to customer.</li> <li>➡ Dealer may sell said demo vehicle to a customer after specified time or kilometres as per agreement with manufacturer on payment of GST.</li> <li>➡ Such demo vehicles are not used for making further supply of it. Thus, its ITC would be blocked.</li> </ul>
<b>Issue 3</b>	<b>ITC on demo vehicles if they are capitalized in books of account by authorized dealers</b>
<b>Clarification</b>	<ul style="list-style-type: none"> <li>➡ If such vehicles are capitalized in books of dealer, it is <b>considered as "capital goods"</b>.</li> <li>➡ Availability of ITC on demo vehicles is not affected by its capitalization in dealer's books, they <b>cannot claim ITC</b> on that tax component. <ul style="list-style-type: none"> <li>➢ If capitalized demo vehicle is <b>subsequently sold</b> by dealer, he shall have to <b>pay tax</b> as per <b>sec 18(6)</b>.</li> </ul> </li> </ul>

## Newly added or updated questions from questionnaire

CCP 07.04.10.00

Krishna Motors is a car dealer selling cars of an international car company. It also provides maintenance and repair services of the cars sold by it as also of other cars. It seeks your advice on availability of input tax credit in respect of the following expenses incurred by it during the course of its business operations:

- 1) Cars purchased from the manufacturer for making further supply of such cars. Two of such cars are destroyed in accidents while being used for test drive by potential customers. What would be your answer if Krishna Motors purchases a demo vehicle for demonstration purposes.
- 2) Works contract services availed for constructing a car parking shed in its premises [Study Mat]

**Answer:**

1.	<p><b>Legal Provision:</b></p> <p>➔ As per <b>section 17(5)(a)</b> of CGST Act, ITC is <b>not available</b> on Motor vehicle for transportation of persons having approved seating capacity of not more than 13 persons (including driver), <b>except</b> when they are used for making taxable supplies for further supply of such motor vehicles.</p> <p><b>Discussion &amp; conclusion:</b></p> <p>➔ Thus, ITC on cars purchased from the manufacturer for making further supply of such cars will be <b>allowed</b>.</p> <p>➔ However, ITC on the cars fully destroyed in accident will <b>not be allowed</b> as the ITC on goods destroyed for whichever reason is specifically blocked u/s 17(5)(h).</p> <p>➔ In second case, <b>CBIC clarified</b> that if the vehicle is solely used for demonstration purposes and not for passenger transport or training, then ITC is <b>not blocked u/s 17(5)(a)</b>.</p>
2.	<p><b>Legal Provision:</b></p> <p>➔ As per <b>section 17(5)(c)</b> of CGST Act, ITC is <b>blocked</b> on works contract services supplied for construction of an immovable property (other than Plant &amp; Machinery) <b>except</b> where it is an input Service for further supply of works contract service.</p> <p><b>Discussion &amp; conclusion:</b></p> <p>➔ In the given case, the car parking shed is not a plant and machinery, and the works contract service is not used for further supply of works contract service.</p> <p>➔ Thus, ITC thereon will <b>not be allowed</b>.</p>

**Clarification on entitlement of ITC by insurance co. on expenses incurred for repair of motor vehicles in case of reimbursement mode of insurance claim settlement (Cir. No. 217/11/2024):-**

**Facts:**

- ➔ Insurance co. provide general insurance for motor vehicles & handle repair/damages costs through either Cashless or Reimbursement modes.
- ➔ Under both modes, repair invoices are issued by garages to insurance co.
- ➔ For Cashless mode, insurers directly pay network garages for approved repairs, while for Reimbursement mode, policyholders (insured) pay non-network garages (with whom there is no routine business relationship of insurance co.) & are later reimbursed by insurers for approved repair/claim cost (accounted repairs liability).
- ➔ Insurance co. avail ITC of tax paid for such repair services based on invoices issued by garages in both modes of settlement.



**Clarification:- Availability of ITC to insurance co. for repair expenses reimbursed by it in case of reimbursement mode of claim settlement:-**

- Sec 17(5) provides that ITC for repair service of motor vehicles shall be available where received by a taxable person engaged in supply of general insurance services in respect of motor vehicles insured by him.
- In reimbursement mode, the liability to pay for repair service for approved claim cost lies with insurance co., irrespective of fact that expense is first paid by insured to garage & then reimbursed to insured for approved claim cost.
- **ITC is available to insurance co. (as a recipient) for such repair expenses incurred in reimbursement mode, since such service is used for outward supply of insurance services for such motor vehicles & it is not barred u/s 17(5).**

**Repairs invoices Not in Insurer's Name:-**

**Sec 16(2)(a) & (aa) is not satisfied & thus, ITC is not available to insurance co.**

**Clarification on availability of ITC on ducts & manholes used in the network of optical fiber cables (OFCs) u/s 17(5) (Cir. No. 219/13/2024)**

<b>Issue</b>	<b>The Cellular Operators Association of India (COAI) reported that some tax authorities were denying ITC on ducts and manholes used in OFC networks for telecommunication services, considering them immovable property (other than plant &amp; machinery). Whether such ITC is barred u/s 17(5)(c) &amp; (d) read with explanation to sec 17?</b>
<b>Clarification</b>	<ul style="list-style-type: none"><li>➤ <b>Sec 17(5)(c) &amp; (d) restricts</b> ITC on certain items related to immovable property, excluding plant &amp; machinery.</li><li>➤ Ducts &amp; manholes are integral to OFC network for providing telecommunication services (signals from one point to another, etc.) &amp; maintenance.</li><li>➤ They are not classified as land, buildings, civil structures, telecommunication towers, or pipelines outside the factory premises.</li><li>➤ Therefore, <b>ducts &amp; manholes fall under "plant &amp; machinery" &amp; are eligible for ITC &amp; not blocked u/s 17(5)(c) &amp; (d).</b></li></ul>



# PLACE OF SUPPLY (IGST Act)

## CBIC Clarifications

### Clarification on sec 10(1)(ca) of IGST Act on POS of goods to URPs (Cir. No. 209/3/2024):-

Issue	POS u/s 10(1)(ca) of IGST Act, if SOG is made to URP where billing address is different from address of delivery of goods, especially in supply through e-commerce platforms?
Case	Mr. A (URP) located in X State places an order on an e-commerce platform for mobile phone. He provides billing address located in X state but mobile is to be delivered at an address located in Y State. What shall be the POS?
Clarification	<ul style="list-style-type: none"><li>➤ For goods supplied through e-commerce platforms to URP, if billing address differs from the delivery address in invoice, <b>POS shall be the address of delivery of goods recorded on invoice i.e. State Y.</b></li><li>➤ Supplier may record the delivery address as address of recipient on invoice to determine POS in this case.</li></ul>

### Newly added or updated questions from questionnaire

#### CCP.08.05.07.01

XYZ Pvt. Ltd., a furniture manufacturer based in Rajasthan, receives an order from Mr. Sharma, an individual (unregistered person) residing in Delhi. Mr. Sharma purchases a dining table and requests delivery to his residence in Delhi. XYZ Pvt. Ltd. issues an invoice with Mr. Sharma's Delhi address and arranges for the delivery of the dining table through a third-party logistics provider. Determine Place of Supply and GST implications. Will the place of supply still be same, if Mr. Sharma instructs XYZ Pvt. Ltd. to deliver the dining table to another address located in Punjab which is recorded in invoice as address of delivery whereas the billing is done at Delhi's address?

#### Answer :- Legal Provision :-

- As per **section 10(1)(ca)** of IGST Act, if the supply of goods is made to unregistered person, the place of supply shall be the **location as per the address of the said person recorded in the invoice.**
- However, If the address of the unregistered person is not recorded in the invoice, the place of supply shall be the **location of the supplier.**
- **As per CBIC clarification**, if billing address differs from delivery address in invoice in case of supply of goods to unregistered person, **POS shall be address of delivery of goods recorded on invoice.**

#### Discussion & Conclusion:

- In the given case, the invoice issued by XYZ Pvt. Ltd. records Mr. Sharma's address in Delhi. Therefore, the place of supply for this transaction will be **Delhi.**
- Since the place of supply (Delhi) is different from the location of the supplier (Rajasthan), this transaction constitutes an **interstate supply.** Thus, liable to **IGST.**
- In second case, if billing address differs from the delivery address in invoice, **POS** shall be the **address of delivery** of dining table recorded on invoice i.e. **Punjab.**

### Clarification on POS applicable for custodial services provided by banks to Foreign Portfolio Investors (FPIs) (Cir. No.220/14/2024):-

<b>Issue</b>	Whether the custodial services provided by banks to FPIs will be treated as services provided to 'account holder' & POS shall be based on location of service provider (banks or FI) as per Sec 13(8)(a) of IGST Act?
<b>Custodial Services Definition</b>	<ul style="list-style-type: none"> <li>➤ Custodial services <b>involve</b> safekeeping securities, managing accounts, collecting benefits, informing clients of actions, and reconciling records.</li> <li>➤ Banks mainly manage securities accounts for FPIs through custodial agreements.</li> </ul>
<b>Clarification</b>	<ul style="list-style-type: none"> <li>➤ Custodial services by banks/FIs to FPIs are <b>not treated as</b> services provided to an "account holder."</li> <li>➤ These services are <b>not covered u/s 13(8)(a)</b> of the IGST Act, and POS should be determined under the <b>default provisions of Sec 13(2)</b>.</li> </ul>

### Clarification for advertising services provided by Indian advertising companies/agencies to foreign clients (Cir.No. 230/24/2024):-

<b>Case</b>	<ul style="list-style-type: none"> <li>➤ A foreign company hires an Indian advertising agency to manage all aspects of its advertising, such as media planning, content creation, and campaign monitoring.</li> <li>➤ The agency then works with media owners in India to buy media space for the ads and track the campaign's progress.</li> <li>➤ The media owners raise invoice to agency for the media costs, which the agency pays. Then, the agency raises invoices to the foreign client for its advertising services and receives payment in foreign currency.</li> </ul>
<b>Legal provision</b>	<ul style="list-style-type: none"> <li>➤ Refer <b>sec 2(13) of IGST Act read with Circular no. 159/15/2021</b> for definition of intermediary, sec 2(93)(a) of CGST Act for definition of recipient.</li> <li>➤ Refer <b>Sec 2(6), 13(2) &amp; 13(3) of IGST Act</b>.</li> </ul>
<b>Is an advertising co. is an "intermediary" u/s 2(13) of the IGST Act, making POS u/s 13(8)(b)?</b>	<ul style="list-style-type: none"> <li>➤ <b>The advertising agency has two separate agreements:</b> one with the foreign client and another with the media company. Invoices are issued based on these agreements.</li> <li>➤ This setup means the advertising agency &amp; the media company are making independent transactions with each other, and there is no direct agreement between the media company and the foreign client.</li> <li>➤ The advertising agency is <b>not acting as an agent</b> &amp; provides services to foreign client on its <b>own account</b>.</li> </ul> <p><b>Clarification:</b></p> <ul style="list-style-type: none"> <li>➤ The advertising agency is providing the main advertising services, including buying media space, to the foreign client on a principal-to-principal basis.</li> <li>➤ The agency is not considered an "intermediary" under the IGST Act.</li> <li>➤ POS <b>cannot be linked</b> with LOS of services as per <b>sec 13(8)(b)</b> of said Act.</li> </ul>

