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## Expanded Form of Abbreviations used in Chart Book

AA	Aadhaar authentication
AA	Adjudicating authority
AA	Appellate authority
AA	Advance authorisation
AAAR	Appellate Authority for Advance Ruling
AAR	Authority for Advance Ruling
AC	Additional Commissioner
ACD	Additional Customs duty
AR	Annual return
ARN	Application reference number
AT	Appellate tribunal
BE	Business Entity
CDN	Credit note & Debit note
CFC	Convertible foreign currency
CFY	Current Financial Year
CTP	Casual Taxable Person
CWF	Consumer Welfare fund
D/D	Due date
DC	Deputy Commissioner
DGAP	Director General of Anti Profiteering
DO	Demand order
DSA	Direct Selling Agents
DTA	Domestic tariff area
ECO	Electronic Commerce Operator
EOU	Export oriented unit
EPCG	Export Promotion Capital Goods
ES	Exempt supply
EWB	E-way bill
FAT	Final assessment tax
FC	Forward Charge
FI	Financial Institutions
FTWZ	Free Trade Warehousing Zone
GSTIN	Goods & service tax identification number
GSTN	Goods & service tax network
GTA	Goods Transport Agency
HSN	Harmonised System of Nomenclature.
IFF	Invoice Furnishing facility
ISD	Input Service distributors
ITS	Inverted tax structure
JC	Joint Commissioner
LUT	Letter of undertaking
ME	Merchant Exporter
NBFC	Non-Banking Financial Corporations
NRTP	Non-resident Taxable Person
NTOR	Non-taxable online recipient
NTT	Non-taxable territory

OIDAR	Online Information Data Base Access and Retrieval
OOBH	Opportunity of being heard
PAT	Provisional assessment tax
PFY	Preceding Financial Year
PO	Proper officer
POB	Place of business
PSP	Private service providers
QR	Quick Dynamic
QRMP	Quarterly return monthly payment
RC	Registration certificate
RP	Registered Person
RWA	Resident Welfare Association
SCN	Show cause notice
SEZ	Special Economic zone
TP	Taxable Person
TS	Taxable supply
TT	Taxable Territory
UIN	Unique Identification number
WD	Working days
WIH	Whichever is higher
ZRS	Zero rated supply

# CHAPTER - 1: BASIC CONCEPT OF GST



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## FRAMEWORK OF GST

Name	Governing Act	Levied by	Event of Levy
CGST	Central Goods and Services Tax Act, 2017	Central Government	On Intra State supply of Goods and Services
SGST	State Goods and Services Tax Act, 2017	State Government	On Intra State supply of Goods and Services
UTGST	Union Territory Goods and Services Tax Act, 2017	Union Territories	On Intra State supply of Goods and Services
IGST	Integrated Goods and Services Tax Act, 2017	Central Government	On Inter State supply of Goods and Services
GST CESS	GST Compensation Cess Act, 2017	Central Government	On Intra/Inter State supply of notified Goods and Services

## CONCEPT & PRINCIPLE OF GST

- ⇒ GST is a **Broad-based Value added tax**
- ⇒ GST is a **Destination based tax**
- ⇒ GST is technically paid by suppliers but it is actually borne by consumers (Ultimate burden may be passed on).
- ⇒ GST is collected at multiple stage of production and distribution of goods and services in which taxes paid on inputs are allowed as set off against output tax.
- ⇒ GST is a tax on the consumption of products from business sources, and not on personal or hobby activities.
- ⇒ Under GST, input tax credit is provided throughout the value chain.

## CONSTITUTIONAL AMENDMENTS

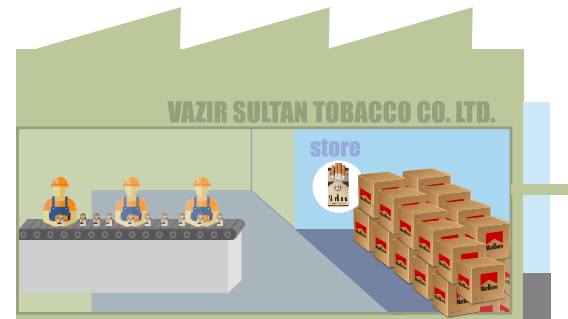
<b>Article 366 (12A)</b>	GST means "Any tax on supply of Goods or Services or both except tax on Supply of the Alcoholic Liquor for human Consumption"
<b>Article 246A</b>	Concurrent powers to both, Parliament and State Legislatures is given to make laws with respect to GST
<b>Article 269A</b>	Provides exclusive power to the Parliament to legislate with respect to inter-State trade or commerce i.e. integrated tax (IGST) (including import)

## BENEFITS OF GST

- 1) Creation of Unified National market
- 2) Mitigating Cascading Effect of taxes
- 3) Elimination of multiple taxes and double taxation
- 4) To Promote make in India Initiative
- 5) It also helps to increase overall revenue of Govt.

## TAXES ON TOBACCO AND TOBACCO PRODUCTS, OPIUM, INDIAN HEMP AND OTHER NARCOTIC DRUGS AND NARCOTICS:

In the case of tobacco and tobacco products, the Centre alone would have the power to levy excise duty in addition to the GST

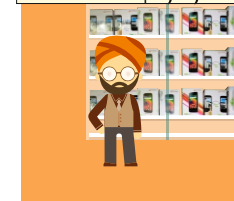


Particulars	₹
Value	1,00,000
Excise	10,000
	1,10,000
CGST @ 14%	15,400
SGST @ 14%	15,400
	1,40,800



WHOLESALER

Particulars	₹
Value	2,00,000
Excise	
CGST @ 14%	28,000
SGST @ 14%	28,000
	2,56,000



RETAILER

## TAXABILITY ON GOODS IN SPECIAL CASES

### Taxability on Goods in Special Cases

Goods totally out of levy of GST

#### 1) Petroleum Products

- a) Petroleum Crude
  - b) High Speed Diesel
  - c) Motor spirit
  - d) ATF
  - e) Natural Gas
- Manufacture**  
⇒ Central Excise
- Sale**  
⇒ Intra - VAT  
⇒ Inter - CST

#### 2) Alcoholic liquor for human consumption

- Manufacture**  
⇒ State Excise
- Sale**  
⇒ Intra - VAT  
⇒ Inter - CST

Non Taxable supply of GST

Goods subject to Excise & GST

#### 1) Tobacco & Tobacco products

- Manufacture**  
⇒ Central Excise
- Sale/supply**  
⇒ Intra - CGST & SGST  
⇒ Inter - GST

#### 2) Opium, Narcotics etc

- Manufacture**  
⇒ State Excise Duty
- Sale**  
⇒ Intra - CGST & SGST  
⇒ Inter - IGST

Note:- in above (1) & (2)  
No VAT & CST

All other good & services

Only GST is Payable  
Intra = CGST/SGST  
Inter=IGST

## Entertainment tax

E.T. by state Govt.=Substances in GST levied then so such tax is payable

E.T. by local body = It is not subsumed in GST. Hence it is payable in addition to GST

E.g. Price of Movie ticket 500  
E.T of local body 20

CGST @8%  
SGST @8%

## TAXES TO BE SUBSUMED IN GST

Central Taxes	State Taxes
<ul style="list-style-type: none"><li>● Central Excise duty</li><li>● Additional excise duty</li><li>● Excise duty levied under Medicinal &amp; Toiletries preparation Act</li><li>● Additional Customs duty(ACD)</li><li>● Service Tax</li><li>● Surcharges &amp; Cesses</li><li>● Central Sales Tax</li></ul>	<ul style="list-style-type: none"><li>● State VAT/Sales Tax</li><li>● Central Sales Tax</li><li>● Purchase Tax</li><li>● Entertainment Tax (other than those levied by local bodies)</li><li>● Luxury Tax</li><li>● Entry Tax (All forms)</li><li>● Taxes on lottery, betting &amp; gambling</li><li>● Surcharges &amp; Cesses</li></ul>

## Taxes not subsumed under GST

1.	Property Tax & Stamp Duty
2.	Electricity Duty
3.	Excise Duty on Alcohol
4.	Basic Custom Duty
5.	Excise Duty on Petrol Diesel

## RECOMMENDATION OF GST COUNCIL

Recommendations of GST Council —

- (a) Taxes to be subsumed in GST
- (b) Exemption in GST
- (c) model of GST Laws, principles of levy, apportionment of IGST between Center & State and the principles that govern the POS
- (d) the threshold limit of turnover for Exemption
- (e) the rates of GST & other Special Rates
- (f) Special Provision w.r.t. the special category state
- (g) any other matter relating to the GST.
- (h) Special rates to raised additional resources during any natural calamity /disaster

## SPECIAL CATEGORY OF STATE

- 1) Arunachal Pradesh
- 2) Assam
- 3) Jammu and Kashmir
- 4) Manipur
- 5) Meghalaya
- 6) Mizoram
- 7) Nagaland
- 8) Sikkim
- 9) Tripura
- 10) Himachal Pradesh
- 11) Uttarakhand

## MANNER OF UTILIZATION OF ITC IN GST

INWARD SUPPLY	OUTWARD SUPPLY		
1. IGST	First IGST	Any CGST	Any SGST/UTGST
2. CGST	First CGST	Second IGST	
3. SGST/UTGST	First SGST/UTGST	Second IGST	

Note:- CGST cannot be used against SGST/UGST or vice-versa



# CHAPTER - 1 : Charge of GST & Concept of Supply



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## Section 9(1) of CGST Act / Sec 5(1) of IGST Act :- Charging Section

### Levy

#### Charge

9(1) - Intra-State Supply of Goods or services or Both

5(1) [IGST Act]- Inter-State Supply of Goods or Services or Both

#### Value

Shall be determined as per sec 15 read with rules

**Goods not Subject to Levy of GST** - alcoholic liquor & un-denatured extra neutral alcohol/rectified spirit used for manufacture of alcoholic liquor for human consumption.

**Sec 9(2): - Levy on Petroleum Products from Notified date** : - Supply of petroleum crude, high speed diesel, petrol, natural gas and ATF shall be levied from the notified date on recommendation of GST Council.

**Note** : Still levy of GST on such products is not notified

**Analysis**: The type of levy existing or to be continued after GST

	(Supply) GST	(Production) ED	(Sale) VAT CST	
1. Alcoholic Liquor for Human Consumption	X	State	✓	✓
2. Petroleum crude, High speed Diesel, Motor spirit (Petrol), Natural gas, Aviation Turbine fuel	X	Central	✓	✓
3. Un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption	X	No Clarity Yet		
4. Tobacco & Tobacco products	✓	Central	X	X
5. Opium, Indian Hemp and other Narcotic Drugs	✓	State	X	X
6. All other Products	✓	X	X	X

### SEC 2 (56) "INDIA"

#### Means

- Territory of India (state and the Uts.)
- Its  
    ↳ Territorial Water, ↳ seabed and  
    ↳ sub-soil underlying such waters,  
    ↳ continental shelf, ↳ Exclusive economic zone (EEZ) or  
    ↳ Any other maritime Zone under Maritime Zones Act.
- Air space above its territory & territorial waters

### SEC 2(114) "UNION TERRITORY"

**Means** the territory of -

- the Andaman and Nicobar Islands
- Lakshadweep
- Daman and Diu and Dadra and Nagar haveli**
- Ladakh**
- Chandigarh

### Union Territory of India

UT	UT	UT
State Legislature	No State Legislature	Partly State Legislature
State - 28 States	UT (Total Governed by CG)	- Delhi - Puduchery - JK
Intra State - CGST 50% - SGST 50%	Intra State - CGST 50% - UTGST 50%	Intra State - CGST 50% - SGST 50%
Inter State - IGST 100%	Inter State - IGST 100%	Inter State - IGST 100%

Considered State for GST Purpose

### Collection

in such manner as may be prescribed (Detail discussion in TOS chapter)

#### Rate

CGST Rate	0%	2.5%	9%	20%
SGST Rate	0%	2.5%	9%	20%
Total	0%	5%	18%	40%

### Person Liable to Pay Tax

#### Sec 2(107) "Taxable person" - includes

Taxable person means a person who is registered or liable to be registered u/s 22 or sec 24

Forward Charge Sec 9(1)	Taxable person making Intra-State Supply
Reverse Charge Sec 9(3)/9(4)	Recipient of Supply
E-Commerce Sec 9(5)	E-Commerce Operator

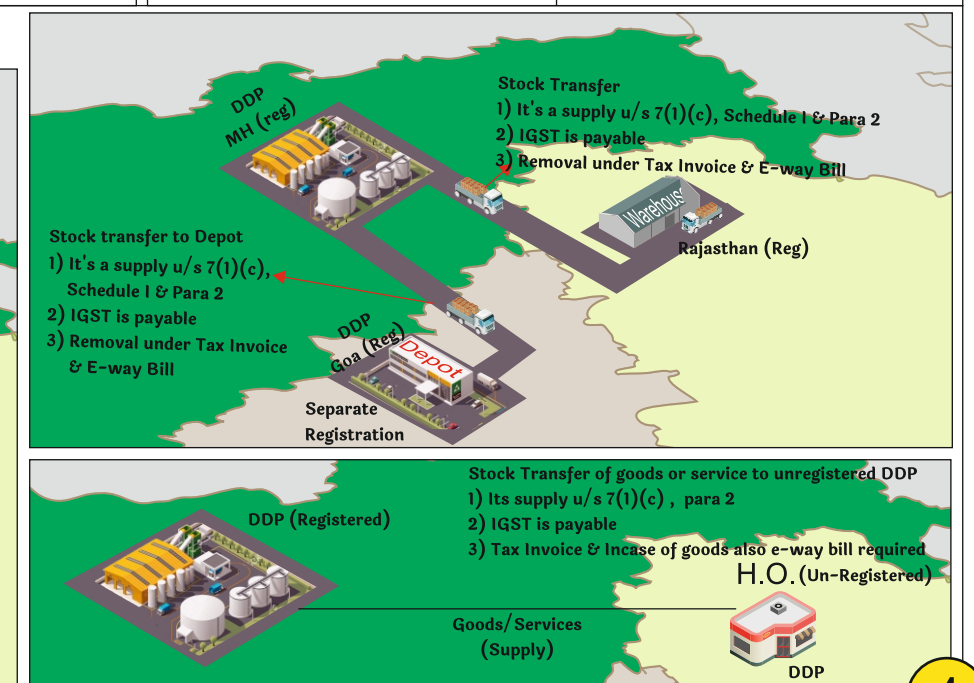
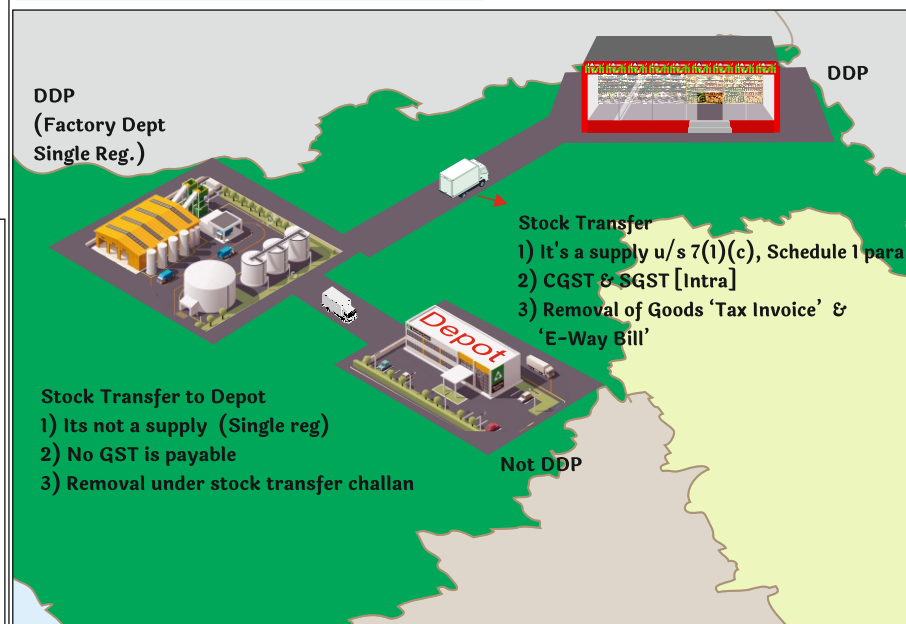
### Sec 2(84) "Person" - includes

- An Individual
- A hindu undivided family
- A Company
- A Firm
- A limited Liability Partnership
- An AOP or a BOI, whether incorporated or not, in India or outside India
- Corporation established under any Act
- any body corporate incorporated by or under the laws of a country outside India
- A co-operative society registered under any law relating to co-operative societies
- A local authority
- CG or a SG
- Society as defined under the Societies Registration Act, 1860
- Trust
- Every artificial juridical person, not falling within any of the above

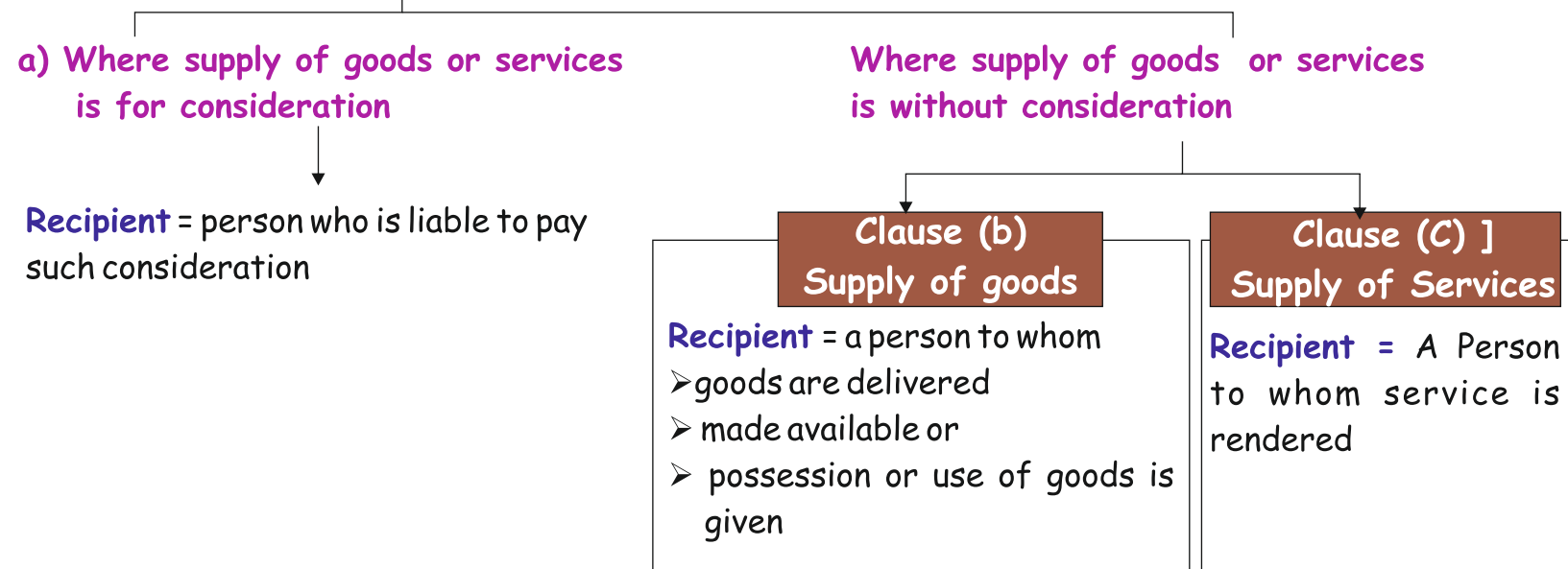
### Deemed Distinct Persons : Sec 25 CGST Act

- 25 (4)** A person who has obtained or is required to obtain more than one registration.
- ↳ whether in one State or Union territory or
- ↳ more than one State or UT shall,
- in respect of each such registration, be treated as distinct persons for the purposes of this Act.
- 25 (5)** Where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, **has an establishment in another State or Union territory,** then such establishment shall be treated as establishment of distinct persons for the purposes of this Act.

### Single/ Multiple Registration



## Sec 2(93) "Recipient"



Recipient also includes agent acting on behalf of the recipient

## Sec 2(94) "Registered person" - includes

"Registered person" means a person -

➤ who is registered under section 25

➤ but does not include a person having a Unique Identity Number (UIN)

## Sec 2(80A):- Online Gaming

**Means** offering of a game on internet or electronic network & includes online money gaming

## Sec 2 (105) "Supplier"

**means** person supplying the said goods or services or both and **shall include** an agent acting as such on behalf of such supplier

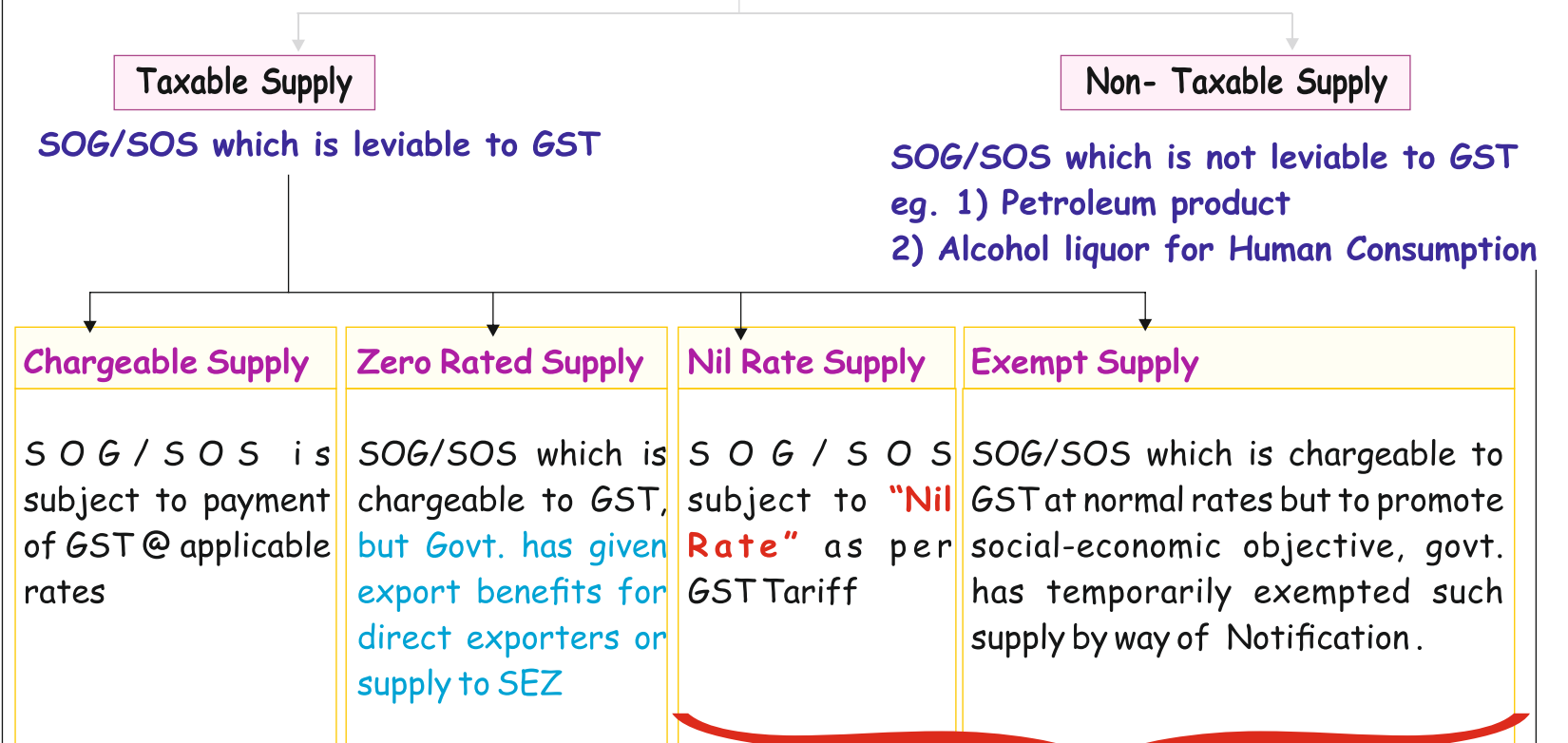
**Proviso:-** Supplier includes person arranging supply of specified actionable claims & also who owns / operates / manages e-platform for supply.

## Sec 2(102A):- Specified actionable claim

**Means** actionable claim involved in/by

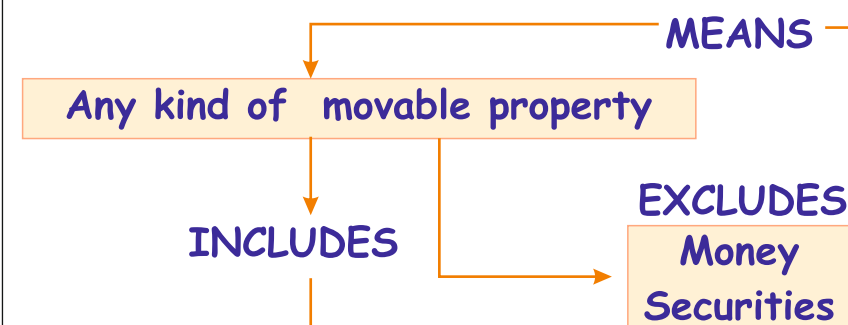
1	betting	2	casinos	3	gambling
4	horse racing	5	lottery	or	
6	online money gaming.				

## Type of Supply



**Note:-** As per Se 2(47) : For GST Purpose Exempt Supply includes Nil Rate, Wholly Exempt & non taxable supply

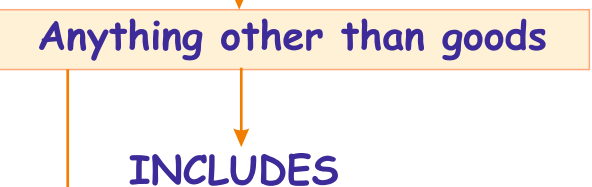
## Sec 2 (52) Goods



- 1) Actionable Claims,
- 2) Growing Crop, grass & things attached to or forming part of land agreed to be severed before/under a contract of supply

**Interest on Loan/Adv/Deposits**  
It's a service but Govt. has exempted such interest by N/N 12/2017 **Except** interest on credit card

## Sec 2(102) Services



Separate consideration is charged for

- Use of Money (eg. Interest)
- Conversion of money (eg. Commission)
- to Facilitate or arranging transaction of securities (e.g. brokerage/ portfolio management fees)

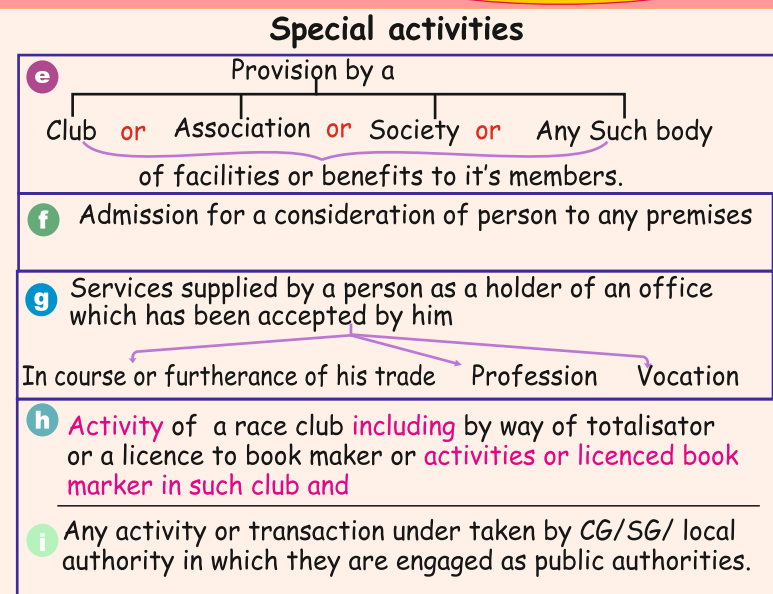
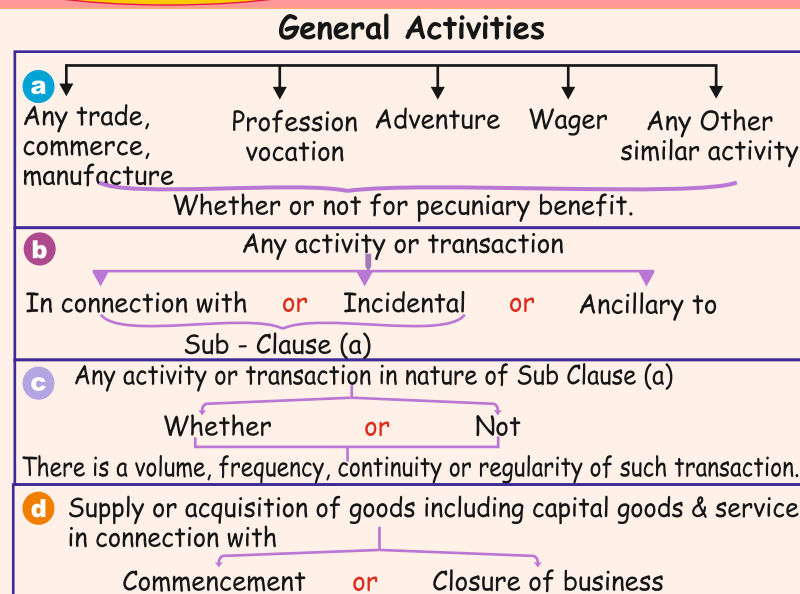
## Sec 16 of IGST Act: Zero Rated Supply

ZRS means Export of goods/services or both or SOG/ SOS for authorised operations to a SEZ developer/ unit.

## General Activities

## Business includes [Sec 2(17)]

## Special Activities







# CHAPTER - 1 : CONCEPT OF SUPPLY (SEC 7)

## Sec 7(1)=Supply Includes

### Supply of goods / Services with consideration

#### Sec 7(1) (a) All forms of supply of goods / services/both

Such as	Made or Agreed to be made	For consideration	In the course or furtherance of Business (of supplier)									
<div>Sale</div> <div>Transfer</div> <div>Barter</div> <div>Exchange</div> <div>Disposal</div> <div>Licence</div> <div>Rental</div> <div>Lease</div>	<table><thead><tr><th>No</th><th>Particulars</th><th>Explanation</th></tr></thead><tbody><tr><td>1</td><td>Made</td><td>Goods are already delivered or Service is already provided to the recipient</td></tr><tr><td>2</td><td>Agreed to be Made</td><td>This is split up in two parts namely: (i) There is an agreement for supply of goods or provision of service (ii) An advance has been received against the supply of goods or provision of service</td></tr></tbody></table>	No	Particulars	Explanation	1	Made	Goods are already delivered or Service is already provided to the recipient	2	Agreed to be Made	This is split up in two parts namely: (i) There is an agreement for supply of goods or provision of service (ii) An advance has been received against the supply of goods or provision of service		<div><p><b>Sale of old Car</b></p><p>Sale of car for personal use by an individual- Not a supply in course or furtherance of business</p></div> <div><p><b>Sale of old Jewellery</b></p><p>Sale of old jewellery which was used personally- Not a supply in course or furtherance of business</p></div>
No	Particulars	Explanation										
1	Made	Goods are already delivered or Service is already provided to the recipient										
2	Agreed to be Made	This is split up in two parts namely: (i) There is an agreement for supply of goods or provision of service (ii) An advance has been received against the supply of goods or provision of service										

#### Sec 2(31) for consideration

<b>a</b> Any payment made or agreed to be made whether in <b>money</b> or <b>otherwise</b>	<b>b</b> The monetary value of any <b>act</b> or <b>forbearance</b>
Whether by recipient or otherwise - In respect of or - In response to or - For inducement	Whether by recipient or otherwise
<b>Supply of goods/services</b>	
<b>Exclusion:-</b> it shall not include 1) Any <b>subsidy</b> given by central or state govt. 2) <b>Deposits</b> for concerning SOG/SOS except the supplier applies the deposits as a consideration for said supply	

#### Sec 7(1) (b) Importation of Services

Import of service  
➤ for **consideration**  
➤ **whether or not** in the course or furtherance of **business**

#### Analysis: -

- GST on import of goods governed by Customs Tariff Act [ACD 3(5)/3(7)]
- RCM is applicable on such service except OIDAR (FCM)
- Import of services other than for business purpose (for personal use) Exempt N/N 04/2017

#### Import of Service (Analysis)

Free import services is not treated as supply **unless it imported from**

- **Related person or DDP outside India &**
- **In the course of business**

## Schedule I

### Sec 7 (1)(c) Deemed supply

#### Supply of goods/service without consideration

- Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.
- Supply of goods or services or both
  - between related persons or
  - between distinct person as specified in u/s 25, in the course of furtherance of business

**Proviso - Gift by employer to employee not exceeding ₹50,000 in a financial year not be treated as supply**
- Supply of goods
  - by a principal to his agent who further undertakes supply [**selling agent**]  
\*Invoice in the name of agent
  - by an agent to principal who procures the goods on behalf of principal [**buying agent**]  
\*Invoice in the name of agent
- Import of Services from
  - from a related person outside India or
  - from any of his other establishments outside India, in the course or furtherance of business

## Sec 7(2)(a)=Supply Excludes

### Sch III (Transaction not be treated as supply)

1	<b>Services by an employee to the employer in the course of or in relation to his employment.</b>	
i.	Compensation for premature termination	Non Taxable as it is in relation to employment.
ii.	Non compete fees received by an employee from employer	Taxable as it is not in the course of or in relation to employment
iii.	Casual labour appointed on daily basis for wages	Non Taxable as it is in relation to employment contract
iv.	Directors Remuneration	a) If TDS under IT Act is deducted u/s 192 - Not a Supply b) If TDS under IT Act is deducted u/s other sec - Supply
v.	<b>Circular no. 172/04/2022:</b>	
	<b>Scenario</b>	<b>Taxability under GST</b>
	Perquisites provided as per contract	Not taxable (Under Schedule III)
	Perquisites not in terms of contract	Taxable if value exceeds ₹50,000 (Under Para 2, Schedule I)
2	<b>Services by any court or Tribunal established under any law for the time being in force.</b>	
3	<b>a) The functions performed by the MP , MLA, Members of Panchayats, Members of Municipalities and Members of other local authorities</b> <b>b) The duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity</b> <b>c) The duties performed by any person as a Chairperson or a Member or a Director in a body established by the CG/SG/LA</b>	



## Sec 7(1) (aa) :- Activities or Transactions

By Any person [other than Individual]

Member or Constituents

For

Cash

Deferred payment

Other valuable consideration

**Explanation:-** the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another

## Related Person (as per explanation to Sec 15) of CGST Act

- such persons are officers or directors of one another's business
  - such persons are legally recognized partners in business
  - such person are employer and employee
  - any person directly or indirectly owns, controls or holds 25% or more of the outstanding voting stock or shares of both of them
  - one of them directly or indirectly controls the other
  - both of them are directly or indirectly controlled by a third person
  - together they directly or indirectly control a third person
  - they are members of the same family
  - sole agent/sole distributor/sole concessionaire of the other.
- Family [Sec 2(49)] :** means, - (i) the spouse and children of the person, and  
(ii) the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person.

## Schedule II : Activities or transactions to be treated as supply of goods or services

**Sec 7(1A):-** Where certain activities or transaction constitute a supply in accordance with the provisions of subsection (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.