Can a foreign client's representative in India or the target audience be considered the recipient of advertising services u/s 2(93) of the CGST Act?	<ul style="list-style-type: none"> <li>➤ The foreign client is responsible for paying the advertising agency for the advertising services, <b>not the consumers</b> or target audience who see the ads.</li> <li>➤ Even if there is a representative or target audience in India, they are not considered the recipient of the services.</li> <li>➤ The advertising agency issues the invoice to the foreign client and receives payment directly from them.</li> </ul> <p><b>Clarification:</b> The recipient of the advertising services is the foreign client, not their Indian representative or the target audience in India, according to sec 2(93) of CGST Act.</p>
Can advertising services to foreign clients be considered performance-based u/s 13(3) of the IGST Act?	<ul style="list-style-type: none"> <li>➤ <b>Section 13(3)(a)</b> of the IGST Act doesn't apply here, as the advertising service doesn't involve goods that need to be physically available with the supplier.</li> <li>➤ Similarly, <b>Section 13(3)(b) doesn't apply</b> because the foreign client or their representative doesn't need to be physically present to avail of the advertising service.</li> <li>➤ Therefore, the POS for advertising services is <b>not determined</b> by Section 13(3). Instead, it is determined u/s 13(2) of IGST Act.</li> <li>➤ Since the recipient is the foreign client located outside India, the POS is the location of the foreign client (outside India) u/s 13(2), making this an <b>export of services</b>, provided all export conditions are met.</li> </ul>
If an advertising co. in India acts as an agent for a foreign client in securing media space, what is the POS?	<ul style="list-style-type: none"> <li>➤ The agreement for media space and ad broadcast is directly between the media owner and the foreign client, with the media owner directly invoices and receiving payment from the foreign client.</li> <li>➤ The advertising company only helps <b>facilitate</b> this process and does not provide the service itself.</li> <li>➤ The advertising company <b>invoices the foreign client for its facilitation services.</b></li> <li>➤ Thus, advertising co. is an <b>"intermediary"</b> for facilitating this service &amp; its POS shall be location of supplier (advertising co.) <b>as per sec 13(8)(b).</b></li> </ul>

### Clarification on POS of data hosting services provided by service providers located in India to cloud computing service providers located outside India (Cir. No. 232/26/2024):-

Legal provision	<ul style="list-style-type: none"> <li>➤ Refer <b>sec 2(13) of IGST Act read with Circular no. 159/15/2021</b> for definition of intermediary.</li> <li>➤ <b>Refer sec 2(6), 13(3)(a), 13(8) &amp; 13(4) of IGST Act.</b></li> </ul>
Is a data hosting service provider an "intermediary" u/s 2(13) of IGST Act betw" cloud providers and end users? Are their services being intermediary services with POS u/s 13(8)(b)?	<ul style="list-style-type: none"> <li>➤ The data hosting service provider either owns or leases a data centre, where they manage infrastructure and operations to offer data hosting services.</li> <li>➤ End users/customers/subscribers access cloud services provided by the cloud computing provider over the internet, <b>without the data hosting provider interacting</b> with them.</li> <li>➤ Thus, the data hosting provider offers services directly to the cloud computing provider, not acting as a broker or agent.</li> </ul> <p><b>Clarification:</b> This service is <b>not considered intermediary services</b>, so its place of supply cannot be determined u/s 13(8)(b).</p>

<p><b>Are data hosting services provided in relation to goods "made available" by the recipient, with POS determined u/s 13(3)(a) of IGST Act?</b></p>	<ul style="list-style-type: none"> <li>➤ The data hosting service provider is an independent entity offering data hosting services to overseas cloud providers.</li> <li>➤ The hosting provider owns and manages all necessary infrastructure (hardware, power, security, etc.) and maintains it independently.</li> <li>➤ The cloud providers do not own or provide this infrastructure. Instead, the hosting service provider charges fees for its services as per specific agreements, operating as a separate entity.</li> </ul> <p><b>Clarification:</b></p> <ul style="list-style-type: none"> <li>➤ Data hosting services are not related to goods "made available" by the recipient (cloud provider) to the supplier (hosting provider), so the <b>POS cannot be determined u/s 13(3)(a)</b>.</li> <li>➤ Even if the cloud computing service <b>provider provides hardware</b>, the data hosting services are not considered to be provided in relation to the goods made available by the cloud provider.</li> <li>➤ Therefore, the <b>POS cannot be determined u/s 13(3)(a)</b>.</li> </ul>
<p><b>Are data hosting services provided in relation to "immovable property" with POS determined u/s 13(4) of IGST Act?</b></p>	<ul style="list-style-type: none"> <li>➤ Data hosting services are not passive services related to immovable property. Instead, they involve providing essential services for cloud computing to end users/customers/subscribers.</li> </ul> <p><b>Clarification:</b> Data hosting services <b>are not directly</b> linked to immovable property or physical premises, so the <b>POS cannot be determined u/s 13(4)</b>.</p>
<p><b>What is the POS for data hosting services provided by an Indian provider to overseas cloud computing service providers?</b></p>	<ul style="list-style-type: none"> <li>➤ The POS is not covered u/s 13(3) to 13(13).</li> <li>➤ Therefore, POS will be determined u/s 13(2), which is the location of the service recipient <b>i.e outside India</b>.</li> <li>➤ This can be treated as an <b>export of services</b> if all export conditions are met.</li> </ul>





# PAYMENT OF TAX

**Sec 50(1) read with Rule 88B :- Manner of calculating interest on delayed payment of tax**

**Proviso to Rule 88B (1)**

**Newly Inserted by N/No. 12/2024**

- Where any amount has been credited in Electronic Cash Ledger as per sec 49(1) on or before the due date of filing the said return,
- but is debited from the said ledger for payment of tax while filing the said return after the due date,
- the said amount shall not be taken into consideration while calculating such interest if the said amount is lying in the said ledger from the due date till the date of its debit at the time of filing return.

**Que :-** XYZ Pvt. Ltd. had ₹ 20,000 credited to their E-cash ledger by the due date for the month of January i.e. 20th Feb.20XX. Return for Jan is filed on 10th of March where net output tax liability payable to E-Cash ledger is ₹ 15,000. However, they did not debit this amount to pay their tax until 10th of March. Determine the amount of interest if any u/s 50(1). Would your answer differ if, amount credited to E-cash ledger ₹ 10,000 before due date?

**HINT:** i) XYZ Pvt. Ltd. **will not incur any interest for the ₹ 20,000** that remained in their E-cash ledger until debited after the due date.

ii) Interest is payable @ 18% on short payment amount of ₹ 5,000 as below:-

interest =  $5,000 \times 18\% \times \frac{18}{365} = ₹ 44$  (assume Feb is not a leap year)

## TDS-TCS

### Sec 51 – TDS

#### Deductors of Tax at Source:- As per Sec 51 (1)

a	a department or establishment of the CG or SG
b	local authority
c	Governmental agencies
d	such persons or category of persons as may be notified by the Govt. on the recommendations of the Council.

#### Notified Person u/s 51(1)(d) [ N/N 50/2018 ]

1	an authority or a board or any other body, - (i) set up by an Act of Parliament or a State Legislature or (ii) established by any Government, with 51% or more participation by way of equity or control, to carry out any function
2	Society established by the CG or the SG or LA under the Societies Registration Act, 1860
3	Public sector undertakings (PSUs)
4	<b>Any RP Receiving supplies of metal scrap from other RP</b>

**Inserted by  
N/N 25/2024**

### Cases where TDS is not deductible:-

#### Tax is not liable to be deducted at source in the following cases:-

- (i) When goods and/or services are supplied from a PSU to another PSU, whether or not a distinct person [N/N 61/2018]
- (ii) When supply of goods and/or services takes place between one person to another person specified in clauses (a), (b), (c) and (d) of section 51(1) of the CGST Act [N/ N. 73/2018 ]

**except any RP receiving supplies of Metal scrap from other RP's. Inserted by N/No. 25/2024**

### Tax collected at source (TCS) by ECO [Section 52]

<b>Old Notified rate</b>	<b>Notified rate for TCS, CGST = 0.5%, SGST = 0.5%, IGST = 1%</b> of the net value of intra-State/inter state taxable supplies
<b>New notified rate</b>	<b>Notified rate for TCS CGST = 0.25%, SGST = 0.25%, IGST = 0.5%</b> of the net value of intra-State/inter state taxable supplies

**Substituted by  
N/No. 15/2024**



## TAX INVOICE, DEBIT NOTE & CREDIT NOTE

### Particulars of a tax invoice [Sections 31(1) & (2) read with rule 46]

**Proviso (inserted):** Provided that **in cases involving**

➤ **supply of online money gaming or**

➤ **in cases** where any taxable service is supplied by or through an ECO or

➤ by a supplier of OIDAR services

to a recipient who is un-registered, irrespective of the value of such supply, a tax invoice issued by the registered person shall contain the **name of the state of the recipient and the same shall be deemed to be the address on record of the recipient.**



## E-Way Bill

**Rule 138 (3): Cases for Mandatory Generation of E-Way Bill, irrespective of consignment value:**

**Newly Inserted by N/No. 12/2024**

<b>Process to generate e-way bill by an URP (Proviso 4)</b>	<ul style="list-style-type: none"><li>➤ An URP opting to generate e-way bill shall <b>submit details electronically</b> on common portal in prescribed form (Form GST ENR- 03) directly/through a notified Facilitation Centre.</li><li>➤ Upon validation of furnished details, a <b>unique enrolment number</b> shall be generated &amp; communicated.</li></ul>
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# REGISTRATION

## Sec 23(2) : Notified Persons Not Liable For Registration

### Persons making only reverse charge supplies (N/N 5/2017)

Persons engaged only in making supplies of taxable goods &/ or services, total tax on which is liable to be paid on reverse charge basis by recipient u/s 9(3) are exempted from obtaining registration

**Proviso (Inserted by 24/2024):-** However, such exemption is not applicable to a person engaged in supply of metal scrap to a registered person.