### Para 1 : Transfer of goods

- Supply of goods**
- Transfer of title in goods
  - Transfer of Title in Goods on future date (Ex. Hire Purchase)

- Supply of Service**
- Transfer of rights in goods or undivided share in goods without transfer of title in goods

### Para 2 : Land & Building

- Supply of Service**
- Any lease, tenancy, easement, license to occupy land
- Supply of Service**
- Any lease, letting of building including commercial, industrial complex for business/commerce either wholly or partly

**Note :** Sale of land & building not treated as supply as per schedule 3 other than construction intended for sale [of para 5(b)]

1) before Completion	After Completion	Taxable value for GST = ₹80 Lacs
40,00,000	20,00,000	
2) ₹1	79,99,999	Taxable Value = ₹80 Lacs
3) After Completion	80,00,000	Not taxable As per Sch - III

### Para 5 : Following activities always treated as supply of service under GST

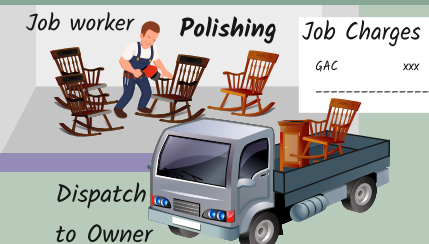
- a Renting of immovable property**
- b Construction of complex, building, civil structure including a complex, building intended for sale to buyer.**  
But in following case it shall not be treated as supply.  
When entire consideration has been received after  
- issuance of completion certificate  
- It's 1st occupancy  
**whichever is earlier**  
**Note :-** Construction - it includes addition, alteration, replacement, remodeling of any existing civil structure

- c Temporary transfer of IPR**
- d Development, design, programming, customisation etc. of info. Tech. Software**
- |                                   |     |
|-----------------------------------|-----|
| Customized Software               | SOS |
| Sale of Pre-packed Software       | SOG |
| License to use prepacked Software | SOS |
- e Agreeing to the obligation**  
- to refrain from an act or  
- to tolerate an act/to do an act.
- f Transfer of right to use any goods for any purpose for cash, deferred payment or other consideration.**

### Para 3: Treatment or process

- Supply of Service**
- Any treatment or process which is applied to another person's goods (Jobwork)

#### Process of Job worker



### Para 6 : Composite supply treated as supply of service

- Supply of Service**
- a Works contract**  
Labour + Material = Works Contract (construction)



- Supply of Service**
- Restaurant, catering or any supply of service where food/drink is supplied for consideration.



### Para 4 : Transfer of business asset

- Supply of goods**
- Permanent transfer of Business Asset:-** If goods as a part of the asset are permanently transferred or disposed off
- Supply of Service**
- Temporary transfer of business assets:-** If goods as a part of business asset are put to any private use or are used for any purpose other than business

**(c) Deemed Supply :** If any person ceases to be a taxable person then goods forming part of business asset shall be **deemed to be supplied** (In the course or furtherance of business) unless :-

- Business is transferred as going concern to another person.
  - Business is carried on by personal representative who is deemed to be a TP.
- not a deemed supply**

- 4 Services of funeral, burial, crematorium or mortuary including transportation of the deceased.**

- 5 Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building**  
**Analysis**

Sale of land and Building	Not treated as supply as per sch III , No GST
Rental, Leasing and licensing of Land & Building	Treated as Supply & GST Payable
Sale of Building before completion certificate or 1st occupancy whichever earlier	Treated as supply para 5(b), Sch II & GST payable

**Clarification 177/09/2022 GST:** Sale of land either as it or after development like levelling, laying down of drainage, water & electricity lines is also sale of land and not attract GST

- 6 Actionable claims, other than specified actionable claims.**

- 7 Merchant Trading:** Goods are supplied from one non-taxable territory to another non-taxable territory, without entering in India

- 8 a. Supply of warehoused goods before customs clearance.**

- aa. Supply of SEZ/FTWZ goods before export or domestic clearance.**

- b. Transfer of imported goods by endorsing documents before customs clearance.**

- 9 Apportionment of co-insurance premium by the lead insurer to the co-insurer is not supply, provided the lead insurer pays GST on the entire premium paid by the insured.**

- 10 Services by insurer to the reinsurer for which ceding, or reinsurance commission is deducted from reinsurance premium paid by the insurer to the reinsurer, are not supply, provided that GST is paid by the reinsurer on the gross reinsurance premium, inclusive of the commission.**

### Sec 7(2)(b)- Notified activities by Government

- Services under Article 243G & 243W of Panchayats & Municipality **and**
- Services of granting liquor license against consideration in the form of license fee by SG



## Sec 8 : Composite Supply & Mixed Supply

The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:

- a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and
- a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.

### Definition - Composite Supply

**Composite Supply as per Sec 2 (30)** : means a supply made by a taxable person to a recipient consisting of

- two or more taxable supplies of goods or services or both or any combination thereof
- which are naturally bundled and
- supplied in conjunction with each other in ordinary course of business one of which is a principal supply



**Illustration.— (Goods + Service)** Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply;

### Definition - Mixed Supply

**Mixed Supply as per Sec 2 (74)** : means

- Two or more individual supplies of goods or services or any combination thereof
- Made in conjunction with each other by a taxable person for a single price
- Where such supply does not constitute a composite supply



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

## IMPORTANT CLARIFICATIONS

### Cir. no. 1/1/2017: Inter-state movement of modes of conveyance or repairs between DDP:

Scenario (Inter/Intra State movement of conveyance bet <sup>n</sup> DDP)	GST Levy
Conveyance carrying goods/passengers/ both between DDP	No GST on conveyance
Conveyance for repair & maintenance	No GST on conveyance
Repair & maintenance on conveyance by DDP	GST payable (deemed supply Sch- I)
Conveyance moved for further supply	GST payable (Treated as SOG/SOS)

### Cir. no. 21/21/2017: : Inter-state movement of Rigs, tools, spare parts between DDP:

Scenario	IGST Levy
Inter-state movement of rigs, tools, spare parts accompanied with conveyance between DDP	No GST on rigs, tools etc.
Further supply of these goods between DDP	CGST/SGST/IGST applicable

### Cir. no. 116/35/2019: Donations received by charitable institutions from individual, without quid pro

Scenario	GST Levy
Displaying name/placing name plates of donors in charitable organizations	No GST (Philanthropic purpose, no commercial gain)
<b>Note:</b> The institution places name plates to show gratitude, not for advertisement.	
Displaying name/placing name plates of donors to promote his business	GST payable (its advertisement service)

### Cir. No. 44/2018: Taxability of 'tenancy rights' under GST

Issue	GST Levy
Tenancy premium for transfer of tenancy rights to incoming tenant	Taxable
Surrendering tenancy rights by the outgoing tenant for a portion of the premium	Taxable (Service provided by outgoing tenant)

Renting of residential property for use as residence	Exempt
Execution of documents (registration, stamp duty) involved in the transaction.	Does not affect GST liability

### Cir. No. 57/31/2018: Principal-Agent-Relationship, under Para 3 of Sch I, in context of Agents:

Scenario	P = Principal, A = Agent	Covered under Para 3, Schedule I
<b>Selling Agent</b>		
SOG by Principal to Agent (Invoice in Agent's name for further supply)	Yes (Transaction bet <sup>n</sup> P to A = taxable)	
SOG by Principal to Agent (Invoice in Principal's name for further supply)	No (Transaction bet <sup>n</sup> P to A = not taxable)	
<b>Buying Agent</b>		
SOG by Agent to Principal (Invoice in Agent's name )	Yes (Transaction bet <sup>n</sup> A to P = taxable)	
SOG by Agent to Principal (Invoice in Principal's name)	No (Transaction bet <sup>n</sup> A to P = not taxable)	

### Cir. No. 73/47/2018 Principal-Agent-Relationship, under Para 3 of Sch I, in context of DCA:

	Scenario	Taxability	Treatment of Interest charges by DCA
1.	DCA don't have authority to pass title in his own invoice	Not covered in para 3 of Sch- 1	➤ It is treated as finance charges for start term loan ➤ Interest = <b>Exempt</b>
2.	DCA have authority to pass title in his own invoice	Covered in para 3 Tr. bet <sup>n</sup> P-A = Taxable Tr. by agent in his own invoice with customer	VOS = As per Rule 29 VOS = T.V. charges by A + Interest (delay payment of consideration)

### Cir. no. 178/10/2022 Applicability of liquidated damages, compensation & penalties for breach of contract or legal violations.:

Agreeing to obligation ➤ to <b>refrain</b> from an act, or ➤ to <b>tolerate</b> an act or situation, or ➤ to <b>do an act</b> .	<b>Parameters for taxability under GST:</b> ➤ Contractual relationship between supplier and recipient. ➤ Express or implied promise for services; ➤ payment can't be assumed. ➡ Independent arrangement or activity.
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If payment is merely & event in the course of main contract & it is not the main objective = <b>No GST</b>	
Scenario	Taxability under GST
Liquidated damages	Normally not taxable, but taxable in some cases
Compensation for cancellation of coal blocks	Not taxable (No contract between govt and allottee)
Cheque dishonour fine/penalty	Not taxable (No express or implied agreement)
Penalty for violation of law	Not taxable (No agreement with govt)
Forfeiture of salary or bond payment	Not taxable (Not consideration for tolerating the act)
Compensation for not collecting toll charges	Taxable (Treated as supply)
Late payment surcharge/fee	Taxable (Part of the principal supply)
Fixed capacity charges for power	Not taxable (Exempt as sale of electricity)
Cancellation charges	Taxable (Assessed as principal supply, same rate as service contract)

Cir. No. 11/11/2017 Taxability of printing contracts	
Scenario	SOG/SOS Classification
Printing of books, pamphlets, brochures, annual reports, etc (where content is from recipient & physical inputs are from printer).	Supply of Service - Printing
Supply of printed envelopes, letter cards, boxes, napkins, wallpapers, etc. (using recipients designer logo only)	Supply of Goods - Printed items

Cir. no. 190/02/202 Incentives by MeitY to banks for promoting RuPay and BHIM-UPI3	
Scenario	Taxability
Incentives paid by Ministry of Electronics & IT (MeitY) to acquiring bank for promoting digital payments	Not taxable (Treated as Subsidy)

Cir. No. 196/08/2023 Taxability of Holding company's share capital in its subsidiary.	
Scenario	Taxability
Holding of shares by a holding company in a subsidiary	Not taxable (Shares are neither goods nor services)

Cir.No. 201/13/2023 Supply of food or beverages in cinema hall	
Scenario	Taxability
Supply of food/beverages in cinema hall as part of service or independently	Taxable as restaurant service
Sale of cinema ticket bundled together with food & beverages	Entire supply is taxed at cinema exhibition rate

Cir. No. 213/07/2024:- Taxability of ESOP/ESPP/RSU provided by an Indian company to its employees through its overseas holding company		
Scenario	Taxability	Reason
ESOP/ESPP/RSU [Reimbursement by Indian Co. to foreign] Co. on cost to cost basis	Not a supply & no GST	➤ It's a part of employees remuneration as per para 1 of Sch III ➤ Securities or shares neither goods/services
Additional fees, mark-up, commission (charges by foreign co. to India co.)	Supply & taxable	SOS of facilitating the transaction in securities

Cir No. 215/09/2024:- Settlement of claim by insurance co. Salvage value of damage vehicle		
Scenario	Reason	Taxability
1) Deduction of salvage value from settlement	➤ Claim is settled after deducting salvage value ➤ Ownership of salvage value with person insured ➤ Salvage does not become properly of Insurance Co.	Deduction of salvage value = <b>Not a supply [no GST is payable by insurance co.]</b>
2) Full Insured declared value settlement	➤ Claim is settled on full value without deducting salvage ➤ Ownership of salvage is with insurance Co.	Sale of salvage by Insu. Co. = <b>Supply [Insurance co. liable to GST]</b>

Cir. no. 234/28/2024 :- Preferential location charges (PLC) collected by builder along with sale of residential or commercial property	
PLC charge with construction service is a composite supply	
Scenario	Taxability
If construction intended for sale & taxable as SOS under para 5(b) of Sch - II	Supply of construction service is main service & PLC is naturally bundled with it.
Sale of building after completion	Not a supply as per para 5 of Sch - III, so <b>PLC also not liable to tax</b>

Taxability of Penal Charges by Banks etc.[Cir. No. 245/02/2025]	
➡ RBI has instructed lenders to <b>charge penal charges (not penal interest)</b> for loan term violations (excludes credit cards, External Commercial Borrowings, etc.).	
➡ Such charges, like liquidated damages, for breach of contract are not a consideration for tolerating an act, thus <b>no GST applies</b> on them.	

GST implications on vouchers [Cir. No. 243/37/2024]	
Issue	Clarification
Are voucher transactions taxable under GST?	➤ RBI-approved vouchers (like gift cards) are treated as money: <b>Not taxable.</b> ➤ Other vouchers are actionable claims: <b>Not taxable.</b> <b>Conclusion:</b> Vouchers aren't taxed under GST, but the goods/services bought with them are taxable at redemption.
GST on voucher transactions by distributors/ agents:	➤ <b>P2P Basis:</b> Distributors buy and sell vouchers on their own - treated as trading in money/actionable claims, so <b>no GST.</b> ➤ <b>Commission Basis:</b> Distributors act for the issuer - <b>GST applies</b> on commission as it's a supply of service. <b>Conclusion:</b> GST is charged only on services like distribution or promotion, not on voucher trading.
GST on Additional Services Related to Vouchers:	Distributors or others providing extra services (like ads, co-branding, tech or customer support) to the voucher issuer for a fee must pay <b>GST</b> , as these are separate taxable services.
GST on Unredeemed Vouchers (Breakage):	Unredeemed vouchers (breakage) <b>involve no supply of goods or services</b> and no agreement to act or refrain from acting. <b>Conclusion:</b> Breakage is not a taxable supply, so no GST is payable.



# Chapter 2: Reverse Charge Mechanism & ECO



CA Vishal Bhattad

## Sec 9(3) CGST/SGST, Sec 5(3) IGST Act:

- ⇒ Applies to specified goods or services by Govt.
- ⇒ Recipient of the supply is liable to pay tax directly.

## Sec 9(4) CGST Act, Sec 5(4) IGST Act:

- ⇒ Relates to specified goods or services by Govt. from URP to specified class of registered recipient.
- ⇒ Tax liability falls on registered recipients.

## Sec 9(5) of CGST/SGST Act, Sec 5(5) of IGST Act: Liability of ECO

- If there is **intra-state or inter-state** supply of **notified services** through ECO,
- ⇒ the tax on such supply shall be paid by ECO &
- ⇒ All provisions of act shall apply to that ECO as if he is the person liable to pay tax in relation to such supply.

	Sec 9(4)	100% tax liability
Construction	Value of <b>Inputs and Input services</b> purchase from registered supplier is <b>less than 80%</b> by Promoter	Promotor
	In case of <b>Cement</b> supplied by unregistered person to Promoter	Promotor
	In case of <b>Capital Goods</b> supplied by unregistered person to Promoter	Promotor

## Reverse Charge Mechanism Under sec 9(3)

### Transport Sector

#### 1. GTA

#### GTA Service (Transportation of goods by road)

##### Option 1

If GTA does not opt to pay tax under forward charge

GST is payable by recipient @5% subject to following conditions

If transportation of goods service supplied by GTA to R.P. under GST

RCM is applicable & Recipient i.e. R.P is liable to pay tax

##### Exception :

If GTA service is supplied to Govt./LA/ Govt. Agencies who has taken reg. under GST only for TDS = **no FCM & RCM**

If Transportation of goods service is supplied by GTA to URP

If URP is following notified person  
1) factory, 2) Society  
3) Co-Society  
4) Body corporate  
5) P.F./LLP/AOP  
6) CTP

RCM is applicable & above notified person is liable to pay tax  
Note:- Also such Un. Reg. notified person need to take compulsory Reg u/s 24 for Payment of Tax

If Recipient is not falling in notified category e.g. Individual HUF/Trust (URP) etc.

Service Exempted  
The Question of FCM/ RCM does not arise

- Option 2
- If GTA opt to pay tax under forward charge.
- 1) Take Reg. under GST
  - 2) Pay GST
    - With ITC = 18%
    - Without ITC = 5%
  - 3) Issue Tax Invoice with declaration of Forward charge  
Note:- If GTA service supplied to URP other than notified Person = **Exempt**

Note: Once a GTA opts to pay GST under FC in a FY, it will continue unless a declaration to switch to RCM is filed in the 4th quarter of PFY.

## Sec 9(5) : Liability of ECO for Notifies Services

### Entry (a)/(d)

#### Entry (a)

Passanger transport service by

Cab or other motor vehicle

Cab or other motor vehicle

Whenever such service supplied through ECO. ECO is liable to pay tax

ECO is liable to pay tax

Omnibus

If supplier is other than company & supplied services through ECO

If supplier is a company

Supplier is liable to pay tax (even though service is supplied through ECO)

#### Entry (d)

Restaurant service other than specified premises

Whenever service is provided through ECO, Eco is laible to pay tax

**Exception:**  
If restaurant is located in such specified premises (where room rent is more than ₹7,500) then supplier (restaurant) is liable to pay tax

### Entry (b)/(c)/(e)

(b) Accommodation in Hotel, inn etc

(c) Housekeeping by way of plumbing etc.

(e) **Services by way of local delivery**

If supplier is not liable for registration under GST

If above services supplied through ECO, then Eco is liable to pay tax

If supplier is liable for registration under GST.

If above services supplied through ECO, then supplier is liable to pay tax & not ECO

In above cases, ECO (other than exceptions) is liable to pay tax, irrespective of fact that supplier is registered or not.

## Legal Sector

### 2. Legal Services

Legal Services provided by an individual / senior / firm of advocates to business entity directly or indirectly. Any business entity located in the taxable territory

Explanation.- "legal service" means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority."

### 3. Arbitral Tribunal

Services by Arbitral Tribunal to business entity in a TT Any business entity located in the TT

## Un-organised to Organised Service Sector

### 4. Sponsorship

Sponsorship Service by Any person other than a body corporate to any body corporate or partnership firm located in TT. Such body corporate or Partnership Firm located in a TT.

## Government Service Sector

### 5. Government

Any Services provided by Government or Local authority to business entity other than Any business entity located in the taxable territory

- renting of immovable property/
- Service by Department of Post & Ministry of Railways (Indian Railways);
- Service in relation to Aircraft, Vessel inside / outside precincts of port/airport.
- transportation of goods or passengers

### 5A. Government

Renting of immovable property by CG [excluding Ministry of Railways (Indian Railways)], SG, UT or LA to any RP Any registered person

Analysis:-

### Supply of service by Govt or Local Authority

#### Part I (Entry 5)

All services (Other than covered in part II & Part III) supplied to business entity in a TT

RCM is applicable & business entity (recipient) is liable to pay tax (Subject to exemption) (refer exemption chapter)

#### Part II

#### (Exemption to Entry 5)

Following services supplied by Govt./LA

- Dept. of Post & ministry of Indian Railway
- Services in relation to Vessel/Aircraft at port or airport
- Transport of goods or Passenger transport service

F.C. is applicable & Govt./LA (supplier) is liable to payment of tax

#### Part III

#### (Exemption to Entry 5 & 5A) Renting of Immovable Property

By Govt./ LA (Other than Indian Railway)

If service is supplied to RP

RCM is applicable & RP is liable to pay tax

If service is supplied to URP (B.E.)

F.C. is applicable & Govt./LA is liable to pay tax.

By Indian Railway

F.C. is applicable (irrespective whether recipient is RP/URP).

## Renting of Residential Dwelling and Commercial Property

### 5AA. Renting of Residential Dwelling

Services by Any Person to a registered person Any Registered Person

### 5AB. Service by way of Renting of any immovable property other than residential Dwelling

Services by URP to a registered person other than composition dealer Any RP except Composition dealer

## Construction Service Sector [Not applicable for Inter Level]

### 5B & 5C. Sec 9(3)

Construction (FSI etc.) Transfer of development rights or Floor Space Index (FSI) by any person to promotor for construction of a project Promotor

Construction (lease) Long term lease of land (30 years or more) by any person to promotor against consideration in the form of upfront amount for construction of a project Promotor

### 6 Director of company

Services by director of a company or body corporate to the said company or body corporate Such company or body corporate

### Director service to Company/B.C

If director provide service in the course of employment (where TDS is deducted u/s 192 of I.T. Act)

Non treated as supply as per para-1 of Sch III hence question of RCM does not arise

Other services by the directors

If for directors service TDS is deducted u/s194J of I.T. Act

GST is payable & under RCM the Co./B.C. is Liable to pay tax

If service is provided by director in his personal capacity e.g. Renting of I.P. to Co.

F.C. is applicable & director is liable to pay tax [CBIC Clarification]

Circular No. :- 201/13/2023

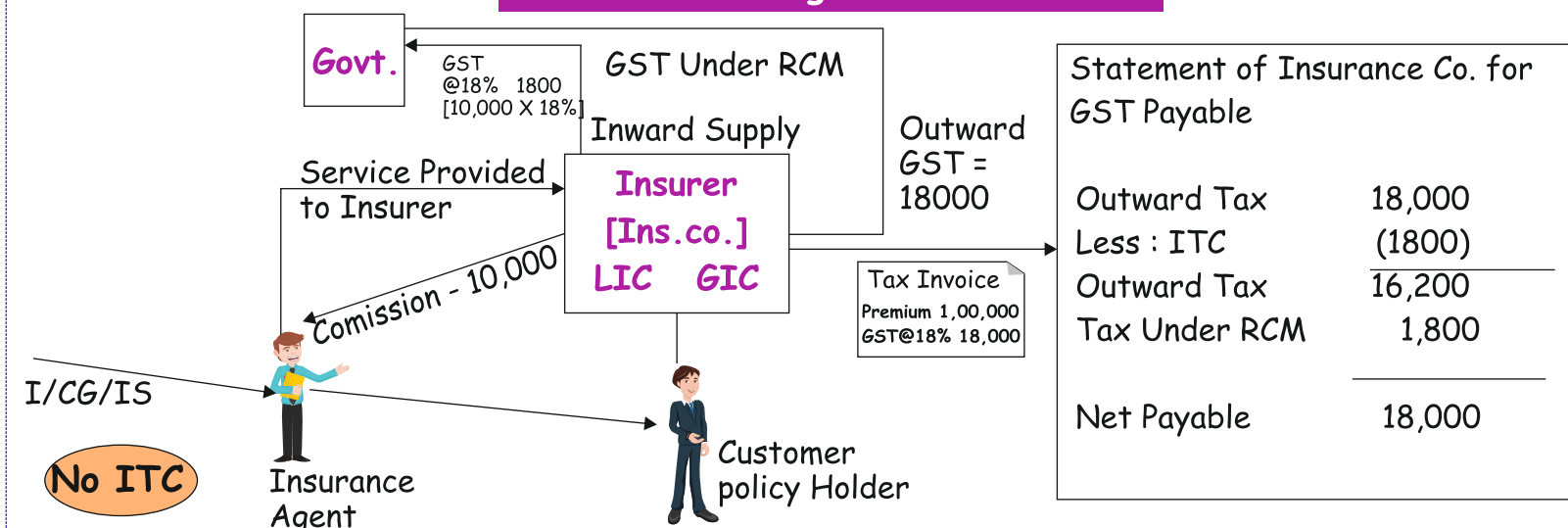
- Services supplied by director to company or body corporate in his private or personal capacity such as renting of immovable property are not taxable under RCM.
- But if supplied by director as or in capacity of director, it is taxable under RCM.

## Insurance & Banking Service Sector

### 7. Insurance agent

Service by an Insurance Agent to a person carrying insurance business Insurer carrying life or general insurance business.

### Insurance Agent & Insurer





8.	Recovery agent		
Services by any recovery agent to a banking company, Financial Institution or NBFC in a taxable territory.		Such banking company, Financial institution or NBFC in TT	
Copyright Service Sector			
9.	Copyright service		
transfer or permitting use or enjoyment of a copyright relating to Original, dramatic, musical works		Music company, producer or the like, located in the TT	
by Music composer, Photographer, Artist			
to Music company, producer or the like			
9A.	Copyright relating to literary		
Transfer or permitting use or enjoyment of a copyright relating to original literary work by an author to publisher		A Publisher located in the taxable territory	
<div>Copyright Services</div> <div><div>Entry 9</div><div><div>Supplier</div><div>&gt; Music &gt; Composer &gt; Photographer &gt; Artist</div></div><div><div>Service</div><div>Original ➔ Dramatic ➔ Musical ➔ Artistic</div></div><div><div>Recipient</div><div>Music Company Producer or like</div></div><div>in TT</div><div>Under RCM recipient is liable to pay tax</div></div> <div><div>Entry 9A</div><div><div>Supplier</div><div>Author</div></div><div><div>Service</div><div>Original literary work</div></div><div><div>Recipient</div><div>Publisher in TT</div></div><div>Under RCM publisher is liable to pay tax</div></div> <div>But</div> <div>Supplier can shift the liability under F.C. subject to following conditions: 1) Author has taken Registration in GST 2) he has filed declaration to commissioner ➤ For payment to tax under F.C. ➤ Compliance of all provisions of this act ➤ not reversing the option within a period of 1 year 3) He will make declaration in invoice (Invoice - 01)</div>			
Note:- Option of F.C. not available			
10.	Members of Overseeing committee		
Supply of Service by Members of Overseeing committee to Reserve Bank of India (RBI)		Reserve Bank of India (RBI)	
11.	DSAs		
Services Individual Direct Selling Agents (DSAs) other than a body corporate, partnership or LLP		a banking company or a NBFC	
		A banking company or a NBFC, located in the taxable territory.	
12.	Business Facillator		
Services supplied by Business Facilitator to A banking company located in the taxable territory.		Banking company located in Taxable Territory	

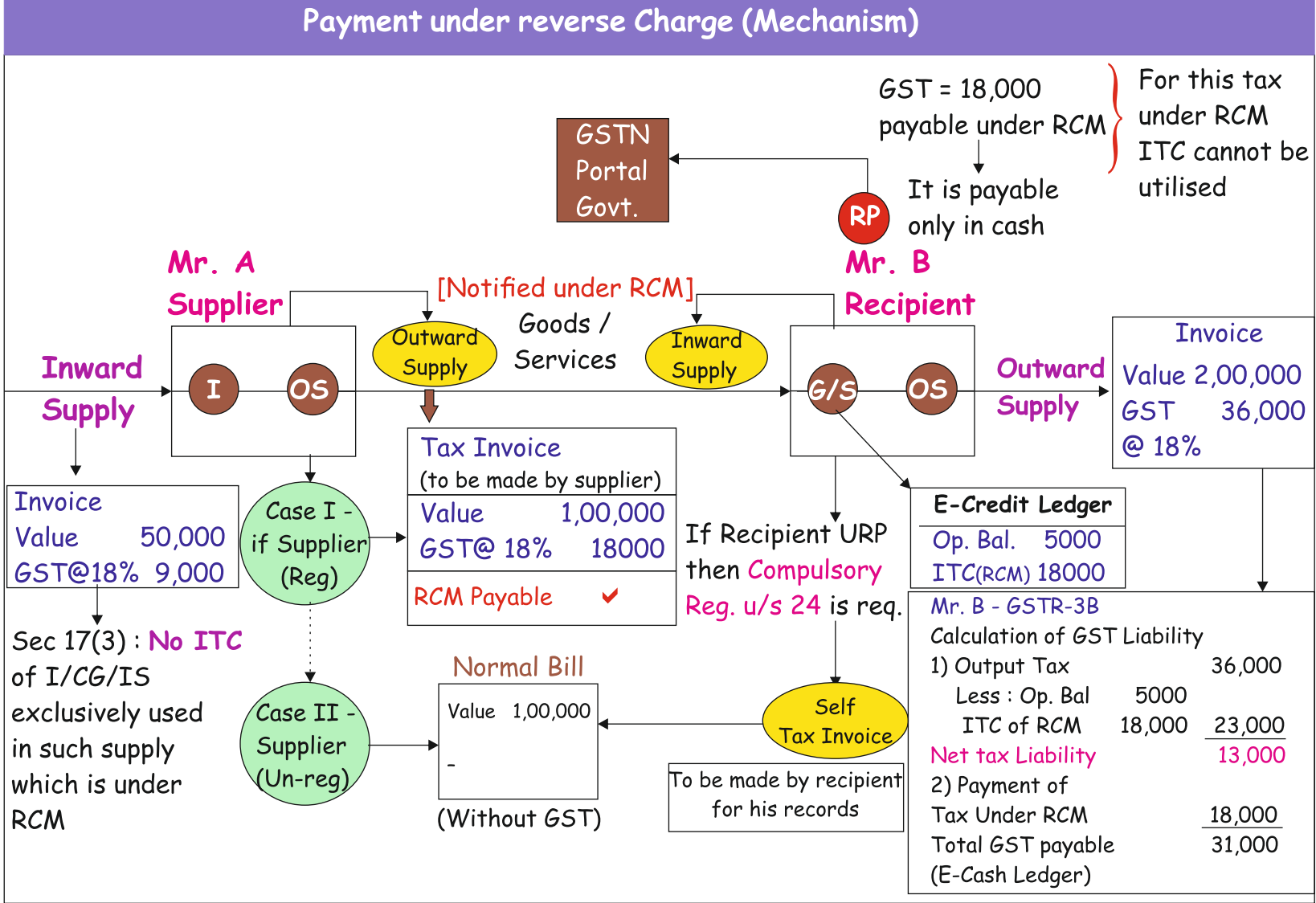
Note:- Option of F.C. not available

13.	Agent of Business Correspondent		
Services supplied by An agent of Business Correspondent (BC) to A business correspondent, located in the taxable territory		Business correspondent located in TT	
Services BF/BC:-			
<div><div><div>Agent</div><div>Entry 13</div><div>RCM</div><div>Services</div></div><div><div>Business Correspondent</div><div>Entry 12</div><div>RCM</div><div>Services</div></div><div><div>GSTN</div><div>Business facilitator</div><div>Banking Company</div></div><div><div>Forward charge is applicable &amp; business correspondent is liable to pay tax</div></div><div><div>under RCM bank is liable to pay</div></div><div><div>GST under RCM</div></div></div>			
14.	Security Services		
Supply Security services (as a security personnel)	Any person by other than a body corporate to a registered person	RP located in Taxable Territory	
Proviso	In following cases F.C. is applicable, if security services are supplied to i) >CG/SG/UT/LA departments > Governmental agencies ii) a RP paying tax under composition scheme. registered only for deducting TDS u/s 51		
15.	Renting of motor vehicle		
Service	by	to	Liability
Renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged .	any person other than body corporate (does not issue an invoice charging CGST @ 9% and SGST 9% to the service recipient)		Any body corporate located in Taxable Territory
Analysis:-			
Renting of Motor vehicle(M.V.)			
Renting of M.V. designed to carry passenger [e.g. car/bus/auto etc.]		Renting of M.V. designed to transport goods [e.g. truck /tractor etc.]	
cost of fuel is included in a consideration		Forward Charge is applicable	
Supplier of service Any person other than body corporate		Cost of fuel not included in a consideration Forward charge is applicable Recipient Any body corporate in taxable territory	
Circular No. :- 177/09/2022			
Renting of Motor Vehicle	where the renter defines how and when the vehicles will be operated, determining schedules, routes and other operational considerations.		RCM Applicable
Passenger Transport Service	passenger transport services over pre-determined routes on pre-determined schedules.		FCM Applicable
Other Service Sector			
16.	Lending of security		
Lending of securities by lender to borrower		Borrower i.e. a person who borrows the securities	

17.	Import service		
Any service supplied by Any person from a non taxable territory to Any person other than non taxable online recipient (NTOR)	Any person located in taxable territory	Sec 2(16):- NTOR means any unregistered person receiving online information and database access or retrieval services located in taxable territory.	Explanation:— "unregistered person" includes a person registered solely to deduct TDS u/s 51.

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))		
Description	Supplier	Recipient (Liable to Pay Tax)
Cashew nuts, not shelled or peeled	Agriculturist	Any RP
Bidi Wrapper leaves (tendu)	Agriculturist	Any RP
Tobacco leaves	Agriculturist	Any RP
Essential oils excluding citrus oils like Peppermint oil, Spearmint, Water mint, horsemint etc.	Any URP	Any RP
Silk yarn	A person who makes silk yarn from raw silk or silk cocoons for sale.	Any RP
Raw cotton	Agriculturist	Any RP
Supply of lottery.	SG, UT or LA	Lottery distributor or selling agent.
Used vehicles, seized goods, old items and scrap.	CG excluding Indian Railways, SG, UT or LA	Any RP
Private Sector Lending certificate (PSLC)	Any RP	Any RP
Metal Scrap	Any URP	Any RP



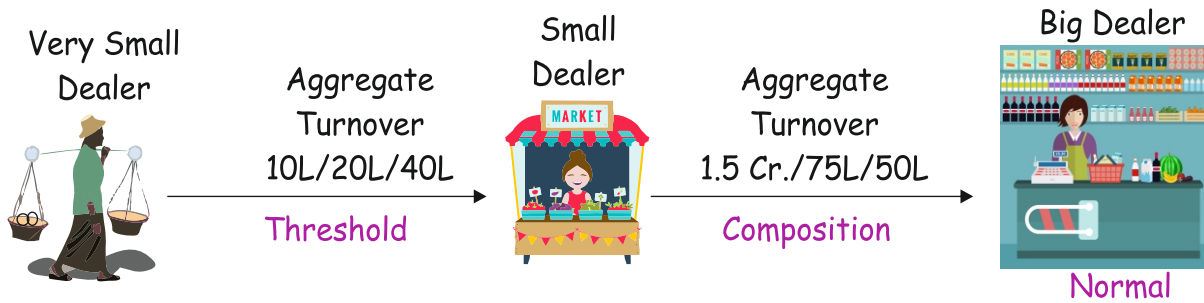


# Chapter 3:- Composition Scheme



CA Vishal Bhattar

## Analysis - Threshold, composition & Normal Scheme



Assessee	Mfg	Trader	SP	Mfg	Trader	SP	Mfg	Trader	SP
	✓	✓	✓	✓	✓	✓	✓	✓	✓
Tax benefits	No Tax Payable			Tax is payable @ Composite Rate			Tax is payable @ Normal Rate		
procedure benefit									
Registration	Not required			Compulsory			Compulsory		
GST Invoice	Not required			Bill of supply			Tax invoice		
GST Records	Not required			Limited Extent			As prescribed under this Act		
ITC	NO			NO			Yes		
GST Return	Not required			1) GSTR -4, GSTR - 9A Annually 2) Quarterly Statement - CMP-08 3) Payment of Tax - Quarterly			GSTR-1 & GSTR-3B, Monthly or Quarterly for notified category		

## GST Rate under Composition Scheme

### Rule- 7 = Rates:-

	Categories of RP	CGST	SGST	Total	Basis for Calculation
1)	Manufacturer	0.5%	0.5%	1%	Turnover in State/UT (T . S . + Exempt + Nil rate)
2)	Catering & Restaurant	2.5%	2.5%	5%	Turnover in State/UT
3)	Trader	0.5%	0.5%	1%	Turnover of taxable SOG & SOS in the State/UT Only Taxable Supply of SOG & SOS
4)	R.P. not eligible u/s 10(1)&(2), but eligible for 10(2A)	3%	3%	6%	Turnover of SOG & SOS in the State/UT (T . S . + Exempt+ Nil rate)

⇒ Both are Optional Scheme.

## Sec 10(1) & 10(2)

Applicability:	Manufacturer + Trader+ Restaurant etc.
Eligibility :	Agg. T/O of P.F.Y. of R.P. does not exceeds Normally - 150 lakhs (including Assam + H.P. + J/K) Special Category State(SCS) - 75 lakhs
C.L.in C.F.Y.	Composititon levy upto Agg. T/O 150L/75L
Marginal Supply of services =	Manufacturer/catering & restaurant/trader may supply services of value upto 10% of T/O in state of P.F.Y. or 5 Lakhs. Which ever is higher (limit is state wise).