## Applicability of biometric based aadhaar authentication extended to all over India

<b>Old Provision</b>	By virtue of N/No. 27/2022, the provisions of rule 8(4A) of the CGST Rules, 2017 relating to biometric based Aadhaar authentication had been made applicable only to the <b>States of Gujarat, Andhra Pradesh, and Puducherry.</b>
<b>Amended</b>	However, now with rescinding of Notification No. 27/2022, the same have been made <b>applicable to all the States and Union territories</b> for the purpose of completion of registration application.

## Rule 8(4A):- Aadhaar Authentication(AA)( biometric authentication)

**Newly Inserted by  
N/No. 12/2024**

### Proviso 2:- Additional Verification Steps if AA is **not opted** & its completion

- If a person **[other than a person notified u/s 25(6D)] has not opted** for authentication of Aadhaar number, every application made under sub-rule (4)(validation of part -B of REG-01) by him shall be followed by **taking photograph**
  - of the applicant where the applicant is an individual or
  - of such individuals in relation to the applicant as notified u/s 25(6C) where the applicant is not an individual,**along with the verification of original copy** of documents uploaded with the application in FORM GST REG-01 at one of the Facilitation Centers notified by Commissioner for this.
- The application shall be deemed to be complete only after successful verification of this process.

## Sec 29 read with Rule 21 :- Cancellation of registration by PO on his own motion only:-

**Additional 2 clauses has been added where PO may cancel the Registration of a person**

**Inserted by  
N/No. 12/2024**

<b>fails to file return after revocation order</b>	<ul style="list-style-type: none"><li>➤ failed to file returns due between the order of cancellation and revocation of registration <b>within 30 days</b> of the revocation order.</li><li>➤ If the cancellation was retrospective, failed to file all returns from the date of order of cancellation date to the revocation order <b>within 30 days.</b></li></ul>
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# RETURNS

## Rule 59:- Form and manner of furnishing details of outward supplies:-

1	Who is required to furnish GSTR-1A & when it should be furnished?		Newly Inserted by N/No. 12/2024
	<div>➤ The said RP may , <b>amend or furnish additional details of outward supplies</b> of goods or services or both in <b>GSTR-1A</b> for the said tax period electronically at his own option through the GSTportal,</div> <div>➤ It shall be furnish after furnishing GSTR-1 for a tax period but before filing of return in GSTR-3B for the said tax period.</div>		
	Key features of Form GSTR-1A		
	<div>➤ GSTR -1A is an optional facility</div> <div>➤ In can be filed only once for a tax period after filing GSTR-1 but before submitting GSTR3B for a tax period.</div> <div>➤ It allows to amend the records filed in the Form GSTR-1 of current tax period only.</div> <div>➤ The corresponding effect of the changes made through Form GSTR-1A on the liability of the taxpayer shall be reflected in the Form GSTR-3B for the same tax period.</div> <div>➤ The tax on supplies declared or amended by the suppliers through Form GSTR-1A will be available to the recipient in Form GSTR-2B generated for the next tax period for ITC.</div>		
	For the Monthly taxpayers, who files FORM GSTR-1 on Monthly basis		
	<div>➤ There is no due date for filing of GSTR-1A for the taxpayer filing Form GSTR-1 on monthly basis</div> <div>➤ Form GSTR-1A will be available at the portal every month from the due date of filing of Form GSTR-1 or the actual date of filing of Form GSTR-1, whichever is later, and will be available till the actual filing of corresponding Form GSTR-3B of the same tax period.</div>		
	For the QRMP taxpayers, who files FORM GSTR-1 on Quarterly basis		
	<div>➤ Form GSTR-1A shall be available quarterly after actual filing of Form GSTR-1 (Quarterly) or the due date of filing of Form GSTR -1 (Quarterly), whichever is later, and will be available till the actual filing of Form 6STR-3B of the same tax period.</div> <div>➤ The supplies reported in Form GSTR-1 of the current tax period (including those declared in IFF, for the first month, M1 and second month, M2 of a quarter, if any)can be amended through corresponding quarterly GSTR-1A.</div> <div>➤ There will be no separate amendment facility available for records furnished through IFF for the months M1 and M2, during the month M1 and M2.</div>		
4A	Details in GSTR-1 / GSTR- 1A:-		
	Invoice wise details of ALL	1) Inter-State & Intra-State supplies made to registered persons 2) Inter-State supplies made to URP with invoice value > <del>₹2,50,000</del> <b>₹1 lakh</b>	
	Consolidated details of ALL	1) Intra-State supplies made to URP for each rate of tax 2) Inter-State supplies made to unregistered persons with invoice value upto <del>2.5 Lakh</del> <b>₹ 1 lakh</b> for each rate of tax separately for each State	
	Debit & Credit notes	1) Issued during the month for invoices issued previously	
		Substituted by N/No. 12/2024	



## GSTR-4 i.e. Return for composition supplier:-

Rule 62 (1)	(a)	Due date of filing GSTR- 4 for a financial year	By 30th day of the month of June following the end of such financial year <span style="background-color: red; color: white; padding: 2px;">Newly Inserted by N/No. 12/2024</span>
		Due date of filing GST CMP-08 for a quarter	By 18th day of the month succeeding such quarter

### Sec 44 read with Rule 80:- Annual Return

Exemption from filing	Commissioner exempts the registered person whose aggregate turnover in F.Y. 2023-24 is up to ₹2 Cr from filing annual return for the said F.Y. <span style="background-color: red; color: white; padding: 2px;">Newly Inserted by (N/No. 14/2024)</span>
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## DEMANDS AND RECOVERY

### Rule 142: Notice and order for demand of amounts payable under the Act: [Substituted by N/No. 12/2024]

Payment Notification process [Rule 142(2)]	<p>If a person pays tax and interest u/s 73 (5) or tax, interest, and penalty u/s 74(5) before receiving a notice or statement, they must:</p> <ul style="list-style-type: none"> <li>➤ <b>Inform the Proper Officer:</b> Submit payment details in FORM GST DRC-03.</li> <li>➤ <b>Receive Acknowledgment:</b> An acknowledgment will be provided in FORM GST DRC-04 through the common portal.</li> </ul>
Partial payment & submissions [Rule 142(2A)]	<ul style="list-style-type: none"> <li>➤ If a person makes a partial payment or wishes to contest the proposed liability, they can <b>submit their response</b> in Part B of FORM GST DRC-01A.</li> <li>➤ The PO will then <b>issue an acknowledgment</b> in Part C of FORM GST DRC-01A, confirming acceptance of the payment or submissions.</li> </ul>
Payment process [Rule 142(2B)]	<ul style="list-style-type: none"> <li>➤ If a person pays tax, interest, penalty, or other amounts under various sections via DRC-03, they <b>can apply electronically using DRC-03A</b> instead of crediting the amount in the e-liability register (PMT-01).</li> <li>➤ The paid amount will be credited in PMT-01 as if it was made on the date of the DRC-03 intimation.</li> <li>➤ If <b>an order</b> has been issued in DRC-05 concluding the proceedings, the person <b>cannot file DRC-03A</b> for that payment.</li> </ul>



# REFUNDS

## Refund incase of deemed export & merchant exporter:- Omitted

Rule	Title	Omitted
89(4A)	Deemed Export - Refund	Omitted by N/N. 20/2024
89(4B)	Merchant Exporter - Refund	Omitted by N/N. 20/2024

Clarification regarding regularization of refund of IGST availed in contravention of Rule 96(10), in cases where exporters had imported certain inputs without payment of IGST and compensation cess-**Circular no. 233/27/2024 also omitted**

## Rule 89(4): Refund of Un-utilized ITC in case of Zero rated supply

<b>Meaning</b>	<b>Export of goods &amp;/or Services or Supply to SEZ developer/Unit are qualifies as ZRS.</b> However, refund of unutilized ITC <b>shall not be allowed if:- (IMP)</b> ➔ goods exported out of India are <b>subjected to export duty</b> (i.e. on which some export duty has to be paid at the time of export) or ➔ supplier of goods &/or services <b>avails of drawback</b> in respect of CGST or claims refund of the IGST paid on such supplies.								
<b>Amount of refund</b>	In case of ZRS of goods or services without payment of tax under bond/ letter of undertaking as per section 16(3) of IGST Act, 2017, refund of input tax credit (ITC) shall be granted as per the following formula:- <div><math display="block">\text{Refund Amount} = \left\{ \frac{(\text{Turnover of zero-rated supply of goods} + \text{Turnover of zero - rated supply of services})}{\text{Adjusted Total Turnover}} \right\} \times \text{Net ITC}</math></div> "Refund amount" means the maximum refund that is admissible								
<b>Net ITC</b> <b>Omitted by N/No. 20/2024</b>	means ITC availed on inputs and input services during the relevant period <b>other than the ITC availed for which refund is claimed under rule 89(4A) or 89(4B) or both.</b> <div><b>Note:</b> In 'Net ITC', only the ITC of I &amp; IS are covered &amp; not for CG. Hence any CG is used in ZRS is <b>not eligible</b> for refund of ITC. RP can continue the ITC of CG &amp; balance if any then it will be C/F</div> <table><tr><th>Particulars</th><th>Amt.</th></tr><tr><td>Total ITC of (I + IS) in relevant period</td><td>XXX</td></tr><tr><td><del>Less : ITC of inputs for which refund is claimed under rule 89(4A) &amp; 89(4B)</del></td><td><del>XXX</del></td></tr><tr><td><b>Net ITC</b></td><td><b>XXX</b></td></tr></table>	Particulars	Amt.	Total ITC of (I + IS) in relevant period	XXX	<del>Less : ITC of inputs for which refund is claimed under rule 89(4A) &amp; 89(4B)</del>	<del>XXX</del>	<b>Net ITC</b>	<b>XXX</b>
Particulars	Amt.								
Total ITC of (I + IS) in relevant period	XXX								
<del>Less : ITC of inputs for which refund is claimed under rule 89(4A) &amp; 89(4B)</del>	<del>XXX</del>								
<b>Net ITC</b>	<b>XXX</b>								