### Sec 10(2)- Eligibility Conditions-

a)	Person opting for the scheme u/s 10(1) (Manufacturer/ Catering & Restaurant / Trader) cannot supply any service (Taxable / exempt), except as allowed in proviso 2 to sec 10(1). (Limit is statewide)
b)	Not engaged in SOG/SOS, which are Non-taxable under GST Act.
c)	Not engaged in making any inter-state outward SOG/SOS Note: Inter state inward supply is allowed.
d)	Not engaged in SOS, through an ECO, collecting TCS u/s 52. (i.e For SOG - CL allowed).
e)	Not a manufacturer of Notified Goods*.
f)	Neither a CTP nor NRTP

\*[Notified Goods= Ice cream & other edible ice / Pan Masala / Aerated water/ tobacco & tobacco substitutes, Fly ash bricks, Fly ash aggregates, fly ash blocks]

Note:- This restrictions only applicable to C.F.Y and not for P.F.Y

## Sec 10(2A)

### Sec 10(2A) - Applicability :-

- ⇒ Applicable to RP whose Agg. T/o in P.F.Y is not exceeding ₹ 50 Lakhs
- ⇒ Person is not eligible to opt u/s/ 10(1)(2)
- ⇒ It is applicable to:
  - a) Person engaged in SOS
  - b) M/T/C where service is pre-dominant

### Sec 10(2A)- Eligibility Conditions -

Not Applicable

- |    |   |
|----|---|
| a) | Not engaged in SOG or SOS, which are Non-taxable under GST Act. |
| b) | Not engaged in making any inter-state outward SOG or SOS        |
| c) | Not engaged in SOS, through an ECO, collecting TCS u/s 52       |
| d) | Not a manufacturer of Notified Goods*.                          |
| e) | Neither a CTP nor NRTP  |

\*[Notified goods = Ice cream & other edible ice / Pan Masala / Aerated water/ tobacco & tobacco substitutes]

Proviso to Sec. 10(2)/ sec. 10(2A) : All RP with the same PAN must choose the composition scheme u/s 10(1). If one of them chooses the regular scheme, everyone else will also be ineligible for the composition scheme.

### Sec. 10(3):- Eligibility Criteria for composition scheme:-

- ⇒ Option availed by RP u/s 10(1)/(2A) - shall lapse w.e.f. the day on which his Aggregate T/o during a CFY exceeds 150 lakhs/ 75 Lakhs/ 50 lakhs, as the case may be.

### Sec. 10(4):- Other Conditions:-

- ⇒ Composition dealer cannot collect tax on outward supplies.
- ⇒ Composition dealer will not be eligible to claim ITC.
- ⇒ Composition dealer cannot issue tax invoice, but issue Bill of supply.

### Sec. 10(5):- If PO believes that a taxable person has paid tax u/s 10(1)/(2A) despite not being eligible, such person shall-

- ⇒ pay tax & penalty as per applicable provisions &
- ⇒ sec 73/74/74A shall be applicable.

### Rule-5 Conditions/ restrictions:-

- 1) Title on Bill of Supply= "Composition Taxable person, not eligible to collect tax on supplies"
- 2) Display at business premise= "Composition Taxable Person"
- 3) Pay tax under RCM = Stock of URP held at the time of taking C.L.

Section 2(6):- Aggregate Turnover		Explanation 1 of Sec 10 [Aggregate Turnover]	
<b>means</b> the aggregate value of <ul style="list-style-type: none"> <li>all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis),</li> <li>exempt supplies,</li> <li>exports of goods or services or both and</li> <li>inter-State supplies of persons having the same PAN, to be computed on all India basis</li> </ul> <b>but excludes</b> central tax, State tax, Union territory tax, integrated tax and cess	<b>aggregate turnover” shall include</b> the value of supplies made by such person from the 1st day of April of a financial year up to the date when he becomes liable for registration under this Act, <b>but shall not include</b> the value of exempt supply of services provided by way of extending deposits, loans or advances is so far as the consideration is represented by way of interest or discount.	<div> <div>P.F.Y. XX-YY</div> <div>No Business</div> <div>Agg T/O of PFY does not exceeds 10(1)- ₹ 150L/75L/ 10 (2A)- 50L</div> </div> <div> <div>C.F.Y. Xy-YZ</div> <div>Composition Levy</div> <div> <div>Threshold</div> <div>No Registration</div> <div>T/o 20 L</div> <div>Includes</div> </div> <div> <div>liable for Reg</div> <div>130L Cr [10(1)]</div> <div>55L [10(1) SCS]</div> <div>30L [10(2A)]</div> </div> <div>Agg. T/O</div> </div>	

Sec 2(112):-Turnover in State” or “Turnover in UT		Explanation 2 of Sec 10 [Turnover in State]	
<b>means</b> the aggregate value of <ul style="list-style-type: none"> <li>all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis) and</li> <li>exempt supplies made within a State or UT by a taxable person,</li> <li>exports of goods or services or both and</li> <li>inter-State supplies of goods or services or both made from the State or Union territory by the said taxable person</li> </ul> <b>but excludes</b> central tax, State tax, Union territory tax, integrated tax & cess.	<b>turnover in State or turnover in Union territory” shall not include the value of following supplies, namely:</b> <ul style="list-style-type: none"> <li>(i) supplies from the first day of April of a financial year up to the date when such person becomes liable for registration under this Act; and</li> <li>(ii) interest or discount on deposits, loans or advances.</li> </ul> <div>[ We calculate T/o in state for payment of tax under CL]</div>	<div> <div>P.F.Y. XX-YY</div> <div>No Business</div> <div>Agg. T/O of PFY does not exceed 10(1) - ₹ 150L/75L 10(2) - 50L</div> </div> <div> <div>1st April</div> <div>No Reg. T/O 20 L</div> <div>Excludes</div> </div> <div> <div>T/O in State</div> <div>Liabe for registration</div> <div>130L [10(1)]</div> <div>55L [10(1) CS]</div> <div>30L [10(2A)]</div> </div> <div>Tax is payable only this T/o in State</div>	

2(47) : Exempt Supply	
<b>means</b> a supply of any goods or services or both ➡ which attracts nil rate of tax or ➡ which may be wholly exempt from tax includes non-taxable supply	

Procedure- Composition Scheme		Composition Levy	
<b>Procedure:- Rule-3</b> Intimation by URP= Pay tax under Composition levy in part B of FORM- GSTREG-01.(Considered only after grant of reg.) <b>Intimation by RP=</b> Electronically file an intimation, prior to commencement of FY, for which option exercised. Any intimation i.r.o. any place of business in a State/UT= deemed to be an intimation i.r.o all other place of business registered on same PAN.	<b>Rule-6</b> Validity of Composition Scheme = Till person continues to fulfill conditions u/s 10(2)/(2A)/ Rule-5. <ul style="list-style-type: none"> <li>If person ceases to fulfill above conditions= shall file intimation of opting out scheme in CMP 04 (Within 7days)</li> <li>If person want to opt out voluntarily= shall file intimation in CMP 04 before such withdrawal.</li> <li>After withdrawal he shall issue tax invoice &amp; allowed to avail ITC i.r.o. stock held by him as on date.</li> </ul> <b>Rule-62</b> ➡ File statement- Quarterly till 18th of month following the quarter.(CMP-08) <b>File Return (GSTR-4)-</b> Annually till 30th June of the following year.	<div> <div>P.F.Y.</div> <div>C.F.Y.</div> <div> <div>1) Agg. T/O [for deciding eligibility of C.L]</div> <div>Less: Interest / Discount</div> <div>2) T/O in State [For Calculating marginal service]</div> <div>Less: Interest/ Discount</div> <div>T/O in State</div> </div> <div> <div>XX</div> <div>(X)</div> <div>XX</div> <div>(X)</div> <div>XX</div> </div> <div> <div>SOG</div> <div>SOS</div> </div> </div> <div> <div>Sec 10(3) C.L. Lapsed</div> <div>Upto</div> <div> <div>4) Agg. T/O [150L/75L/50L]</div> <div>Less: Interest/ Discount</div> <div>Agg. T/O</div> </div> <div> <div>XXX</div> <div>(X)</div> <div>XX</div> </div> </div>	
<b>Intimation for opting C.L.</b> <div> <div>If a person is UR</div> <div>P.F.Y.</div> <div>20 L</div> <div>C.F.Y.</div> <div>UR</div> <div>UR</div> <div>Sec 22: Need to apply for Reg. Form = REG - 01</div> <div>PART A</div> <div>PAN</div> <div>PART B</div> <div>Opting for C.L</div> <div>If is treated as intimation</div> </div> <div> <div>If a person is already registered</div> <div>P.F.Y.</div> <div>C.F.Y.</div> <div>R</div> <div>1st April</div> <div>R</div> <div>C.L. available</div> <div>Intimation of C.L shall be given in form [CMPO2] before starting C.F.Y.</div> </div>	<b>Rule-80</b> ➡ File Return (GSTR-9A)- Annually till 31st Dec of following year.		



# Chapter 4:- EXEMPTIONS (Mega N/n 12/2017 & Others)



## Exemption Related to Health Care

Sl.No. 74 <div>Imp</div>	<div>a) Health Care by</div> <div>⇒ a clinical establishment (hospital+nursing home+Pathological lab), ⇒ an authorized medical practitioner ⇒ paramedics (Nursing staff+physio+lab assistant etc.).</div>	<div>b) Ambulance Service provided by others is also - Exempted</div>											
	<table><tr><td><div>Means</div><div>⇒ Diagnosis or Treatment or Care</div><div>For illness, injury, pregnancy abnormality deformity</div><div>Recognised system of medicine Allopathy+Yoga +Ayurveda+Naturopathy+homeopathy+Siddha+unani</div><div>Renting of room by clinical establishment</div><div>If room rent is ₹5,000 or less per day Exemption</div><div>If room rent exceeds ₹5,000 per day ICU/ICCU/NICU Exemption Normal room Taxable</div></td><td><div>Includes</div><div>Transportation of the patient (i.e. Ambulance Service)</div></td><td><div>Does not includes</div><div>⇒ hair transplant ⇒ plastic surgery</div><div>except(exemption available)</div><div>to restore or to reconstant ⇒ anatomy ⇒ function of body affected due to &gt; congenital defects &gt; development abnormalities &gt; Injury or trauma</div></td><td><div>CBIC Clarifications</div><div>Assisted Reproductive Tech. (ART) or IVF Exempt Ambulance service by SG or through PSP Exempt</div><div>Services to/by Hospitals</div><div>Services by senior doctors/consultants/ technicians to hospital Exempt Retention money by hospital Exempt</div><div>Food Supplied to the Patient</div><table><tr><td>Canteen run by Hospital</td><td>Canteen run by Pvt. person</td></tr><tr><td>To Admitted Patients Exempt</td><td>Food supplied to all Taxable</td></tr><tr><td>To Non-Ad. Patients Taxable</td><td></td></tr><tr><td>To Doctors, staff etc. Taxable</td><td></td></tr></table></td></tr></table>	<div>Means</div> <div>⇒ Diagnosis or Treatment or Care</div> <div>For illness, injury, pregnancy abnormality deformity</div> <div>Recognised system of medicine Allopathy+Yoga +Ayurveda+Naturopathy+homeopathy+Siddha+unani</div> <div>Renting of room by clinical establishment</div> <div>If room rent is ₹5,000 or less per day Exemption</div> <div>If room rent exceeds ₹5,000 per day ICU/ICCU/NICU Exemption Normal room Taxable</div>	<div>Includes</div> <div>Transportation of the patient (i.e. Ambulance Service)</div>	<div>Does not includes</div> <div>⇒ hair transplant ⇒ plastic surgery</div> <div>except(exemption available)</div> <div>to restore or to reconstant ⇒ anatomy ⇒ function of body affected due to &gt; congenital defects &gt; development abnormalities &gt; Injury or trauma</div>	<div>CBIC Clarifications</div> <div>Assisted Reproductive Tech. (ART) or IVF Exempt Ambulance service by SG or through PSP Exempt</div> <div>Services to/by Hospitals</div> <div>Services by senior doctors/consultants/ technicians to hospital Exempt Retention money by hospital Exempt</div> <div>Food Supplied to the Patient</div> <table><tr><td>Canteen run by Hospital</td><td>Canteen run by Pvt. person</td></tr><tr><td>To Admitted Patients Exempt</td><td>Food supplied to all Taxable</td></tr><tr><td>To Non-Ad. Patients Taxable</td><td></td></tr><tr><td>To Doctors, staff etc. Taxable</td><td></td></tr></table>	Canteen run by Hospital	Canteen run by Pvt. person	To Admitted Patients Exempt	Food supplied to all Taxable	To Non-Ad. Patients Taxable		To Doctors, staff etc. Taxable	
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Sl.No. 46 <div>Imp</div>	Health Care or Animal or Birds Service by Veterinary Clinic												
Sl. No. 74A <div>Imp</div>	Service provided by professional by way of rehabilitation, therapy or counseling at medical establishment, Educational Institution, Govt. Center or charitable institution u/s 12AA or 12AB etc.												

## Exemption Charitable and Religious Sector

Sl.No. 1	Imp	Services-entity u/s 12AA/ 12AB of Income tax Act By way of charitable activities								
<div><div>Public Health by way of</div><div><div>Core or counseling</div><div>⇒ Terminally ill person</div><div>⇒ Person with physical or mental disability</div><div>⇒ Affected with HIV/AIDS</div><div>⇒ Person addicted with narcotics or drugs etc.</div></div><div><div>Public awareness</div><div>⇒ Preventive health</div><div>⇒ Family planing</div><div>⇒ Prevention of HIV infection</div></div></div> <div><div>Not includes-1) Hostel Accommodations</div><div>2) Lodging or boarding unless it's a composite supply</div><div>3) Fitness camp &amp; classes</div></div> <div><div>Advancement of</div><div>⇒ Religion or</div><div>⇒ Spirituality or</div><div>⇒ Yoga</div></div> <div><div>Prevention environment includes</div><div>⇒ watershed</div><div>⇒ forest &amp; Wildlife</div></div> <div><div>Advancement of educational programs or skills development relating to</div><div>⇒ abandoned, orphaned or homeless children</div><div>⇒ physically mentally abused person</div><div>⇒ prisoners</div><div>⇒ persons over age of 65 years residing in a rural area</div></div>										
Sl.No.13	Religious Activities - Conduct of Religious Ceremony									
Sl.No. 13	Imp	<div><div><div>Renting of precincts of a religious place</div><div>Meant for general public</div></div><div><div>Owned or manage by an entity registered as a - charitable or - religious trust</div><div>Sec 12AA/12AB</div><div>Sec 10(23C)(v)</div><div>Sec 10(23BBA)</div><div>Of Income Tax Act</div></div></div> <div><div>Exemption is not available in following cases</div><table><tr><th>Renting</th><th>Exemption not available</th></tr><tr><td>Renting of Rooms</td><td>where charges are ₹ 1000 or more per day</td></tr><tr><td>Renting of Premises, Community halls, kalyanmandapam or open area and the like</td><td>where charges are ₹ 10,000 or more per day</td></tr><tr><td>Renting of Shops or other spaces for business or commerce</td><td>where charges are ₹10,000 or more per month</td></tr></table></div>	Renting	Exemption not available	Renting of Rooms	where charges are ₹ 1000 or more per day	Renting of Premises, Community halls, kalyanmandapam or open area and the like	where charges are ₹ 10,000 or more per day	Renting of Shops or other spaces for business or commerce	where charges are ₹10,000 or more per month
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Renting of Shops or other spaces for business or commerce	where charges are ₹10,000 or more per month									

## Exemption in Legal Sector

Sl.No. 45 <b>Imp</b>	Legal Services by arbitral tribunal, advocate etc.
<p><b>Service provided by arbitral Tribunal</b></p> <ul style="list-style-type: none"> <li>To Business Entity <ul style="list-style-type: none"> <li>Agg T/O of business Entity up to such amount in PFY make it eligible for exemption from registration → <b>Exempt</b></li> <li>Agg.T/O of business Entity in PFY such amount make it liable for reg. → <b>Taxable</b> [Under RCM business Entity is liable]</li> </ul> </li> <li>To Non business Entity → <b>Exempt</b></li> <li>CG/ SG /UT/ LA Govt. Entity → <b>Exempt</b></li> </ul>	<p><b>Service provided by individual advocate or firm of advocate other than Sr. Adv.</b></p> <ul style="list-style-type: none"> <li>To Business Entity <ul style="list-style-type: none"> <li>Agg T/O of business Entity up to such amount in PFY make it eligible for exemption from registration → <b>Exempt</b></li> <li>Agg.T/O of business Entity in PFY such amount make it liable for registration → <b>Taxable</b> [Under RCM business Entity is liable]</li> </ul> </li> <li>To Non business Entity → <b>Exempt</b></li> <li>CG/ SG /UT/ LA Govt. Entity → <b>Exempt</b></li> <li>To Another individual advocate or firm of advocate → <b>Exempt</b></li> </ul>

**Note :- Legal service** = service provided in relation to - advise /consultancy / assistance, in any breach of law in any manner, and includes representational services before any court/ tribunal/ authority

<p><b>Service provided by senior advocate</b></p> <ul style="list-style-type: none"> <li>To Business Entity <ul style="list-style-type: none"> <li>Agg T/O of business Entity up to such amount in PFY make it eligible for exemption from registration → <b>Exempt</b></li> <li>Agg.T/O of business Entity in PFY such amount make it liable for reg. → <b>Taxable</b> [Under RCM business Entity is liable]</li> </ul> </li> <li>To Non business Entity → <b>Exempt</b></li> <li>CG/ SG /UT/ LA Govt. Entity → <b>Exempt</b></li> <li>To Another individual advocate or firm of advocate → <b>Taxable</b> but can take exemption of amount upto T/O of business entity in PFY to be eligible for exemption from registration</li> </ul>
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## S.No. 54 : Exemption in Agriculture Sector Imp













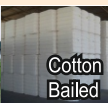







- Agricultural operations directly related to production of any A.P. including cultivation, harvesting, threshing, plant protection or seed testing.
- Supply of farm labour
- Processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, bulk packaging etc. which do not alter essential characteristics of A.P
- Renting or leasing of agro machinery or vacant land with or without a structure incidental to its use.
- Loading, unloading, packing, storage or warehousing of A.P.
- Agricultural extension services (Scientific research & knowledge to farmer).
- Services by any APMC or Board or services provided by a commission agent for sale or purchase of A.P.

### Agriculture:

- cultivation of plants and
  - Rearing of all life-forms of animals, **except the rearing of horses**
- for**
- food,
  - fibre,
  - fuel,
  - raw material or
  - other similar products

**Agricultural Produce (A.P.):** means any produce of agriculture on which

- either no processing is done
- such processing is done as is usually done by a cultivator or producer
  - which does not alter its essential characteristics
  - but makes it marketable for primary market.