<div>Turnover of zero-rated supply of goods</div>	<div><div>⌚ The value of ZRS of goods made during the relevant period <b>without payment of tax</b> under bond/ LUT or</div><div>⌚ The value which is <b>1.5 times</b> the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, <b>whichever is less,</b> <del>other than the turnover of supplies in respect of which refund is claimed u/r 89(4A) or 89(4B) or both.</del></div></div> <div>This can also be explained as below:</div> <div>Actual Value (i.e. lower of FOB value in shipping bill or value in invoice) of ZRS of goods in relevant Period exported under bond/ LUT</div> <div>OR</div> <div>1.5 times like goods domestically supplied</div> <div>Whichever is Lower</div>								
<div>Omitted by N/No. 20/2024</div>	<div><div>Value of ZRSGXX</div><div><del>Less: T/o of supplies for which refund is claimed u/r 89(4A)/(4B)</del><div>(XY)</div></div><div>XX</div></div> <div><div>Notes:</div><div>➤ Rule 89(4A) is for Deemed Exports &amp; Rule 89(4B) is for Penultimate Supply.</div><div>➤ If Refund is not claimed u/r 89(4A) or 89(4B), then no need to deduct this amount.</div></div>								
<div>Value of goods exported out of India</div>	<div>shall be the lower of:-</div> <div>1) the Free on Board (FOB) value declared in the Shipping Bill or Bill of Export or</div> <div>2) the value declared in tax invoice or bill of supply.</div>								
<div>Turnover of zero-rated supply of services</div>	<div>means the value of zero-rated supply of services made without payment of tax under bond/ LUT &amp; it is calculated as follows:</div> <table><tr><td>Payments received during the relevant period</td><td>xx</td></tr><tr><td><b>Add:</b> ZRSS where Advance has been received in prior period, but supply has been completed in relevant period</td><td>xx</td></tr><tr><td><b>Less:</b> Advance received in relevant period for which supply of services has not been completed</td><td>(xx)</td></tr><tr><td><b>Turnover of ZRSS</b></td><td><b>XX</b></td></tr></table>	Payments received during the relevant period	xx	<b>Add:</b> ZRSS where Advance has been received in prior period, but supply has been completed in relevant period	xx	<b>Less:</b> Advance received in relevant period for which supply of services has not been completed	(xx)	<b>Turnover of ZRSS</b>	<b>XX</b>
Payments received during the relevant period	xx								
<b>Add:</b> ZRSS where Advance has been received in prior period, but supply has been completed in relevant period	xx								
<b>Less:</b> Advance received in relevant period for which supply of services has not been completed	(xx)								
<b>Turnover of ZRSS</b>	<b>XX</b>								
<div>Adjusted Total turnover</div>	<div><div><b>SOG: T/o in State includes</b></div><div>⌚ All Taxable Supply</div><div>⌚ Exempt Supply (Wholly Exempt + Nil + NTS)</div><div>⌚ Exports with or without bond</div><div>⌚ Inter State Supply</div><div><b>excludes</b> tax under GST &amp; Inward supplies under RCM</div><div><b>xx</b></div></div> <div><div><b>SOS:</b></div><div>Zero Rated Supply of services (As calculated above)</div><div><b>Add:</b> Non ZRS of Services (Domestic supply + Export without Bond)</div><div><b>xx</b></div></div> <div><div><b>Less:</b></div><div>1) Exempt Supplies <b>other than Zero rated Supplies*</b></div><div>2) <del>T/o of supplies for which refund is claimed u/r 89(4A) or (4B) or both</del></div><div><b>(xx)</b></div></div> <div><div><b>Adjusted Total T/o</b></div><div><b>xx</b></div></div>								
<div>Omitted by N/No. 20/2024</div>									

**Notes:**

- ⇒ Exempt supplies ~~& T/o of supplied for refund is claimed u/r 89(4A)/89(4B)~~ is **deducted only if** already covered in T/o of ZRS of goods or services.
- ⇒ **Other than ZRS\***: As per **Sec 16** of the IGST Act, if an exempt supply is exported from India, it is **not considered** an exempt supply and falls under ZRS. Therefore, any exempt supply that **qualifies as ZRS** should **not be** deducted.

## Rule 89(5): Refund on account of Inverted Duty Structure (IDS)

**Meaning**

Where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies),

except supplies of goods or services or both as may be notified by the Govt. on the recommendations of the Council.

### Goods or services notified by the Government

<b>Construction Sector</b>	<ul style="list-style-type: none"> <li>⇒ If construction services are provided for a complex or building that is <b>intended for sale</b>, the price charged from the recipient <b>includes</b> the value of the land.</li> <li>⇒ However, this <b>rule does not apply</b> if the full payment is received after a completion certificate is issued or after the property is first occupied, <b>whichever is earlier</b>.</li> </ul>
<b>Textiles</b>	Woven fabrics of silk/wool/cotton, knitted or crocheted fabrics
<b>Rail</b>	Rail locomotives powered from an external source of electricity or by electric accumulators.
<b>Oil</b>	Soya bean oil, olive oil, palm oil, coal, lignite, peat etc.

**Note: Circular No. 18/18/2017:** This restriction on refund of unutilised ITC of GST paid on inputs is **not applicable** to zero rated supplies.

**Amount of refund**

Refund on account of IDS, refund of ITC shall be granted as per the following formula:-

Maximum Refund Amount =

$$\left\{ \frac{\text{Turnover of inverted rated supply of goods \& services}}{\text{Adjusted Total Turnover}} \times \text{Net ITC} \right\} - \left\{ \frac{\text{Tax payable on such inverted rated supply of goods \& service}}{\text{Net ITC}} \times \frac{\text{ITC available on Inputs \& Input service}}{\text{ITC available on Inputs \& Input service}} \right\}$$

**Net ITC**

means ITC availed on **inputs** during the relevant period ~~other than ITC availed for which refund is claimed under rule 89(4A) or 89(4B) or both.~~

Omitted by  
N/No. 20/2024

**Notes:**

- ⇒ In 'Net ITC', ITC is availed **only on inputs, excluding input services and capital goods**. The law clearly states that tax paid on these cannot be refunded due to an inverted duty structure.
- ⇒ If there are multiple inputs attracting different rates of tax, 'Net ITC' in rule 89(5) covers the ITC availed on **all inputs** in the relevant period, **irrespective** of their rate of tax.

<p><b>Adjusted Total turnover</b></p>	<p><b>SOG:</b> T/o in State <b>includes</b></p> <ul style="list-style-type: none"> <li>➔ All Taxable Supply</li> <li>➔ Exempt Supply (Wholly Exempt + Nil + NTS)</li> <li>➔ Exports with or without bond</li> <li>➔ Inter State Supply</li> </ul> <p><b>excludes</b> tax under GST &amp; Inward supplies under RCM</p>	<b>xx</b>
	<p><b>SOS:</b></p> <p>Zero Rated Supply of services <b>(As calculated above)</b></p> <p><b>Add:</b> Non ZRS of Services (Domestic supply + Export without Bond)</p>	<b>xx</b>
	<p><b>Less:</b></p> <p>1) Exempt Supplies <b>other than Zero rated Supplies*</b></p> <p>2) <del>T/o of supplies for which refund is claimed u/r 89(4A) or (4B) or both</del></p>	<del>(xx)</del>
	<p><b>Adjusted Total T/o</b></p>	<b>xx</b>
	<p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>➔ Exempt supplies <del>&amp; T/o of supplies for refund is claimed u/r 89(4A)/89(4B)</del> is <b>deducted only if</b> already covered in T/o of ZRS of goods or services.</li> <li>➔ <b>Other than ZRS*</b>: As per <b>Sec 16</b> of the IGST Act, if an exempt supply is exported from India, it is <b>not considered</b> an exempt supply and falls under ZRS. Therefore, any exempt supply that <b>qualifies as ZRS</b> should <b>not be</b> deducted.</li> </ul>	

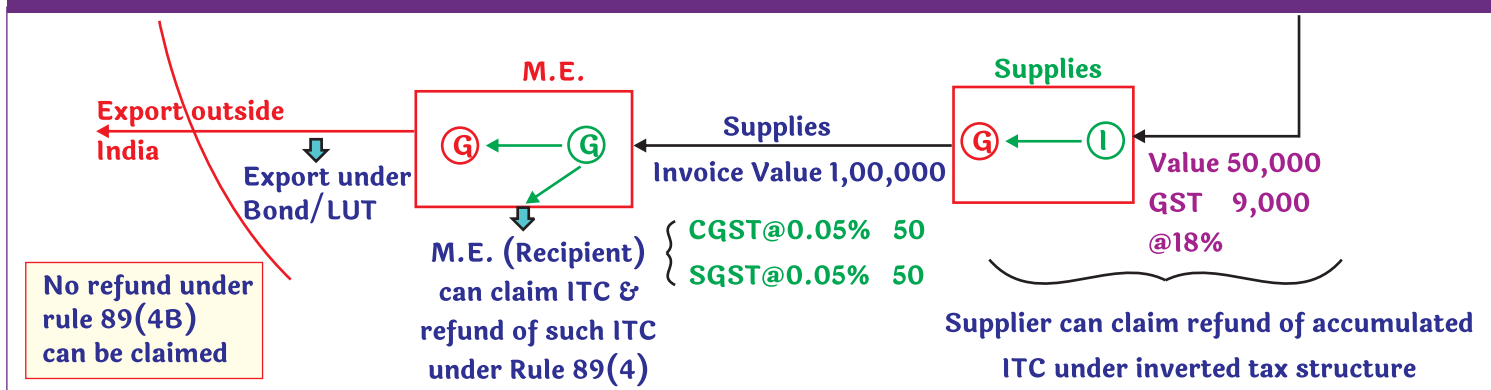
## Deemed Export (Sec 2(39)/Sec 147) & N/N 48/2017 & 50/2017



<b>Sec 2(39) Deemed exports</b>	means such supplies of goods as may be notified u/s 147 of CGST Act, 2017	
<b>Section 147</b>	The Government may, on the recommendations of the Council, notify certain supplies of goods as deemed exports, where: i) The goods supplied do not leave India, ii) Payment for such supplies is received in INR/Convertible Foreign Exchange, & iii) Such goods are manufacture in India.	
<b>Notified supplies for Deemed Export (N/N 48/2017)</b>	a) Supply of goods by a RP against Advance Authorisation(AA). b) Supply of capital goods by a RP against Export Promotion Capital Goods Authorisation (EPCG). c) Supply of goods by a RP to Export oriented Unit (EOU). d) Supply of gold by a specified bank or PSU against advance Authorisation.	
<b>Important Analysis:-</b>		
<b>2<sup>nd</sup> Proviso to Rule 89(1)</b>	<b>Provided</b> further that in respect of supplies regarded as deemed exports, the application of refund may be filed by a) the recipient of deemed export supplies; or b) the supplier of deemed export supplies in cases where the recipient does not avail of input tax credit on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund	<b>Still Applicable</b>
<b>Rule 89(4A)</b>	Refund in the case of supplies received on which the supplier has availed the benefit of the Government of India; Ministry of Finance; notification No. 48/2017-Central Tax dated the 18th October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1305 (E) dated the 18th October, 2017, refund of input tax credit, availed in respect of other inputs or input services used in making zero-rated supply of goods or services or both, shall be granted.	<b>Omitted by N/N 20/2024</b>
<b>Procedure:-</b>		
<b>Eligibility of Refund</b>	In respect of supplies regarded as deemed exports, either recipient or supplier are allowed to file the refund application.	
<b>Application for Refund</b>	The application shall be filed by <b>RFD – 01</b>	
<b>In case refund is sought by the supplier of deemed export supplies</b>	As per Rule 89(2) of CGST Rules, the following evidences notified by Central Government are to be produced by supplier of deemed export supplies for claiming refund:- ➔ <b>Acknowledgment</b> by the jurisdictional tax officer of Advance Authorization (AA) holder or Export Promotion Capital Goods (EPCG) Authorization holder that the	

	<p>said deemed export supplies have been received by the said AA/ EPCG Authorization holder or</p> <ul style="list-style-type: none"> <li>➔ <b>A copy of tax invoice</b> for such supplies duly signed by recipient EOU.</li> <li>➔ An <b>undertaking by recipient</b> that no ITC has been availed of by him on such supplies.</li> <li>➔ An undertaking by recipient that he shall not claim the refund in respect of such supplies and the supplier may claim the <b>refund</b>.</li> </ul>
<b>In case refund of ITC is sought by the recipient of deemed export supplies</b>	<p>An <b>undertaking by the supplier</b> of deemed export that he shall not claim the refund in respect of such supplies is also required to be furnished manually.</p> <p><b>Circular no. 172/04/2022: Refund claimed by the recipients of supplies regarded as deemed export.</b></p> <ul style="list-style-type: none"> <li>➔ The Input Tax Credit (ITC) of tax paid on deemed export supplies, claimable as a refund by recipients, is not categorized as ITC under CGST Act, 2017.</li> <li>➔ This ITC availed by recipients of deemed export supplies is not subject to the provisions of sec 17.</li> <li>➔ This implies that entire amount paid by the recipient will be available as ITC for claiming refund irrespective of the fact whether it is blocked in terms of sec 17(5)</li> </ul> <p><b>Example:- XYZ Ltd. received deemed export supplies valued at ₹ 2,00,000, on which it paid a GST of ₹ 36,000 at an 18% rate. Some of the components included in the supply are outdoor Catering services that falls u/s 17(5).</b></p> <p><b>HINT:</b> It is <b>clarified</b> that XYZ Ltd. <b>can claim the entire ITC</b> amount paid on Deemed exports, even if certain inputs are <b>blocked</b>.</p>
<b>Time limit &amp; relevant date for claiming refund</b>	<p>Make an application <b>before the expiry of 2 years</b> from the 'Relevant Date' i.e. the date on which the return relating to such deemed exports is furnished by supplier.</p> <p><b>Note:</b> For deemed exports, since the supplier pays the tax in their return, <b>the relevant date for filing a refund claim is the date when the supplier files that return.</b> This applies whether the refund claim is made by the supplier or the recipient.</p>

## Supply to Merchant Exporter (ME)



Where the person claiming refund of unutilised ITC on account of zero-rated supplies without payment of tax has received supplies on which the supplier has availed the benefit of supply of goods to merchant exporters at the concessional rate of 0.1% (CGST=0.05% & SGST =0.05% OR IGST =0.1%)

OR

We can say that, supply of taxable goods by a registered supplier to registered recipient (Merchant exporter(ME) ) for export i.e. CG has exempted the GST in excess of 0.1% (CGST=0.05% & SGST =0.05% OR IGST =0.1%), subject to specified conditions to be fulfilled as follows:-

<b>Tax invoice</b>	The registered supplier shall supply goods to the registered recipient (ME) on a tax invoice.
<b>Export within 90 days of invoice</b>	<p>The registered recipient shall <b>export the said goods within 90 days</b> from the date of issue of tax invoice by the registered supplier.</p> <p><b>Note:</b> Full tax rate is applicable, if goods not exported within 90 days from tax invoice:- The registered supplier shall not be eligible to pay tax at concessional rate, if the registered recipient fails to export the said goods <b>within 90 days</b> from the date of issue of tax invoice.</p>
<b>GSTIN of supplier and tax invoice number in export documents</b>	The registered recipient shall indicate the GSTIN of registered supplier and tax invoice number issued by supplier in the shipping bill or bill of export.
<b>Recipient must be registered with EPC</b>	The registered recipient shall be registered with an Export Promotion Council or a Commodity Board recognized by the Department of Commerce.
<b>Copy of purchase order to be given to Jurisdictional tax Officer of Supplier</b>	The registered recipient shall place an order on registered supplier for <b>procuring goods at concessional rate</b> and a copy of the same shall be provided to the jurisdictional tax officer of the registered supplier.
<b>Proof of export to be given to supplier and his Jurisdictional Officer</b>	When goods have been exported, registered recipient shall provide copy of shipping bill of export containing details of GSTIN and tax invoice of registered supplier along with proof of export general manifest or export report having been filed to such supplier as well as jurisdictional tax officer of such supplier.

**Important Note:** It may be noted that the exporter of such goods can export the goods only under LUT / bond and cannot export on payment of IGST.

**Rule 89(4B)  
Omitted**

availed the benefit of notification No. 78/2017-Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272(E), dated the 13th October, 2017 or notification No. 79/2017-Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299 (E), dated the 13th October, 2017,

the refund of input tax credit, availed in respect of inputs received under the said notifications for export of goods and the input tax credit availed in respect of other inputs or input services to the extent used in making such export of goods, shall be granted:-

**Omitted  
by N/N  
20/2024**

## Rule 95B read with Circular no. 227/21/2024: Refund of tax paid on inward supplies of goods received by Canteen Stores Department (CSD) & its Procedure:

<b>Introduction</b>	<ul style="list-style-type: none"> <li>➔ A CSD under the Ministry of Defence can claim a refund of 50% of CGST paid on inward supplies of goods. This refund is for goods meant for Unit Run Canteens or authorized customers.</li> <li>➔ Applications for this refund must be submitted electronically in <b>GST RFD-10A</b> once every quarter.</li> <li>➔ The refund will be granted if: <ul style="list-style-type: none"> <li>a) The goods were received from a registered supplier with a valid tax invoice, and the supplier has filed their GSTR-1 and GSTR-3B returns.</li> <li>b) The CSD's name and GSTIN are on the tax invoice.</li> <li>c) The goods are for subsequent supply to the Canteens or authorized customers</li> </ul> </li> </ul>
<b>Procedure</b>	<ul style="list-style-type: none"> <li>➔ The CSD can now electronically file for a 50% GST refund on goods bought for resale in Unit Run Canteens (URCs) or to authorized customers.</li> <li>➔ CSD must use FORM GST RFD-10A on the common portal to submit refund applications quarterly. They can combine claims from multiple quarters and years.</li> <li>➔ When applying, CSD must <b>include</b>: <ol style="list-style-type: none"> <li>1. An undertaking that the goods were received for resale.</li> <li>2. A declaration that no previous refund has been claimed for those invoices.</li> </ol> </li> <li>➔ Claims can be filed <b>within two years</b> from the end of the quarter when the goods were received.</li> <li>➔ The PO will check that all necessary returns (GSTR-1 &amp; GSTR-3B) have been filed and that the invoices match the supplier's records.</li> <li>➔ Refunds are capped at 50% of the CGST, SGST, UTGST, and IGST paid, and the amount in RFD-10A will automatically show this limit. The processing officer will also confirm that CSD has reversed the input tax credit as required.</li> <li>➔ After reviewing the claim, the officer will issue an order (RFD-06) and provide an explanation.</li> <li>➔ Refund applications submitted manually before the new system will still be processed according to earlier guidelines.</li> </ul>

## Rule 96: Refund on account of Export of goods or Services with payment of tax i.e Export with IGST Payment without bond

<b>Refund of Additional IGST on account of Upward Revision of Price subsequent to Exports: Rule 89(1B)</b>  <div>Newly Inserted by N/No. 12/2024</div>	<p><b>Procedure: Exporters of goods may file an application RFD-01:</b></p> <ul style="list-style-type: none"> <li>➔ to get a refund of additional IGST paid for upward revision of price</li> <li>➔ if already received a refund for the IGST paid at the time of export.</li> </ul> <p>This application will be processed according to rule 89.</p> <p><b>Time limit:</b></p> <ul style="list-style-type: none"> <li>➔ File the application electronically using <b>FORM GST RFD-01</b> within 2 years from the relevant date subjected to Rule 10B.</li> <li>➔ If the relevant date is <b>before this rule was introduced</b>, application can be filed within 2 years from the rule's effective date.</li> <li>➔ The relevant date shall be determined as under</li> </ul>
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	(i) Sea or Air	Date on which the ship or aircraft in which such goods are loaded, leaves India.
	(ii) Land	Date on which such goods pass the frontier.
	(iii) Post	Date of dispatch of goods by the concerned Post Office to a place outside India.

### CBIC Clarifications

#### Cir.no. 226/20/2024: Mechanism for refund of additional IGST paid on account of upward revision in price of goods subsequent to exports

<b>Issue</b>	<ul style="list-style-type: none"> <li>Price of Export goods may rise after exports, requiring the exporter to pay extra IGST with interest.</li> <li>IGST refunds for exported goods are processed automatically by Customs u/r 96.</li> <li>There exists no mechanism to claim a refund for the additional IGST paid.</li> </ul>
<b>Filing of refund claim</b>	<ul style="list-style-type: none"> <li>Exporters can file for a refund of additional IGST paid using form <b>RFD-01</b>.</li> <li>This application will be processed by the GST officer in their jurisdiction.</li> <li>CGST Rules have been amended (N/n. 12/2024) to allow this refund process u/r 89.</li> </ul>
<b>Apply for refund</b>	<ul style="list-style-type: none"> <li>Until a specific category for refunding additional IGST is available on the portal, exporters can claim refunds by: <ul style="list-style-type: none"> <li>Filing an application in FORM GST <b>RFD-01</b>.</li> <li>Selecting the category “<b>Any other.</b>”</li> <li>Adding remarks: ‘Refund of additional IGST paid due to price increase after export.’</li> <li><b>Including</b> relevant documents as per rule 89(2)(bb).</li> </ul> </li> <li>GSTN will provide jurisdictional GST officers with details of shipping bills, IGST amounts, and refunds sanctioned by Customs to assist in processing these claims.</li> <li>No refund shall be paid if amount claimed is less than ₹1,000</li> </ul>
<b>Documents with refund claim to establish that refund is due to exporter</b>	<ol style="list-style-type: none"> <li>Copy of the shipping bill or bill of exports.</li> <li>Copy of original invoices.</li> <li>Copy of contract or relevant documents showing the need for a price revision after export.</li> <li>Copy of original invoices and any relevant debit notes or supplementary invoices.</li> <li>Proof of payment for additional IGST and interest, along with details from GSTR-1/3B where these were declared.</li> <li>Proof of receipt of additional foreign exchange (FIRC) from an Authorized Dealer-I bank, plus a certificate from a practicing CA or CMA confirming the remittance is due to the price increase.</li> <li>Statement 9A &amp; 9B of RFD-01.</li> </ol>
<b>Documents needed to claim refund for additional IGST paid on exports Rule 89(2)(bb)</b>	<ol style="list-style-type: none"> <li>Number and date, plus copies of Export Invoices &amp; Shipping Bills / Bill of export.</li> <li>Number and date of Bank Realization or foreign inward remittance certificates, plus copies.</li> <li>Information on any refunds already granted u/r 96.</li> <li>Number and date of any relevant invoices or debit notes, plus copies.</li> <li>Details and proof of the additional IGST payment and any interest.</li> <li>Number and date of the foreign inward remittance certificate for the additional payment, plus a certificate from a CA or CMA confirming the remittance is due to the price increase.</li> <li>Copies of contracts or documents that support the price revision.</li> </ol>