<b>Agriculture Produce</b>	<b>Non-Agriculture Produce</b>	<b>Agriculture Produce</b>	<b>Non-Agriculture Produce</b>	<b>Agriculture Produce</b>	<b>Non-Agriculture Produce</b>
 Tomato	 Tomato Ketchup	 Sugar Cane	 Sugar & jaggery	 Potato	 Potato Chips
 Grams	 Pulses	 Paddy	 RICE	 Raw Cotton	 Ginned Cotton
 Cotton Baled					
<b>Rearing of Animals</b>	<b>Agriculture Produce</b>	<b>Processing</b>	<b>Non-Agriculture Produce</b>		
 Cow	 Dung	 Milk Pasteurization <div>Note : Usually not done by producer</div>	 Pasteurized Milk		
<b>Agriculture Produce</b>	<b>Processing</b>	<b>Processing</b>	<b>Non-Agriculture Produce</b>		
 Grains <div>Note : Usually done by producer &amp; does not essential character</div>	 Wheat <div>Note : Usually not done by producer</div>	 Flour <div>Note : Usually not done by producer</div>			

**Sl.No. 55** Imp **Exemptions on intermediate production processes**  
Carrying out an intermediate production process as job work in relation to agriculture

(Cir. no. 19/19/2017) Milling of paddy into rice **cannot** be considered as an intermediate production process in relation to cultivation of plants for food, fibre or other similar products or agricultural produce, hence not eligible for exemption

**Sl.No. 57** Imp **Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables.**

**Sl.No. 24** Imp **Services of Loading, Unloading, warehousing, packing, storage of Rice.**

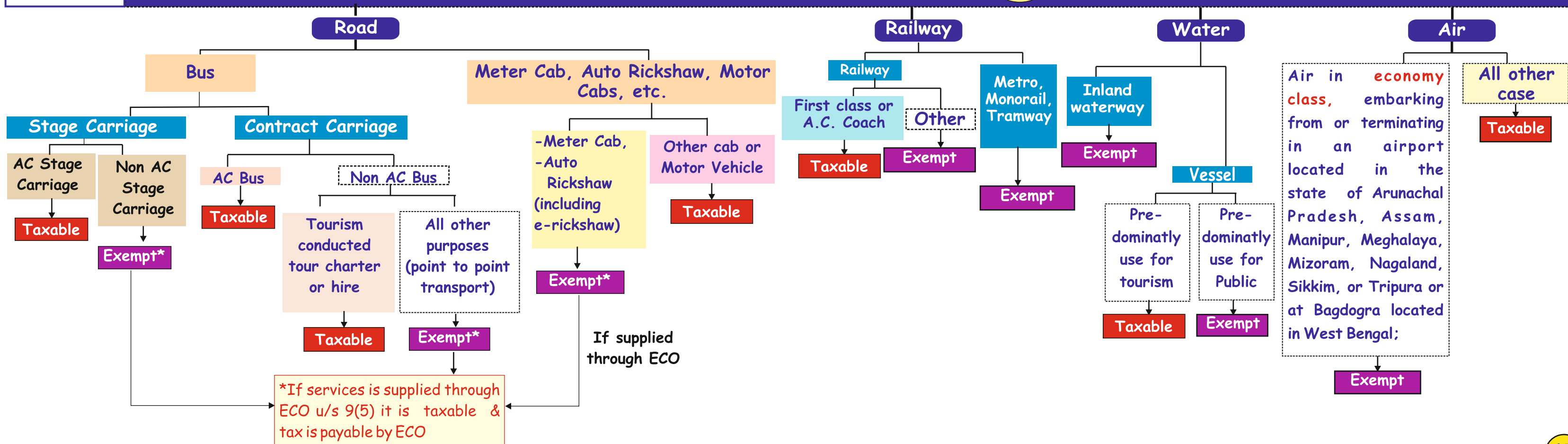
**Sl.No.24A** Warehousing of minor forest produce

**Sl.No.24B** Imp **"Services by way of storage or warehousing of cereals, pulses, fruits and vegetables.**

**Sl.No.55A** Services by way of Artificial insemination of live stock **other than horses**

## S.No.14&15

## PASSENGER TRANSPORT SECTOR Imp





Sl.No.18	TRANSPORTATION OF GOODS				
	Road	Railway	Inland Waterways	Air/Vessel	Pipelines or Conduit
	GTA/Courier				
	Other road transport				
	Taxable	Fully taxable	Exempt	Fully taxable	Fully taxable
	Exempt				
Exemptions to GTA/Vessel/Rail		Sl.No. 21B Transport of goods by GTA to Govt.			
D	Defence or military equipments.	<div> <div>GTA</div> <div>Transport of Goods</div> <div>Exempt</div> </div> <div> <div>CG/SG/UT</div> <div>LA</div> <div>Govt. Agency</div> </div> <div>Registered only for Deducting TDS u/s 51</div>			
R	Relief material for victims				
M	Milk, Salt, food grains, flours, pulses or rice				
O	Organic manure				
N	Newspaper or Magazines				
A	Agriculture produce				

Sl. No. 22	Services by way of giving on hire-		
Imp	(a)	to a state transport undertaking, a motor vehicle meant to carry more than 12 passengers	
	(aa)	to a LA, an Electrically operated vehicle (EOV) meant to carry more than 12 passengers.	
	(b)	to a GTA, a motor vehicle means of transportation of goods.	
	(c)	to a person providing services of motor vehicle for transportation of students, faculty and staff to an EI providing services by way of school.	
CBIC Clarifications			
1	Transport of Minerals within mines by Tipper, Dumper etc	It is a rental service for transportation of goods	Taxable
2	GTA + Cargo Handling (Packing + Loading + Unloading)		
	Bundle services with GTA	Composite Supply	Taxable as GTA
	Separate Invoice for Cargo handling	Non treated as Composite supply	Taxable as cargo handling

RENTING OF IMMOVABLE PROPERTY			
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	—
When tax payable on accommodation services:-		CBIC Clarifications	
➔ Value > 20,000 PP/PM or		1	hostel accommodation or long-term service apartments/hotels
➔ Supplied for non-continuous period of 90 days		It is taxable under entry 12 but exempt under entry 12A ( if conditions of entry 12A are met)	
➔ If charges on daily basis & not on monthly basis		2	hostels for poor and middle-class students run by charitable trusts
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

EXEMPTION IN BANKING AND FINANCIAL SECTOR	
Sl. No. 27	Exemption
Imp	(a) Consideration - Interest or discounting
	On extending
	Deposits      Loan      Advances
	Except:- Interest involved in credit card services
	All other services of Bank / FI/NBFC are taxable
	(b) sale or Purchase of Foreign Currency
	Amongst Bank      Amongst Dealer      Amongst Bank & Dealer
	Exempt
	Discounting of cheque promissory note, BOE
	Discounting of C.P. or C.D.
	Interest on debentures or bond
	Repos & reverse Repos
	Penal Interest = Interest
	Taxable
	Processing, documentation fees charged by bank
	Interest on finance lease (delay payment of consideration)

## Imp Exemptions in Education Sector

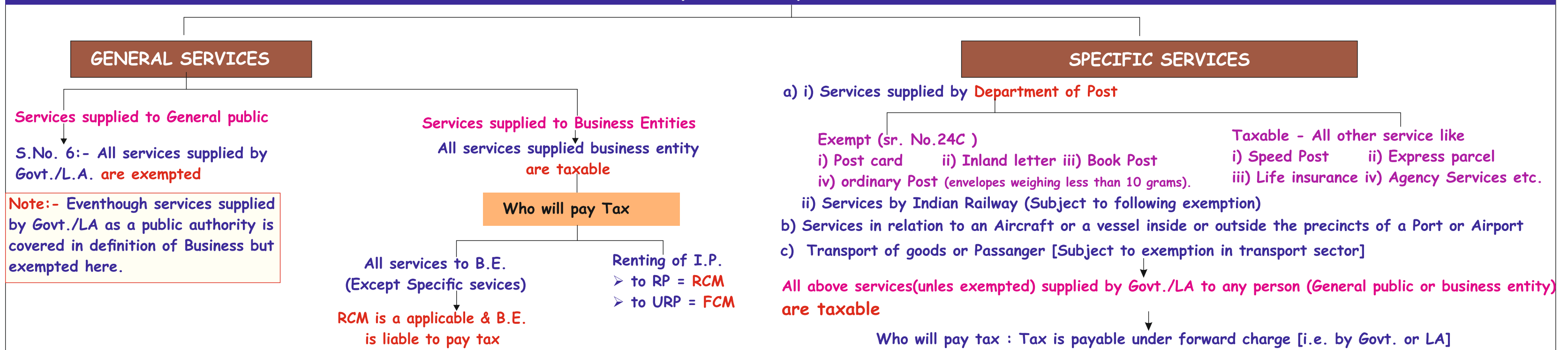
Service Taken by Educational Institution	Sl.No.66:- Educational institution (EI)	Service supplied by Educational Institution
1)Transportation of students, faculty or staff 2) Catering (including mid-day meal) - exempt if provided anywhere else 3)Security, cleaning or house keeping - only if provided in such premises 4) Supply of online education as Journal or periodicals 5)Service relating to admission to or Conduct of examination (eg. paper setting , Answers evaluation etc.)	<div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <p><b>Exempt only if supplied to School</b></p> <p><b>Exempt only if supplied to Colleges etc.</b></p> <p><b>Exempt if supplied to all education Institute</b></p> </div> <div style="width: 65%;"> <p><b>Pre-school or Higher or Secondary school (Public/Private/International)</b></p> <p>Education as a part of curriculum for obtaining qualification recognised by law (Indian law) Eg. Colleges, universities or institution etc authorised to providing education.</p> <p>Education as a part of Approved Vocational courses</p> <p>⇒ A course by ITI/ ITC affiliated to NCVET or SCVT offering courses in notified trades.            ⇒ Modular Employable Skill Course approved by NCVET  <small>NCVET = National Council for Vocational &amp; Educational Training, SCVT = State Council for Vocational Training</small></p> <p>In Central and State Educational Boards for the limited purpose - by way of conduct of examination to the students.</p> </div> </div> <p>1) Private coaching classes are <b>Taxable</b>            2) Only 5 input services to EI in respective cases are exempt. Thus, all other services supplied to EI are <b>Taxable</b></p>	<p><b>Exemptions</b></p> <p>1) Any service supplied by such <b>EI</b> to its student and faculty or staff. (e.g. education fees lab charge, lab charges, transportation, catering etc.</p> <p>2) Service by way of Conduct entrance examination against <b>entrance fees</b></p> <p><b>Taxability</b> Any Service supplied to any person other than student faculty or staff by such <b>EI</b> then it is taxable e.g.</p> <p>1) Auditorium of school given to other for seminar            2) Placement services to corporate            3) franchisees fees to various franchisees.</p>

Qualification recognised by law				Taxability in various scenario				Sr.No. 66A:- Affiliation service		
Scenario	Recognized by law	Taxability		Service	Taxability	Reason		Service provided by	Service provided to	Taxability
1. Services by IIM- - long duration program - Short Duraton Program	Yes, by IIM Act No	Exempt Taxable		1. Isuance of migration certificate	Exempt	Services by E.I. to Student		1. Affiliation service provided by Central or State Educational Board or Council or other similar body	To schools owned or controlled by - CG/SG/UT/LA - Govt. Authority/Entity To Pvt Schools	Exempt [Sr.No. 66A] Not Exempt =Taxable
2. Maritime courses approved by DG shipping	Yes, by Merchant Shipping Act	Exempt		2. Supply of food in Anganwadi [by Govt. or Corporate]	Exempt	Canteen services to pre-School		2. Affiliation service provided by Universities	To Colleges	Not Exempt = Taxable Cir No. 234/28/2024
3. Flying training courses approved by DGCA	Yes	Exempt		3. Catering services -School to student - Pvt. canteen to Std.	Exempt Taxable			Sl. No. 71	Services provided by training providers under the Deen Dayal Upadhyaya Grameen Kaushalya Yojana, offered by the Ministry of Rural Development, include skill or vocational training courses certified by the NCVET.	

Exemption Related to Entertainment, Museum etc.		
<div><div><div>Service - performance by <b>Artist - Folk or classical form</b> <div>Sl.No.78</div></div><div><div>Musical</div><div>Dance</div><div>Theatre</div><div>Fpr</div></div><div>Consideration ≤ ₹1,50,000</div><div>Exception - service as a brand ambassador (Taxable)</div><div>Note:- If consideration is more than ₹1,50,000 then full amount is taxable.</div></div><div><div>Service - Admission to (ticket charges)</div><div><div>Si.No.81: Entertainment event</div><div><div>(a) Circus</div><div>dance</div><div>Theatrical Performance</div></div><div><div>(b) Award Function</div><div>Concert</div><div>Pageant</div><div>Musical Performance</div><div>Non-recognised sporting event</div></div><div><div>(c) Recognised sporting event</div></div><div><div>(d) Planetarium</div></div></div><div>Consideration does not exceeds ₹500 per Person</div></div><div><div>Service = Training or Coaching in Recreational activities relating to</div><div><div>Si.No.79A: Monument</div><div>Protected monuments</div><div>Consideration - No Limit</div></div><div><div>Si.No.79: Zoo etc</div><div><div>Museum</div><div>National Park</div><div>Wildlife sanctuary</div><div>Tiger reserve</div><div>Zoo</div></div><div><div>(a) art or culture by an individual or</div><div>Painting, dance</div><div>Singing classes</div></div><div><div>(b) Sport by charitable entity registered u/s 12AAor 12AB of I.T. Act</div></div></div></div></div>		
Exemption in Government Sector		
Access to Road or bridge on Payment of toll		
Sl. No. 23	Access to Road or bridge on Payment of toll	
SI No.61A	Granting National permit to goods carriage & to operate through India.	
Services by foreign diplomatic missions in india		
Sl. No. 59	All services provided by a foreign diplomatic mission located in India	
Note:- Taxable Service: Services provided by office or establishment of an international organization.		



## Services provided by Government/LA



## Other Exemptions [services provided by Govt. /LA]

Turnover or Value based		Railway Related services (Newly Inserted)		Certification or Registration based		Others	
Sl.No. 7	Service provided by Govt/Local Authority to Business Entity where its Aggregate T/O less than such amount in PFY make it eligible for exemption from registration <b>Exception :</b> above exemption not applicable to (a) Specific services (Ref. above part 2) (b) Renting of immovable property	Sl.No. 9E	Services provided by Railways to individuals by way of > Sale of platform tickets, > Facility of retiring rooms/waiting rooms, > Cloak room services & > Battery-operated car services.	Sl. No. 61	Service provided by Govt/LA by way of > Issuance of passport, > Visa driving licence, > Birth Certificate or Death Certificate	Sl. No. 8	Service provided by Govt. or LA to another Govt. or LA. <b>Exception:</b> Specific services (Ref. above part 2)
Sl. No. 9	Service provided by Govt/LA Where Gross Amount Charge per service (per invoice) does not exceeds ₹ 5000 & in case where continuous supply of service the limit is ₹5000 in a F.Y <b>Exception:</b> Specific services (Ref. above part 2) <b>Note:-</b> Renting of immovable property (any amount) = Taxable	Sl.No. 9F	Intra railway transactions between different zones / divisions are exempt.	Sl. No. 47	Service provided by Govt/LA by way (a) Registration required under any law (b) Testing, calibration, safety, check for protection or safety of worker, consumer or public at large	Sl. No. 62	Fines or liquidated damage for tolerating non performances of Contract
		Sl.No. 9G	> SPVs provide infrastructure to Railways for use and maintenance during the concession period for consideration, > while the Railways offers maintenance services to the SPVs for the same infrastructure, also for consideration.  A special-purpose vehicle (SPV) is a legal entity that allows multiple investors to pool their capital and make an investment in a single company.			Sl. No.65A	Services by way of providing information under the Right to Information Act, 2005
							<b>Circular no. 190/02/2023</b>
							Accommodation services by Defence mess to person other than business entity are exempt & such services are qualified as services by Govt.

### Taxability of transaction of providing loan by an overseas affiliate to its Indian affiliate or by a person to a related person (Circular No. 218/12/2024):-

- 1) If no consideration (other than interest/discount) is charged for a loan/credit from a related person or overseas affiliate: It is not considered a SOS & no GST is charged.
- 2) If consideration (in addition to interest/discount) is charged for a loan/credit from a related person or overseas affiliate: It is considered a SOS & GST is applicable.

### GST on statutory collections made by RERA (Circular No. 228/22/2024):

RERA is considered a govt authority. Thus, statutory collections by RERA are exempt.