<b>Reconciliation Rule 89(2) (bc)</b>	<ol style="list-style-type: none"> <li>1. Reconciliation statement that compares the value of supplies in supplementary invoices, debit notes, or credit notes &amp; includes details from the Bank Realisation Certificate or foreign inward remittance certificate from Authorised Dealer-I Bank.</li> <li>2. This is required if the refund is due to a price increase on exported goods.</li> </ol>
<b>Verification by PO</b>	<p>While processing the refund, the <b>PO will</b>:</p> <ol style="list-style-type: none"> <li>1. Verify that Exporter has reported the export invoice &amp; debit note in GSTR-1 &amp; Check that the additional IGST and interest have been <b>paid in GSTR-3B</b>.</li> <li>2. Confirm the <b>revised value</b> declared by the exporter in GSTR-1/GSTR-3B.</li> <li>3. <b>Verify</b> the details of foreign exchange remittances received.</li> </ol>
<b>Issue of orders granting refund</b>	<ul style="list-style-type: none"> <li>➡ PO will <b>review</b> the refund application for completeness and eligibility &amp; issue a refund <b>sanction order</b> (RFD-06) &amp; <b>payment order</b> (RFD-05) if <b>satisfied</b> that any part of the claimed amount is payable.</li> <li>➡ PO Upload a detailed speaking order &amp; refund sanction order (RFD-06).</li> </ul>
<b>Downward revision in price of goods</b>	<p>If there is a downward price revision for goods exported on which IGST is paid:</p> <ul style="list-style-type: none"> <li>➡ The exporter must <b>return the excess</b> IGST received, proportionate to the price reduction, along with interest.</li> <li>➡ The PO will <b>verify</b> that the exporter has deposited this excess refund for the relevant tax period.</li> </ul>

## Rule 96A: Export of Goods or Services without payment of IGST for claiming Refund of ITC under ZRS

**Time-limit:** To export goods/services without paying IGST, the supplier must **submit** a bond/ LUT to the Jurisdictional Commissioner before exporting.

This bond **ensures** they will pay any taxes due, along with interest (18% per year), if required later.

Situations	Liability of Tax / Interest
<b>SOG: If the goods are not exported out of India</b>	Within <b>15 days</b> after the expiry of 3 months or such further period as may be allowed by the commissioner
<b>SOS: If the payment of services is not received in convertible foreign exchange or Indian rupees, if permitted by the RBI</b>	<ul style="list-style-type: none"> <li>➡ <b>within 15 days after the expiry of 1 year, or</b></li> <li>➡ <b>the period as allowed under the FEMA, 1999 including any extension of such period as permitted by the RBI, whichever is later,</b></li> <li><b>from the date of issue of the invoice for export, or such further period as may be allowed by the Commissioner,</b></li> </ul>

Substituted by  
N/No. 12/2024



## OFFENCES, PENALTIES & PROSECUTION

**Sec 122 A:- Penalty for failure to register certain machines used in manufacture of goods as per special procedure** newly Inserted by F.A. 2024

Legal Provision	Quantum of penalty
Overriding the act, if a manufacture of goods for which any special procedure relating to registration of machines has been notified u/s 148 acts in contravention of the same.	he shall be liable to pay a penalty of 1 lakh (penalty of each under CGST & SGST/UTGST) or 2 lakh (under IGST) for every machine not so registered.
<b>Important Points:-</b> <ul style="list-style-type: none"> <li>➔ This penalty is in addition to any penalty under demand &amp; recovery &amp; any other penalty leviable under GST law.</li> <li>➔ Further, every machine not so registered shall be liable for seizure and confiscation</li> <li>➔ Machine shall not be confiscated if-               <ul style="list-style-type: none"> <li>(a) the penalty so imposed is paid &amp;</li> <li>(b) the registration of such machine is made as per special procedure within 3 days of the receipt of communication of the order of penalty.</li> </ul> </li> </ul>	



## APPEALS AND REVISION

**Section 109:- Constitution of Appellate Tribunal (AT) & Benches thereof**

<b>GST Appellate Tribunal</b>	On recommendations of Council, Government shall notify an Appellate Tribunal (AT) known as the GST Appellate Tribunal <ul style="list-style-type: none"> <li>➔ for hearing appeals against the orders passed by               <ul style="list-style-type: none"> <li>➤ Appellate Authority (AA) or</li> <li>➤ Revisional Authority (RA), or</li> </ul> </li> <li>➔ for conducting an examination or adjudicating the cases referred to in sec 171(2) [Anti-Profiteering Measure], if so notified under the said section.</li> </ul>
<b>Appeals against orders passed by AA/RA</b>	<ul style="list-style-type: none"> <li>➔ Principal Bench &amp; State Bench shall hear appeals against orders passed by AA or RA.</li> <li>➔ However, If any one issue involved relates to place of supply, it shall be heard only by Principal Bench (Proviso 1).</li> <li>➔ The matters referred to in sec 171(2) shall be examined or adjudicated only by the Principal Bench (Proviso 2).</li> <li>➔ Govt. may, on recommendations of Council, notify other cases or class of cases which shall be heard only by the Principal Bench (Proviso 3).</li> </ul>
<b>Distribution/transfer of cases among Benches</b>	The President Subject to 'Appeals against orders passed by AA/RA' discussed above, the President shall, from time to time, by a general or special order, distribute the business of AT among Benches and may transfer cases from one Bench to another. <span style="background-color: red; color: white; padding: 2px;">Substituted by N/no.17/2024</span>

## Section 112 read with Rule 110 & 111:- Appeals to Appellate Tribunal (AT)

Substituted by N/No. 12/2024

<b>Appeal by aggrieved person</b>	Person aggrieved by order passed by AA/RA may <b>appeal to AT</b> against such order
<b>Time limit for filing appeal</b>	Appeal shall be filed <b>within 3 months (further extendible upto 3 months)</b> on sufficient cause) from the date on which the order sought to be appealed against is communicated to person preferring the appeal
<b>Application by Department</b>	<ul style="list-style-type: none"> <li>Commissioner may <b>call for and examine</b> the record of any order passed by AA/RA to satisfy himself about the legality or propriety of the said order - <ul style="list-style-type: none"> <li>on his own motion, or</li> <li>on request from the SGST/ UTGST Commissioner.</li> </ul> </li> <li>To determine specified point arising out of the said order, Commissioner may direct any subordinate officer to apply to AT <b>within 6 months</b> from date on which order has been passed.</li> <li>Such application made by authorised officer shall be dealt with by AT as if it were an appeal made against the order of AA/RA &amp; provisions of GST Act shall apply accordingly.</li> <li><b>No pre-deposit</b> is required for departmental appeal.</li> </ul>
<b>Form &amp; manner of filing appeal/ application</b>	<ul style="list-style-type: none"> <li>Appeal/application shall be filed <b>electronically</b> in FORM GST <b>APL-05/APL-07 respectively</b>, with relevant documents.</li> <li>Appeal can be <b>filed manually</b> only if Registrar allows the same by issuing a special or general order to that effect, subject to such conditions and restrictions as specified in the said order.</li> <li>Provisional acknowledgement shall be issued to appellant immediately in both cases.</li> <li>Registrar shall mean a Registrar appointed by Govt. for this section, &amp; shall include Joint Registrar, Deputy Registrar and Assistant Registrar.</li> </ul>
<b>Date for filing appeal/ application &amp; issue of final acknowledgement</b>	<ul style="list-style-type: none"> <li>If order appealed against is uploaded on common portal, a final acknowledgement, indicating appeal number, shall be issued in APL-02 on removal of defects, if any. Thus, <b>date of issue of provisional acknowledgement shall be date of filing of appeal.</b></li> <li>If order appealed against is not uploaded on common portal, the appellant shall submit or upload a self-certified copy of it within 7 days from the date of filing of APL-05/APL-07 &amp; a final acknowledgement, indicating appeal number, shall be issued in APL-02 on removal of defects, if any, &amp; <b>date of issue of provisional acknowledgment shall be considered as the date of filing of appeal.</b></li> <li>If said self-certified copy of order is submitted or uploaded after 7 days, a final acknowledgement, indicating appeal number, shall be issued in APL-02 on removal of defects, if any, &amp; the <b>date of submission or uploading of such self-certified copy shall be considered as the date of filing of appeal.</b></li> <li>The appeal shall be <b>treated as filed only when final acknowledgement</b>, indicating the appeal number, is issued.</li> </ul>
<b>Fees for filing or restoration of appeal</b>	<ul style="list-style-type: none"> <li>Fees for filing of appeal or restoration of appeal = <b>₹1,000 for every ₹1,00,000</b> of tax/ITC involved or difference in tax/ITC involved or the amount of fine, fee or penalty determined in order appealed against.</li> <li><b>It shall be maximum of ₹25000 &amp; a minimum of ₹5000.</b></li> </ul>

	<p>➤ However, fees for filing of an appeal for an order not involving any demand of tax, interest, fine, fee or penalty shall be ₹5000 (i.e. other matter).</p> <p>➤ There is <b>no fee</b> for application made before AT for rectification of errors.</p>
<b>Power of AT to refuse to admit an appeal</b>	AT <b>have power/ discretion to refuse</b> to admit an appeal, but only where tax/ITC involved or difference in tax/ITC involved or fine, fees or penalty determined by such order <b>does not exceed ₹50,000</b> .
<b>Memorandum of cross-objections</b>	<p>➤ <b>Party against whom appeal/application is preferred</b> may file a <b>memorandum of cross-objections</b> electronically in APL-06 against any part of order appealed against <b>within 45 days (further extendible upto 45 days on sufficient cause)</b> of receipt of notice of appeal.</p> <p>➤ It may be <b>filed manually</b> in APL-06, <b>only if</b> Registrar allows the same by issuing a special or general order to that effect, subject to such conditions &amp; restrictions as specified in said order.</p> <p>➤ It shall be disposed of by AT like an appeal made within specified time for filing initial appeal.</p>
<b>Manner of signing</b>	Appeal & memorandum of cross objections shall be signed in manner specified in rule 26.
<b>Mandatory pre-deposit for filing appeal</b>	No appeal can be filed before the AA unless a specified amount of pre deposit is made by the appellant.