Exemption in sport sector	
Sl. No. 68 <b>Imp</b>	Service Provided to recognized Sport Body <b>by-</b> a) An individual as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body; b) Another recognised sports body;

Exemption in Construction Sector	
Sl.No. 10	Construction etc or Original Work to Pradhan Mantri Awas Yojana
Sl.No. 11	Construction etc or Original Work to Single Residential Unit

Miscellaneous	
Sl. No. 2	Transfer of a Going Concern
Sl. No. 52	Organization of Business Exhibition Outside India
Sl. No. 77 <b>Imp</b>	<div> <div> <div>Exemption - Services by RWA to Members</div> <div> <div> <div>Services by</div> <div> <div>- Un-incorporated body</div> <div>- Registered not profit Entity</div> </div> </div> <div> <div>To</div> <div>By Way of</div> </div> <div> <div>Its Member</div> <div>Re-imbursement of charged</div> <div>Share of contribution</div> </div> </div> <div> <div>RWA or housing society</div> <div>Exemption Upto Amount = ₹ 7500 per month / per member</div> <div> <div>For sourcing of goods or services</div> <div> <div>⇒ From third person</div> <div>⇒ For common use of its member</div> </div> </div> </div> </div> </div> <div> <div>CBIC Clarification:-</div> <div> <div>1) SOS by RWA to its members for contribution upto ₹ 7,500 per month per member (PM<sup>2</sup>) are exempt</div> <div>2) RWA required to pay GST, only if such subscription &gt; ₹ 7,500/- per month per member &amp; ATO of RWA by way of SOS &amp; SOG &gt; ₹ 20 L</div> <div>3) RWAs are entitled to take ITC of GST paid by them on capital goods (taps, pipes, other sanitary/ hardware filling, etc.) and Input services such as repair and maintenance service.</div> <div>4) The ceiling of ₹ 7,500 (PM<sup>2</sup>) shall be applied separately for each residential apartment owned by him.</div> <div>5) If amount exceeds 7500, GST shall be payable on the entire amount.</div> </div> </div>
Sl. No. 77A	

Exemption Notification No. 9/2017-Integrated Tax (Rate)	
Sl.No.10 <b>Imp</b>	Service received from service provider located in non taxable territory to a) Government/ Central Govt./ Union Territory , a local authority, a governmental authority or an individual in relation to any purpose other than commerce, industry or any other business or profession b) An entity registered under section 12AA of the Income tax Act, 1961 for the purposes of providing charitable activities or c) A person located in a non-taxable territory. <b>Proviso:-</b> Exemption shall not apply to OIDAR services received by persons specified in items (a) or item (b).
Sl.No.10F	Services supplied to an Establishment outside India
Sl.No.10G	Service provided to United National / International Organization
Sl.No.10H	Import Service by foreign diplomatic Mission
Sl.No.10L	Import of Services by Foreign Airline Company Establishments in India from Related Entities without Consideration
Sl.No.54	Service by Indian Tour Operator to Foreign Tourist for tour conducted outside India
Sl.No.12AA	Service provided by an Intermediary when location of both supplier and recipient of goods is outside the taxable territory

Sl. No. 52A	Tour Operator Service :- Tour operator service, which is performed partly in India and partly outside India, supplied by a tour operator to a foreign tourist, to the extent of the value of the tour operator service which is performed outside India. <div> <div>Tour Operator Service</div> <div> <div>Service Provided to Foreign tourist</div> <div>Service Provided to Indian tourist</div> </div> <div> <div>totally outside India</div> <div>Service Provided to foreign Tourist</div> <div>Service provided to foreign tourist totally in India</div> </div> <div> <div>Exempt (sr.no. 54)</div> <div> <div>Partly in India</div> <div>Partly Outside India</div> </div> <div> <div>Taxable</div> <div>Exempt (sr.no. 52A)</div> <div> <div>⇒ In proportion of no. of days outside India</div> <div>OR</div> <div>⇒ 50% of total consideration, whichever is less</div> </div> </div> <div>Fully Taxable</div> </div> </div>
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Other Exemptions	
Exemption Charitable and Religious Sector	
Sl.No.60	Services provided by specified organization with respect to Kailash Mansarovar and Haj Pilgrimage exempted

Exemption in banking and financial sector	
Sl.No.34	Services by Acquiring Bank to any person for Card transaction settlement ₹ 2,000 (Services by Payment Aggregators's are exempt but not for Payment Gateways)
Sl.No.27A	Services provided by a banking company to - Basic Saving Bank Deposit account holders under Pradhan Mantri Jan Dhan Yojana

Exemption in sport sector	
Sl.No.53	Sponsorship of Certain Sport Events (Read from Notes)
Sl.No.82	Admission to events organised under FIFA world cup 2017
Sl.No.9A	Services Provided by and to FIFA
Sl.No.9AA	Services Provided by and to FIFA at its subsidiary directly, indirectly related to event under FIFA U-17 Women's World cup 2020 to be hosted in India <b>whenever rescheduled.</b>
Sl.No.9AB	Services provided by and to Asian Football Confederation (AFC) and its subsidiaries directly or indirectly related to any of the events under AFC Women's Asia Cup 2022 to be hosted in India.
Sl.No.82A	Service by way of right to admission to the event organise under FIFA U-17 Women's World cup 2020 [ <b>whenever rescheduled.</b> ]
Sl.No.82B	Services by way of right to admission to the events organised under AFC Women's Asia Cup 2022



Services provided by Government to Business Entity	
Sl.No.63	Assignment of right to use natural resources to an Individual farmer for the purpose of Agriculture. (service provided by Govt./LA)
SI.No.9C	Service Provided by Govt. Entity against consideration in form grants to another Govt. or LA, received from Govt./LA
Sl.No.9D	Services by an old age home run by Govt. /Entity reg. u/s 12AA or 12AB, to its resident (Age 60 years or more) (Consideration-upto ` 25000 per month per member)(Consideration includes boarding/loading/maintenance charges)
Sl.No.65	Merchant overtime charges for inspection of import container by custom officers.
Services provided to Government	
1)	Services provided by fair price shop
2)	Supply of pure services & composite supplies (where value of goods constitutes ≤ 25% of total value of supply) made to Govt. or LA in relation to functions entrusted under article 243G or 243W
3)	Services provided to a Governmental Authority by way of - (a) water supply (b) public health (c) sanitation conservancy (d) solid waste management (e) slum improvement & upgradation
4)	Insurance scheme where total premium is paid by Government
5)	Training program to Government where for which 75% or more expenditure is borne by Government.
6)	Passenger transport Service by air where boarding or termination at a regional connectivity scheme, Airport avails the consideration in the form of viability gap funding.
CBIC Clarification:- Cir no. 245/02/2025	
MCD receives services like housekeeping, maintenance etc for its office upkeep which are not related to the municipal functions under Article 243W of the Constitution, thus taxable under GST.	
Miscellaneous	
Sl.No.39	Intermediary Service- Read From Notes
Sl.No.39A	Services by an intermediary of financial services
Sl.No.48	Services recognised by Biotechnology Industry Research Assistance Council
Sl.No.49	by way of collecting or providing news by ⇒ An independentjournalist, ⇒ Press Trust of India or ⇒ United News of India;
Sl.No.50	Public Library Service
Sl.No.76	by way of public conveniences such as provision of facilitiesof Bathroom, Washrooms, Lavatories, Urinal or Toilets.
Sl.No.9B	Exempting Supply of Services associated with Transit Cargo to Nepal & Bhutan
	Exempt certain supplies to NPCIL
Other Exemption	
Sl.No.30	Services provided by Employees State Insurance Corporation
Sl.No.31	Services provided by Employees Provident Fund Organisation (EPFO) to persons governed under the Employees provident Funds and Miscellaneous Provisions Act, 1952.
Sl.No.31A	Services Provided by coal mines provident fund organisation
Sl.No.31B	Services Provided by National Pension system
Sl.No.58	Services provided by National Centre for Cold Chain Development under Ministry of Agriculture, Cooperation and Farmer's Welfare by way of cold chain knowledge dissemination.
Sl.No.38	Services by way of collection of contribution under any pension scheme of the SGs
Sl.No.41	Long term lease of plot 30 years or more by State Government Industrial Development Corporations for development of infrastructure for financial business,
Sl.No.19C	Satellite launch services

Sl.No.25	Transmission or Distribution of Electricity
Sl. No.25A	Services of renting meters, testing equipment, connecting electricity, shifting meters & issuing duplicate bills. These help utilities serve their customers.
Sl. No.44A	Research & development services funded by grants supplied by Govt entity or Notified research association, university, college, or institution. <b>Note:</b> The institution must be notified when the research service is provided.
Sl.No.36A	⇒ GST liability on reinsurance of specified general & life insurance schemes:- GST on reinsurance services for schemes in Sl. Nos. 35 & 36 is exempt as per Cir No. 228/22/2024 ⇒ GST liability on reinsurance of insurance schemes for which total premium is paid by Govt.: - GST on reinsurance services for insurance under Sl. No. 40 is exempt as per Cir No. 228/22/2024. <b>Circular No. 228/22/2024:-</b> As per IRDAI, 'Retrocession' is when a reinsured risk is further ceded to another Indian Insurer or a Cross Border Re-insurer (CBR). Thus, 'reinsurance' under Sl. No. 36A includes 'retrocession' services.
Sl.No.36B	Insurance Services Provided by the Motor Vehicle Accident Fund
Sl.No.36C	Individual Life Insurance Services
Sl.No.36D	Individual Health Services:
Sl.No.36E	Reinsurance of the insurance services specified in SI.No 36C or 36D

#### Circular no. 177/09/2022

**It is clarified that** ⇒ Services of IVF are covered under health care and thus **exempt**.

- ⇒ Tickets purchased for transportation from one point to another irrespective of ferry is owned/operated by PSU are **exempt**
- ⇒ If transportation takes place over pre-determined route on a pre-determined schedule. However, if it is hired for period of time, it is **taxable**
- ⇒ Fee charged from prospective students for entrance/admission/issuance of migration certificate are **exempt**.
- ⇒ Additional fee collected through higher toll charges from vehicles not having Fastag is also **exempt**.
- ⇒ Services provided by the guest anchors in lieu of honorarium are **taxable**
- ⇒ Movement of empty containers from Nepal and Bhutan, after delivery of goods there is a service associated with the transit cargo to Nepal and Bhutan, hence it is **exempt**.
- ⇒ Services of sanitation & conservancy services are provided by Indian Army or any other Govt Department are **taxable**.
- ⇒ Renting of trucks and other freight vehicles with driver for a period of time is a service of renting of transport vehicles with operator are **taxable**.
- ⇒ Location charges/preferential location charges (PLC) paid upfront in addition to the lease premium for long term lease of land constitute part of upfront amount charged are **exempt**

#### Cir No. 206/18/2023

Supply of pure services & composite supplies by way of horticulture / horticulture works (where value of goods constitutes ≤ 25% of total value of supply) made to CPWD are eligible for exemption.



# Chapter 5 - Time of Supply



CA Vishal Bhattar

## SECTION 31- INVOICE FOR SOG/SOS

### Invoice by Supplier of Goods

As per Sec 31, a RP supplying taxable goods invoice shall be issued **Invoice**, before or at the time of

(a) **removal of goods** for supply to the recipient, **where the supply involves movement of goods; or**

(b) **delivery of goods or making available** thereof to the recipient, **in any other case**

### Invoice by supplier of the Service

As per Sec 31, a RP supplying taxable services invoice shall be issued, **before or after the provision of service**

**but not beyond 30 days (in case of banks or financial institution within 45 days) from the date of supply of service shall issue the Invoice**

## Time of Supply u/s 12 & 13

### Cases

### Sec 12 : TOS for SOG

### Sec 13 :- TOS for SOS

#### Sec 12(2) : TOS

#### Sec 13(2) : TOS

#### Forward charge or Tax on Outward supply

**Earlier of** ➔ Date of issue of Invoice or  
➔ Last Date of issue of Invoice  
**Whichever is earlier**

**Note :** As per N/N 66/2017, TOS of goods is not on date of Receipt except Specified actionable claim

(a) If Invoice is issued within time

Date of invoice or Date of Receipt, whichever is earlier

(b) If Invoice is not issued within time

Date of Completion or Receipt whichever is earlier

(c) If TOS cannot be determined as per (a) or (b)

Date when Recipient shows receipt of service in his books

#### RCM or Tax on Inward supply

**Sec 12(3) :** TOS is on  
(a) Date of Receipt of goods, or  
(b) Date of Payment (book entry or debited to bank, WIE), or  
(c) 31st Day from Supplier's Invoice  
**Whichever is earlier**

**Note :** If (a) (b) or (c) is not possible then date of Entry in Books of Accounts of recipient

**Sec 13(3) :** TOS is on  
(a) Date of Payment (book entry or debited to bank, WIE), or  
(b) 61st Day from Supplier's Invoice  
(c) **Date of invoice issued by Recipient (Self Invoice), if any**  
**Whichever is earlier**

**Note :** If (a) or (b) or (c) is not possible then date of Entry in Books of Accounts of recipient

#### Payment upto ₹1000 in excess of Invoice

**Proviso to Sec 12(2) and 13(2) :**  
TOS is on, at the option of Supplier, on the date of issue of next invoice in which such payment is adjusted

#### Vouchers

~~**Sec 12(4) and 13(4) :** TOS is on—  
(a) If Supply is identifiable—Date of Issue of Vouchers  
(b) In Other Cases—Date of payment of tax~~



#### Residual Cases

**Sec 12(5) and 13(5) :** TOS cannot be determined in any of the above sec, then  
(a) **In case Periodical returns is to be filed** - Date on which such return is filed  
(b) **In Other Cases** - Date of Payment of Tax

#### Interest/ Late Fees or Penalty for delay payment of consideration

**Sec 12(6) and 13(6) :** TOS is on  
➔ Date on which Supplier receives such addition in value

#### Note:

i) **Date of Payment received** ➔ Date of book entry, or  
➔ Credited to Bank

} **Whichever is earlier**

ii) **Date of Payment (RCM)=** ➔ Date of Payment entered in books of accounts, or  
➔ Date of debit to bank

} **Whichever is earlier**

## CONTINUOUS SUPPLY OF GOODS OR SERVICES

### "Continuous Supply of Goods (SOG)"

**means** a supply of goods which is provided, or agreed to be provided,

- ➔ continuously or on recurrent basis,
- ➔ under a contract,
- ➔ whether or not by means of a wire, cable, pipeline or other conduit, and
- ➔ for which the supplier invoices the recipient on a regular or periodic basis and

**includes** supply of such goods as the Government may, subject to such conditions, as it may by notification, specify.



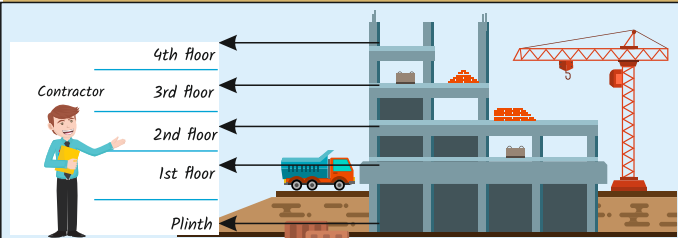
### "Continuous Supply of Services (SOS)"

**means** a supply of services which is provided, or agreed to be provided,

- ➔ continuously or on recurrent basis,
- ➔ under a contract,
- ➔ for a period exceeding three months with periodic payment obligations and

**includes** supply of such services as the Government may, subject to such conditions, as it may by notification, specify.