## Sec 113A: Withdrawal of Appeal or Application filed before the Appellate Tribunal (AT)

<b>Withdrawal of Appeal or Application</b>	<p>➤ At any time before issuance of order u/s 113, for any appeal filed in APL-05 or application filed in APL-07, <b>appellant may file an application for withdrawal</b> of same in APL-05/07W.</p> <p>➤ If final acknowledgment in APL-02 has been issued, withdrawal <b>need approval of AT</b> which shall be decided by AT <b>within 15 days</b> of filing of such application.</p> <p>➤ <b>Any fresh</b> appeal or application filed by appellant pursuant to such withdrawal shall be filed <b>within the respective time limit</b> specified in sec 112.</p>
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**Newly Inserted by N/No. 12/2024**

## CBIC Clarifications

**Cir. No. 207/1/2024: Reduction of Govt. Litigation – fixing monetary limits for filing appeals or applications by Dept. before GSTAT, High Courts & Supreme Court**

Issue	Circular aims to reduce government litigation by establishing monetary thresholds. Below these limits, departments cannot file appeals/ applications with the GSTAT, HC or SC.		
Monetary Limits for Appeals	U/s 20 &168 of the CGST Act, the CBIC sets monetary limits below which appeal/ application or Special Leave Petitions shall not be filed by CGST Officers, except as noted in separate exclusions:		
	Appellate Forum	Monetary Limit (₹)	
	GSTAT	20,00,000	
	High Court	1,00,00,000	
	Supreme Court	2,00,00,000	
Principles for a case while applying above monetary limits for filing appeal	S.No.	Dispute relates to demand of	Amount to be considered for applying monetary limit
	1	Tax with or without penalty and/or interest	Only the agg. amount of tax is dispute (including CGST, SGST/UTGST. IGST & Compensation Cess)
	2	Only interest	Amount of interest
	3	Only penalty	Amount of penalty
	4	Only late fee	Amount of late fee
	5	Interest, Penalty and/or late fee (without involving any disputed tax amount)	Aggregate amount of interest, penalty and late fee
		Erroneous refund	Amount of refund in dispute (including CGST, SGST/UTGST, IGST & Compensation Cess)
	Note: In composite orders with multiple appeals, the limit is based on the total amount, not individual amounts.		
Exclusions	Monetary limits do not apply in the following cases: 1. If any GST provision is deemed unconstitutional. 2. If GST rules or regulations are found ultra vires the parent Act. 3. If government orders or notifications are held ultra vires GST Act or rules. 4. If the matter involves recurring issues like valuation, classification, refunds, or interpretations of the Act. 5. If adverse comments or costs are imposed against the government or its officers. 6. Any other case deemed necessary to contest for justice or revenue by the Board.		
Filing Appeals on Merits	Even if the disputed tax exceeds the monetary limit, appeals should focus on the merits of the case to reduce unnecessary litigation and provide clarity to taxpayers on their assessments.		



<b>No Precedent Value</b>	<ul style="list-style-type: none"> <li>➤ Sections 120(2), (3), and (4) state that if an appeal is not filed per these instructions, such cases shall <b>not have any precedent value</b>.</li> <li>➤ Tax officers can <b>still file appeal/application</b> in similar cases where the disputed tax exceeds the monetary limit or involves questions of law.</li> </ul>
<b>No presumption of acceptance if no appeal is filed.</b>	<ul style="list-style-type: none"> <li>➤ If an appeal isn't filed due to monetary limits, it doesn't imply the Department accepts the decision on disputed issues.</li> <li>➤ Department representatives must clarify this to the GSTAT or Court, emphasizing that the appeal was not filed solely because the tax in dispute was below the limit, as stated in section 120(4).</li> </ul>

**Circular on guidelines for recovery of outstanding dues, in cases wherein first appeal has been disposed of, till AT comes into operation (Circular no. 224/18/2024)**

<b>Issue</b>	If 1st appellate authority has passed order confirming demand created by adjudicating authority, fully or partially, & appeal against it could not be filed u/s 112 due to non-constitution (non-operation) of AT yet, whether originally created demand that has inadvertently been paid & intimated by taxpayer through DRC 03 under 'voluntary' or 'others' category can be adjusted against pre deposit required to be paid for filing appeal before appellate authority u/s 107 & AT u/s 112?
<b>Facts</b>	<ul style="list-style-type: none"> <li>➤ As per <b>sec 78, recovery proceedings are to be initiated</b>, if amount payable as per order is <b>not paid</b> by person within 3 months from date of service of the said order.</li> <li>➤ If he <b>files an appeal as per sec 112(8)</b> (on payment of prescribed pre deposit), <b>recovery proceedings for balance is deemed to be stayed</b> till disposal of appeal as per sec <b>112(9)</b>.</li> <li>➤ But taxpayers are <b>not able to file appeal</b> in AT &amp; are not able to make pre deposit.</li> <li>➤ The tax officers are taking a view that there is <b>no stay against recovery</b>.</li> <li>➤ In some cases, taxpayers have either paid or are willing to pay the requisite pre deposit as per sec 112(8) either by crediting in their E-Liability Register (ELL) against demand so created, or by depositing the said amount through DRC 03.</li> <li>➤ But, tax officers <b>are still resorting to recovery proceedings</b> after completion of period stipulated u/s 78.</li> </ul>
<b>Process to adjust amount paid against pre-deposit</b>	<ul style="list-style-type: none"> <li>➤ It is <b>clarified that</b> if taxpayer decides to file appeal against order of appellate authority &amp; wants to pay pre deposit as per sec 112(8), he can pay such pre deposit by navigating to Services &gt;&gt; Ledgers&gt;&gt; Payment towards demand, from his dashboard &amp; avail the benefit of stay from recovery of remaining amount of confirmed demand.</li> <li>➤ In ELL Part II, he can select the order, out of outstanding demand orders, against which payment is intended to be made.</li> <li>➤ The paid amount would be mapped against it &amp; demand will be reduced in ELL.</li> <li>➤ Deposited amount will be adjusted against pre deposit required at the time of filing appeal before AT.</li> </ul>
<b>Undertaking &amp; payment of pre-deposit &amp; filing appeal within time to stay the recovery</b>	<ul style="list-style-type: none"> <li>➤ Taxpayer also needs to <b>file an undertaking/ declaration</b> with jurisdictional PO that he will file appeal against said order of appellate authority before AT when it comes into operation within timelines as per sec 112.</li> <li>➤ <b>On payment of pre-deposit also</b> as above, the recovery of remaining confirmed demand in said order <b>will stand stayed</b> as per sec 112(9).</li> <li>➤ If full pre-deposit is not paid or undertaking/declaration is not given to PO or appeal is</li> </ul>

	<p>not file, it will be presumed that taxpayer is not willing to file such appeal &amp; <b>recovery proceedings can be initiated as per law.</b></p> <p>⇒ When Tribunal comes into operation, if taxpayer does not file appeal within time, the <b>remaining amount of the demand will be recovered</b> as per law.</p>
<b>Insertion of new sub-rule &amp; form &amp; adjustment of amount paid with demand</b>	<p>⇒ <b>Rule 142(2B) &amp; Form GST DRC 03A has been inserted vide N/no. 12/2024, providing for a mechanism</b> for cases where the person liable to pay tax, interest and penalty u/s 52 or 73 or 74 or 76 or 122 or 123 or 124 or 125 or 127 or 129 or 130 has made payment of these, inadvertently through DRC 03 under Rule 142(2).</p> <p>⇒ Said person can file an application in DRC 03A &amp; the amount so paid &amp; intimated through DRC 03 <b>shall be adjusted/considered</b> as if the said payment was made towards the said demand on the date of such intimation through DRC 03.</p> <p>⇒ The paid amount can also be adjusted against pre-deposit to be paid u/s 107 &amp; 112 if &amp; when appeal is filed before appellate authority or AT.</p> <p>⇒ The remaining confirmed demand as per the order appealed against <b>will stand stayed</b> as per sec 107(6) &amp; sec 112(9).</p> <p>⇒ If taxpayer does <b>not file appeal within time</b> as per sec 107 &amp; 112, the remaining <b>demand will be recovered</b> as per law.</p>
<b>Non-adjustment of liability</b>	<p>Application in DRC 03A for <b>adjustment</b> of demand liability against payment through DRC 03 <b>cannot be made</b> in cases where against payment made through DRC 03, <b>proceedings have already been concluded</b> by issuance of an order in DRC 05 as per Rule 142(3).</p>
<b>Option till DRC 03A is not available</b>	<p>⇒ Currently, functionality to file application in DRC 03A is not available on portal.</p> <p>⇒ Till its availability, if pre deposit has been inadvertently paid through DRC 03 instead of paying it through ELL II against the demand created in said ledger, taxpayer may intimate PO about the same.</p> <p>⇒ On such intimation, PO may not insist on recovery for remaining amount payable.</p>
<b>Application in DRC 03A on its availability</b>	<p>⇒ Once the functionality of <b>DRC 03A</b> is made available on portal, taxpayer may file an application in it at the earliest.</p> <p>⇒ <b>Then, amount paid via DRC 03 may be adjusted against pre deposit</b> u/s 107/112.</p> <p>⇒ If taxpayer <b>fails</b> to file such application, PO may <b>proceed to recover</b> the amount payable as per sec 78 &amp; 79.</p>



# MISCELLANEOUS PROVISIONS

## Sec 171:- Anti-Profiteering Measure

(B)	<b>Constitution of National Anti-Profiteering Authority:-</b>	
	<p>⇒ <b>National Anti-profiteering Authority</b> is constituted by CG on recommendation of council.</p> <p>⇒ On recommendations of GST Council, CG empowers the <b>Competition Commission of India</b> to examine whether ITCs availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.</p> <p><b>N/no. 18/2024 w.e.f. 01/10/24-</b> CG empowers Principal Bench of AT, constituted u/s 109(3), to examine the matter discussed above u/s 171.</p>	
	Proviso	Govt. may notify the date from which the said Authority shall not accept any request for examination of above. <b>N/no. 19/2024-</b> CG appoints 01/04/25 as the date from which the Authority referred to in sec 171 shall not accept any request for examination of above.
	Explanation	Here, ‘request for examination” shall mean the written application filed by an applicant requesting for examination as to whether ITCs availed by any RP or reduction in tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.
<div>Newly Inserted by F.A. 2024</div>		
(E)	<b>Penalty for Profiteering:-</b>	
	<p>⇒ After holding required examination, if authority comes to conclusion that registered person has profiteered, he shall be liable to pay <b>penalty= 10% of amount profiteered</b>, if profiteered amount is deposited after 30 days of the date of passing of order by Authority.</p>	
<p><b>Explanation 1 :-</b> Profiteered means the amount determined on account of <b>not passing the benefit</b> to recipient by way of commensurate reduction in the price of the goods or services or both.</p>		
<p><b>Explanation 2:-</b>The expression ‘Authority” shall include the ‘Appellate Tribunal”.</p>		
<div>Newly Inserted by F.A. 2024</div>		

### Rule 163

#### Consent based sharing of information:-

- 1) **AG to obtain consent of RP:-**
  - If RP opts to share information furnished in REG-01, GSTR-3B or GSTR-1, **as amended in GSTR-1A if any**, with requesting system (AG), AG shall obtain consent of said RP for same.
  - AG shall communicate consent with details of tax periods to common portal.

**Newly Inserted by N/No. 12/2024**



# **CUSTOMS ACT, 1962**





# ACDs Under CUSTOM TARIFF ACT, 1975

## 3(9) ACD 3(9) to Countervail levy of GST Compensation cess:

- ➔ It is charged to counter balance the GST Compensation cess leviable on the supply of same article in India.
- ➔ Any article which is imported into India shall, in addition, be liable to GST Compensation cess at such rate as is leviable u/s 8 of GST Act, on a like article on its supply in India.
- ➔ **CG has exempted all goods imported by a unit or developer in the SEZ for their authorised operations, from the whole of the GST Compensation cess leviable thereon u/s 3(9) of the CTA read with Sec 8(2) of the GST (Compensation to states) Act 2017. (Exempted retrospectively w.e.f 01.07.2017)**

## 3(12) The provisions of the Customs Act, 1962 and all rules and regulations made thereunder, including but not limited to

- ➔ those relating to the date for determination of rate of duty, assessment, non-levy, short-levy, refunds, exemptions, interest, recovery, appeals, offences and penalties
- ➔ shall, as far as may be, apply to the duty or tax or cess, as the case may be, chargeable under this section
- ➔ as they apply in relation to duties leviable under that Act or all rules or regulations made thereunder, as the case may be.

**Substituted by F.A. 2024**



# CONCESSIONS UNDER CUSTOMS OR EXCEPTION TO SEC 12

## SEC 20: RE-IMPORTATION OF GOODS

S.No.	Description of goods exported	Amount of import duty payable, if re-imported	Conditions for claiming concession/exemptions
1	Goods exported under claim for duty drawback, refund of IGST paid on export goods, bond without payment of IGST, etc.	Amount of incentive availed of at the time of export	(a) Time-limit for re-importation is <b>5 years. (extendable to 7 years).</b>
2	Goods other than in (1) above-exported for repairs abroad	Custom duty leviable on value of re-imported goods after repairs were made up of the <ul style="list-style-type: none"> <li>➔ fair cost of repairs carried out</li> <li>➔ including cost of materials used in repairs (whether actually incurred or not),</li> <li>➔ insurance &amp; freight charges, both ways.</li> </ul>	(b) Exported goods & re-imported goods must be same. (c) there should be <b>no change in ownership</b> in case of S.No. (2).



# WAREHOUSING

## SEC 65: MANUFACTURE AND OTHER OPERATIONS IN RELATION TO GOODS IN A WAREHOUSE:-

- 1) The owner of warehoused goods may carry any manufacturing process or other operations in the warehouse for such goods with the permission of Commissioner/ Principal commissioner.
- Proviso:-** The CG may, in the public interest, specify, the manufacturing processes and operations for certain goods that are not allowed in a warehouse.



# CUSTOMS TARIFF ACT 1975

## Types of Duties

### SEC 6 & 7: PROTECTIVE DUTY:- OMITTED

Applicability of Customs Act 1962 for Sec 8B, Sec 9 & Sec 9A **Substituted by F.A. 2024**

The provisions of the Customs Act, 1962 and all rules and regulations made thereunder, including but not limited to

- those relating to the date for determination of rate of duty, assessment, non-levy, short-levy, refunds, exemptions, interest, recovery, appeals, offences and penalties
- shall, as far as may be, apply to the duty or tax or cess, as the case may be, chargeable under this section
- as they apply in relation to duties leviable under that Act or all rules or regulations made thereunder, as the case may be.



# FOREIGN TRADE POLICY (FTP)

## C. SCHEME FOR REMISSION OF DUTIES & TAXES ON EXPORTED PRODUCTS (RODTEP):-

### Reward under the scheme

- Rebate will be granted to eligible exporters at a notified rate as a % of FOB value with a value cap per unit of eligible exported product, wherever required, on export of items.
- Fixed quantum of rebate amount per unit may be notified for certain export items.
- **Duty credit script shall be issued against export of notified goods or against export of goods under Advance Authorisation (except Deemed exports) or against export of goods manufactured or exported by Export Oriented Units or SEZ Units.**



1)	<p><b>Import policy of used IT assets (laptop, desktop, monitor, printer) imported from SEZ to DTA notified: [Notification No. 56/2023 dated 01.01.2024]</b></p> <p>The import policy for second hand goods (as amended) is as follows:            Second hand goods → Capital goods → Restricted → <b>Used IT assets (laptop, desktop, monitor, printer) imported from SEZ to DTA**</b></p> <p><b>**</b> Import policy of used IT assets (laptop, desktop, monitor, printer) imported from SEZ to DTA, subject to fulfilment of specified conditions, has been notified in the FTP. The said import is restricted and requires authorization.</p>
2)	<p><b>Merchant trading carried out within one specific foreign country permitted: [Notification No. 62/2023 dated 20.02.2024]:</b></p> <p>➔ Earlier, merchanting trade of shipment of goods from one foreign country to another foreign country without touching Indian ports, involving an Indian intermediary was allowed, subject to RBI guidelines, except for goods in the CITES15 and SCOMET lists.</p> <p>➔ Now, merchanting trade carried out within one specific foreign country is also permitted, subject to RBI guidelines, except for goods in the CITES and SCOMET lists.</p>

## Import of items under Advance Authorisation/EOU/SEZ enabled without compliance to mandatory Quality Control Orders (QCO) [N/ No. 71/2023 ]

Quality Control Orders (QCOs) are regulatory mandates issued by the Indian government to ensure products meet specific quality standards. These are typically issued by the Bureau of Indian Standards (BIS) under the BIS Act, 2016. Both domestic manufacturers and importers must ensure compliance with QCOs.

However, import of inputs under Advance Authorisation/EOU/SEZ without compliance to the mandatory QCOs, shall be subjected to the following conditions:

<b>Conditions for Exemption</b>	Imports under Advance Authorisation / EOU/SEZ without QCO compliance must adhere to the following conditions:	
	<b>For Advance Authorisation</b>	
	1)	<p><b>Pre-Import Condition:</b></p> <p>➔ Inputs must be pre-imported and used in manufacturing the export product &amp; exported under same authorisation.</p> <p>➔ Unutilized imports cannot be transferred to DTA and must be destroyed or re-exported.</p> <p>➔ In addition such, Unutilized imports are subject to duty, interest, and a composition fee.</p>
		<b>Endorsement:</b> Exemption must be specifically endorsed in the advance authorization upon request.
		<b>Physical Exports Only:</b> Exemption applies only to physical exports, not deemed exports.
		<b>DFIA Scheme:</b> Import of inputs without compliance to mandatory QCOs is not allowed under the DFIA scheme.

	2)	<b>Exemption from QCOs for EOUs</b>
		<b>Exemption Provision:</b> EOUs are exempt from mandatory QCOs for imported inputs required for export production.
		<b>Restrictions:</b> No DTA clearance is allowed for such inputs or goods manufactured from these inputs.
		<b>Undertaking:</b> ➤ EOUs must submit an undertaking to Customs at the time of importation. ➤ A copy of the undertaking must be submitted to the Development Commissioner.
		<b>Physical Exports Only:</b> Exemption is applicable only for physical exports, not deemed exports.
	3)	<b>Exemption from QCOs for SEZs</b>
		<b>Exemption Provision:</b> SEZs are exempt from mandatory QCOs for imported inputs required for export production.
		<b>Restrictions:</b> No DTA clearance is allowed for such inputs or goods manufactured from these inputs.
		<b>Undertaking:</b> SEZ Units must submit an undertaking to the concerned Development Commissioner at the time of importation.
		<b>Physical Exports Only:</b> Exemption is applicable only for physical exports.

## Amendment in ineligible supplies/ items/ categories under RoDTEP [N. No. 70/2023]

- Export of imported goods in same or substantially same form.
- Exports through trans-shipment, meaning thereby exports that are originating in third country but transhipped through India.
- Export products which are subject to minimum export price or export duty.
- Products which are restricted/prohibited for export under FTP
- Deemed Exports.
- Supplies of products manufactured by DTA units to SEZ/FTWZ units.
- ~~Products manufactured in EHTP and BTP.~~ **OMITTED**
- Products manufactured partly or wholly in a warehouse u/s 65 of Customs Act.
- Products manufactured or exported availing the benefit of N/No. 32/1997 Cus. dt. 01.04.1997 (job work & re-export of goods supplied by foreign supplier)
- Exports for which the electronic documentation in ICEGATE EDI has not been generated / exports from non-EDI ports.
- Goods which have been taken into use after manufacture.
- ~~Products manufactured or exported in discharge of EO against an AA/ DFIA / Special AA issued under a duty exemption scheme of relevant FTP.~~ **OMITTED**
- ~~Products manufactured/exported by a unit licensed as 100% EOU in terms of provisions of FTP or by any of the units situated in Free Trade Zones (FTZ)/Export processing Zones (EPZ)/ Special Economic Zones (SEZ).~~ **OMITTED**
- ~~Inclusion of exports made under these categories in RoDTEP scheme will be decided later.~~ **OMITTED**

# ITC CASE LAW

## Case of Chief Commissioner of CGST v. Safari Retreats Pvt. Ltd (2024) 23 Centax 62 (SC)

- ➡ In the case of Chief Commissioner of CGST v. Safari Retreats Pvt. Limited (2024), the Supreme Court clarified the difference between "plant AND machinery" (used in clause (c)) and "plant OR machinery" (used in clause (d)) in the CGST Act.
  - "Plant AND machinery" is defined in the explanation to section 17.
  - "Plant OR machinery" isn't defined in the Act.
- ➡ The Court noted that the legislature deliberately used "AND" in clause (c) and "OR" in clause (d), so these terms cannot be treated the same.
- ➡ In clause (c), if a construction involves "plant AND machinery" as defined, ITC is allowed. In clause (d), if it involves "plant OR machinery," ITC is also available.
- ➡ The Court further explained that "plant or machinery" could refer to either plant or machinery. When it comes to the construction of buildings, the Court said that if a building is essential for a business (like renting or leasing), it could be considered "plant" and thus eligible for ITC.
- ➡ Finally, the Court upheld the constitutional validity of clauses (c) and (d) of section 17(5) and section 16(4).