### Continuous supply of service-Analysis



### Issue of Invoice Sec 31(5)

#### in case of continuous supply of services

#### Issue of Invoice

where the due date of payment by Recipient is ascertainable

Invoice shall be issued On or before due date of payment by recipient

where the due date of payment by Recipient is not ascertainable

Invoice shall be issued , On or before the date of payment by supplier

where the payment is linked to the completion of an event,

Invoice shall be issued On or before the date of completion of that event

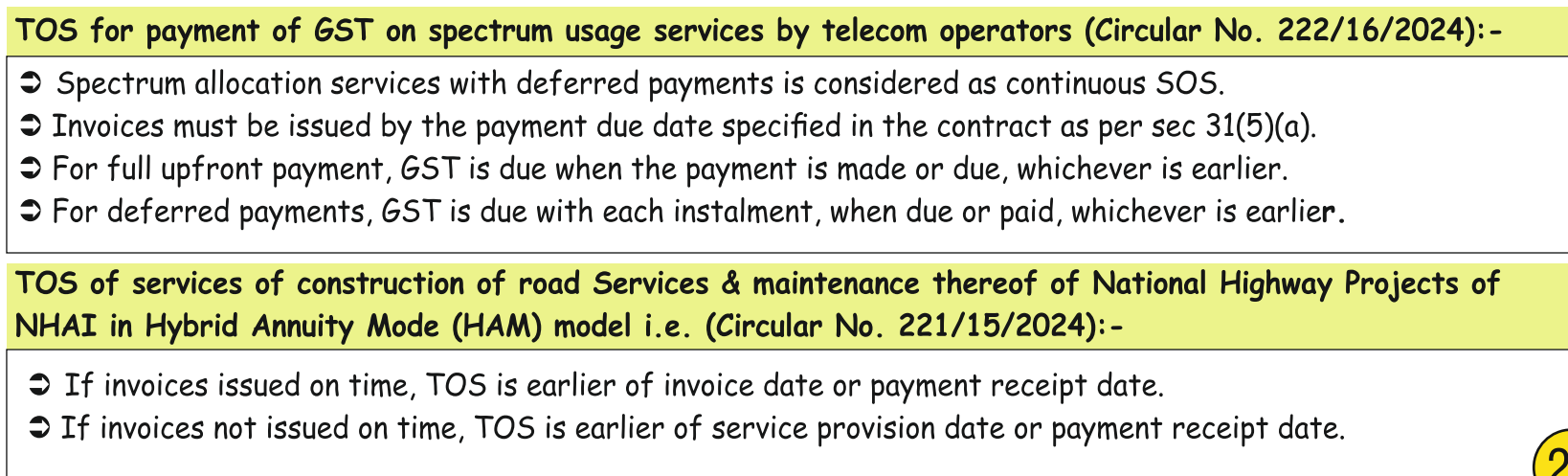
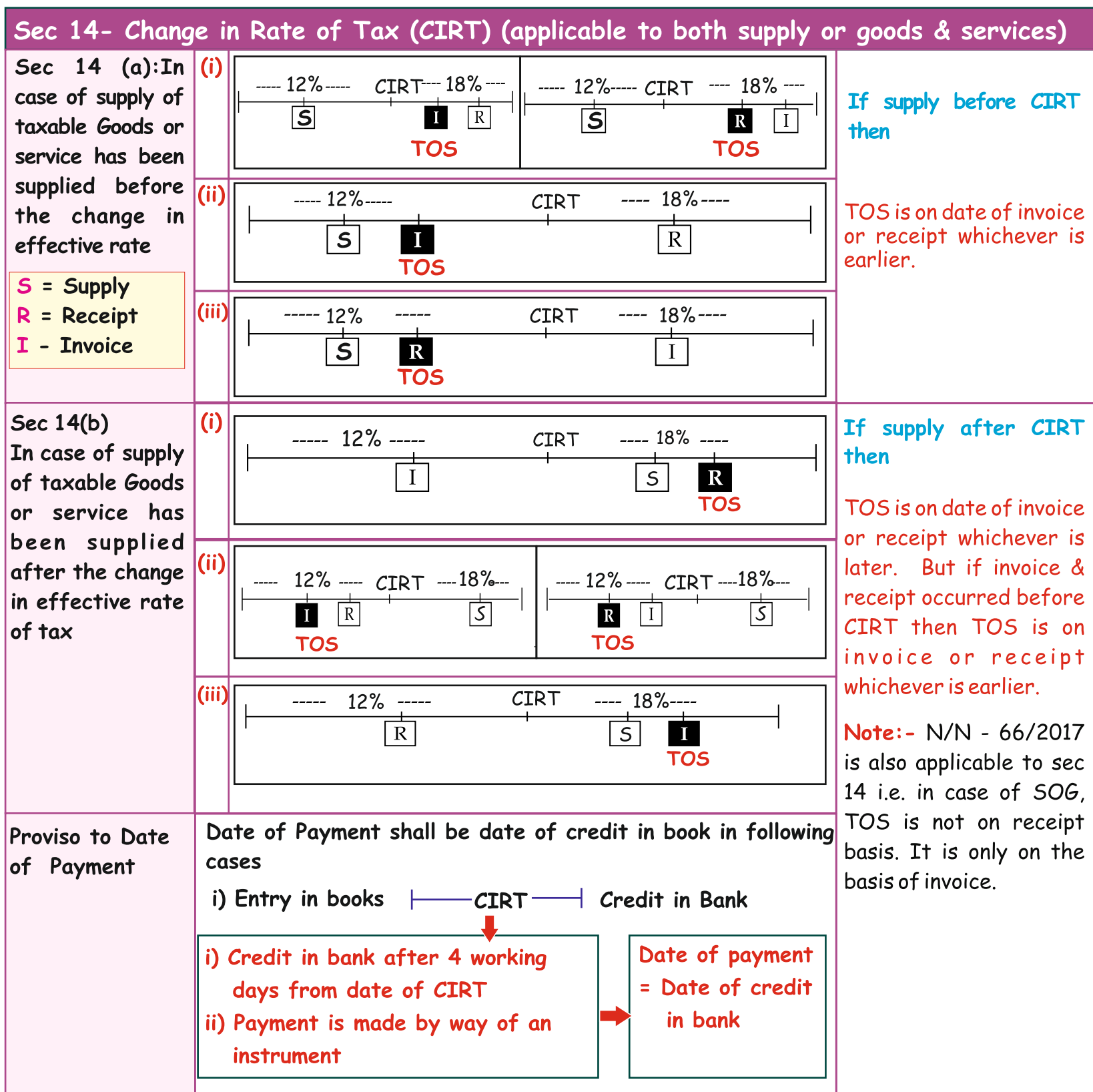
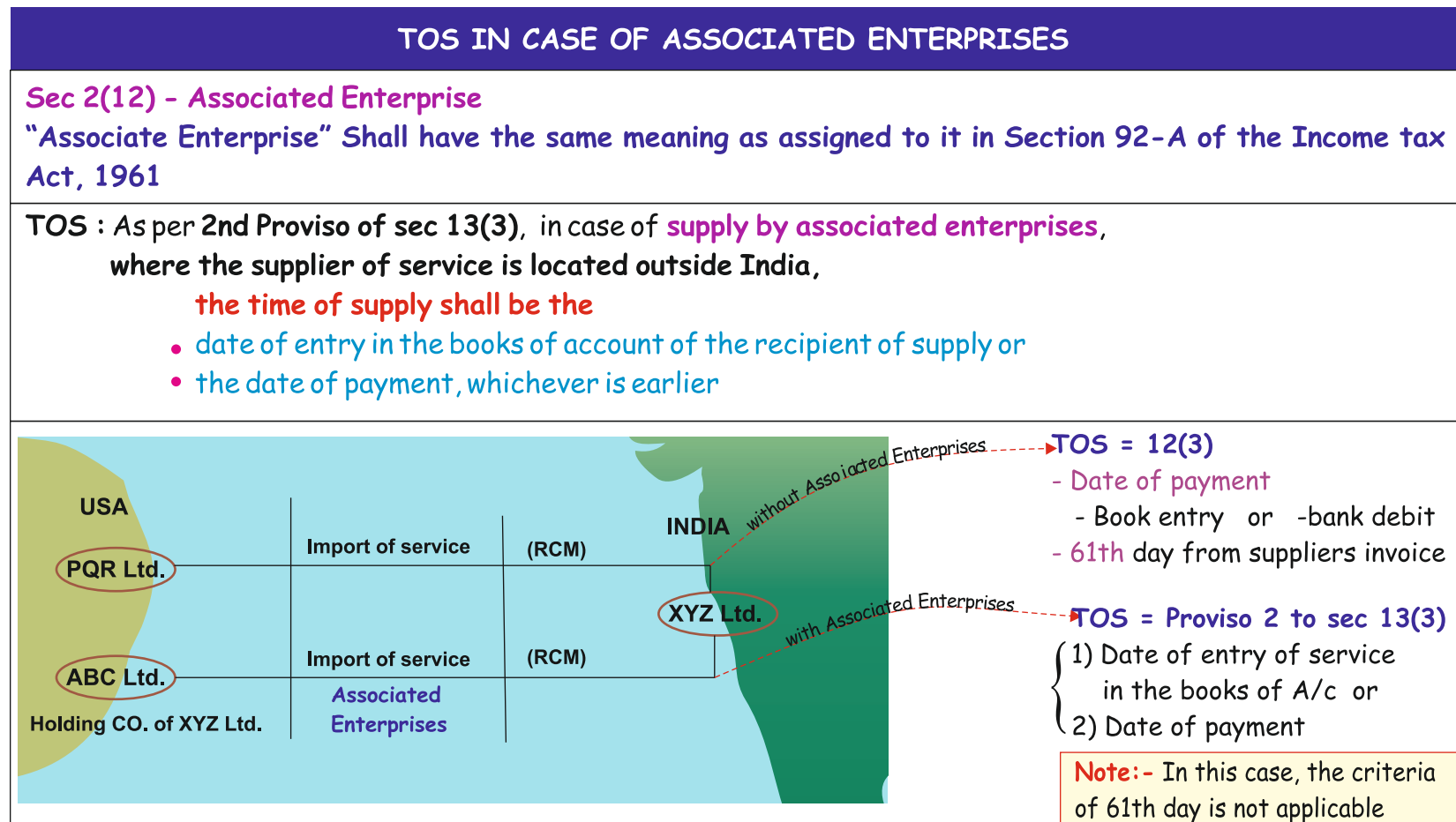
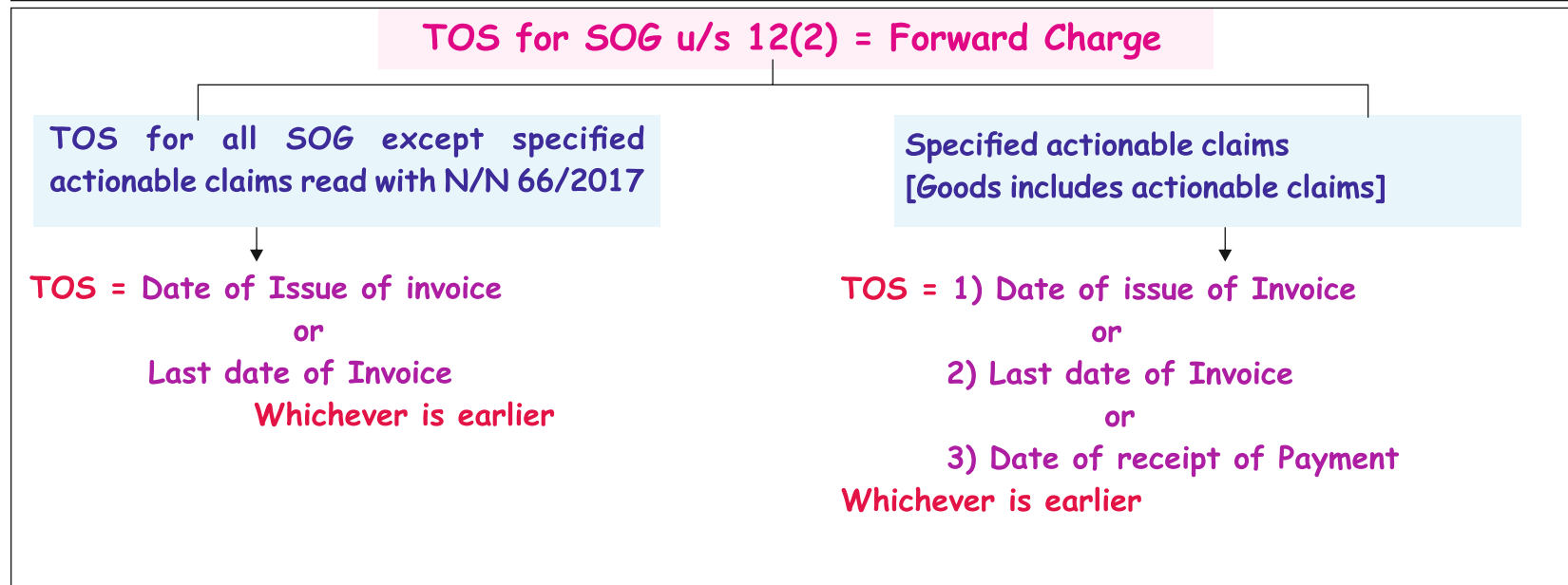
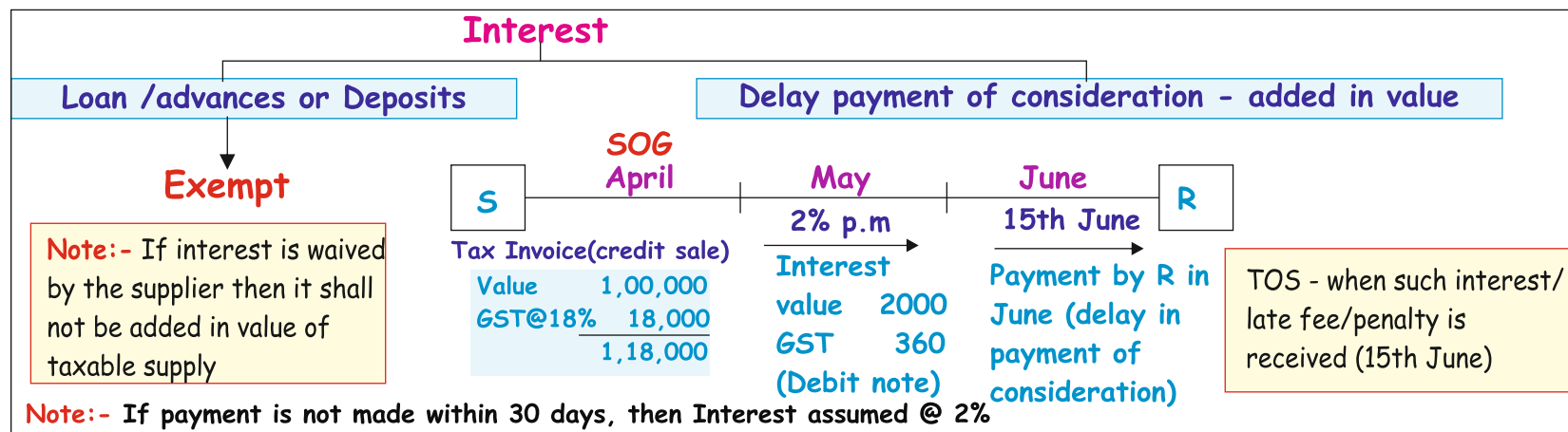
### Sec 31(4):- Issue of Invoice

In case of continuous supply of goods, where successive statements of accounts or successive payments are involved,  
**the invoice shall be issued before or at the time**  
➔ each such statement is issued or,  
➔ as the case may be, each such payment is received.

### Goods Sent for sale on Approval or Return Basis (Date of Issue of Invoice Section 31(7))

Where Goods are being sent for approval on Sale/Return are removed before Supply taken place, **Invoice shall be issued on or before**  
(a) **time of Supply (i.e. date of approval) or**  
(b) **6 months from the date of Removal, Whichever is earlier**









# Chapter 6 - Section 15 - Value of Supply



CA Vishal Bhattad

## Sec 15(1)

Value of = Transaction value  
SOG/SOS

Price actually paid  
or payable for Supply

### Conditions:

- 1) Supplier & recipient are not related
- 2) Price is sole consideration for Supply

## Sec 15(2)

Inclusion to Transaction Value [only if charges extra by Seller]

## Sec 15(3)

Deduction of discount

Any discount is deductible  
from value of supply

**Any taxes, Duties, fees or charges levied under any law (if charges by seller) except = GST**

**3rd party payment**  
Any payment  
⇒ Supplier is liable to pay for supply  
⇒ but incurred by recipient  
⇒ Not included in price

**Any Incidental expenses:**  
⇒ including commission or packing charged by the supplier or  
⇒ any amount for anything done by the supplier in respect or supply at the time or before delivery

**Interest, late fee**  
Interest, late fee penalty for  
⇒ delayed payment of consideration for any supply of goods or services

**Subsidy**  
Subsidy directly linked to price **except** subsidy given by CG/SG

(a) Discount is given at the time or before supply

(b) **Past supply Discount**  
Discount given after supply

deduction is available if it is recorded in Invoice

if it is Agreed at the Time of supply  
If it is not agreed at the time of supply

Discount is deductible if linked to invoice & ITC is recovered by recipient

No deduction of discount is available

**Notes:** 1) for such discount GST credit note shall be issued  
2) GST apportioned to such discount shall be adjusted (deducted from output tax) in a month in which credit note is issued

### Tobacco & Tobacco Products



### Tax Invoice

Value 1,00,000  
Central Excise @ 20% 20,000  
1,20,000  
GST @ 18% (1,20,000 X 18%)

**Example :** Isha Time Gallery has been appointed as an authorized center of Sony electronics, On sales of worth ₹ 20,00,000 electronic items. Sony electronics is liable to pay commission @ 10 % on such sale i.e. ₹ 2,00,000 but such selling commission to be paid by Sony electronics has been paid by Isha Time Gallery for the month of August. In this case such expense shall be included in transaction value.

### Examples of additional recoveries by supplier

- ⇒ Packing, labeling, designing etc
- ⇒ Royalty, warranty charges, etc.
- ⇒ Insurance charges
- ⇒ Dharmada
- ⇒ Weightment charges.
- ⇒ Loading, weighing, coolie
- ⇒ Freight shown separately in invoice
- ⇒ Erection installation charges
- ⇒ Pre Delivery Inspection Charges

### Analysis:- Interest

on loan, advances or deposits  
It is SOS but exempted

On delayed payment of consideration  
As per above clause it is included in VOS & GST is payable

### Analysis : Subsidy

Given by Govt. (CG/SG/UT)  
Not to be added to the value of supply

Given by others  
Subsidy linked to the price to be added in Value  
Not linked to the price (lumpsum or Blanket) not to be added in value

**Analysis:-** Price net of subsidy -no impact of govt. subsidy price including subsidy -deduct govt. subsidy

1) price net of subsidy = add subsidy  
2) price including subsidy = already added

### Important Notes:-

- 1) **Value:-** Normally interest is assumed to be inclusive of GST whereas late fee & penalty, is assumed to be exclusive of GST.
- 2) **TOS:-** As per 12(6)/13(6) i.e. in a month when a such amount is actually received.
- 3) **Rate:-** Based of original supply

**Staggered discount (Buy more, save more offers):-** Generally shown in the invoice, to be excluded

**Periodic/ year end discount/ volume discounts :-** Generally not shown on invoice since given at year end such discount are excluded from value of supply subject to fulfillment of conditions u/s 15(3)(b).

**Secondary discounts (not known at TOS):-** Such discount shall not be excluded from value of supply since not known at TOS & 15(3)(b) condition not satisfied.

### Evidence of Compliance with Sec 15(3)(b)(ii) by Suppliers [Cir. No. 212/6/2024]

- Suppliers should obtain a CA/CMA certificate confirming ITC reversal for credit notes, including details like credit note, ITC amount & supporting documents.
- These certificates, with UDIN, must be provided if requested by tax officers during audits or investigations.

**Price Inclusive of GST**

Price (Inclusive of GST @ 18%) 2,00,000  
VOS =  $\frac{2,00,000 \times 100}{118} = 1,69,491$   
GST =  $\frac{2,00,000 \times 18}{118} = 30,508$

**Note:** For GST purposes, the TCS amount under the Income Tax Act is not included in the value of supply.

### GST Treatment of Secondary/Post-Sale Discounts:[Cir No 251/08/2025]

<b>ITC on Discounts via Financial/Commercial Credit Notes</b>	No ITC reversal is required by the recipient for discounts given through such credit notes.
<b>Post-Sale Discount from Manufacturer to Dealer - Is it Consideration?</b>	(A) <b>Independent Sale Transactions:-</b> Such discounts are not treated as consideration for inducing further supply to customers. (B) <b>Discounts Linked to Manufacturer - Customer Agreement:-</b> Then such discounts act as an inducement for the dealer's supply & form part of consideration between manufacturer and dealer.
<b>Whether Post-Sale Discounts Are Consideration for Promotional Activities</b>	(A) <b>No Separate Service:-</b> Hence, no GST as it is not a service to the manufacturer. (B) <b>Separate Promotional Services:-</b> If the dealer specifically agrees to promotional services (ads, branding, exhibitions, etc.), separate consideration is agreed, Then it is a taxable service, and GST applies.



## Sec 15(4)

If value of supply cannot be determine u/s 15(1) i.e.  $\Rightarrow$  Supply without price  $\Rightarrow$  Related party transaction  $\Rightarrow$  Supply without consideration or any other considerations then apply

### CGST Rules 2017

#### Rule 27

When consideration is not wholly or partly in money

(a) Open market value (OMV)

(b) If (a) is not determinable

value = consideration in money + FMV of consideration not in money

(c) If (a) & (b) not determinable

Value = value of like kind & quality (LKQ)

(d) If (a), (b) or (c) not determinable then apply Rule 30 or 31 in that order

#### Rule 28

1) Supply between distinct (u/s 25(4)/(5) or related person (other than agent)

(a) Open Market Value (OMV)

(b) If (a) is not determinable, value = value of like kind & quality

(c) If (a) & (b) not determinable, then apply Rule 30 or 31 in that order

**Proviso 1:** If further supply is as such by recipient at option of supplier (for SOG only)

Value = 90% of price charged for like kind & quality by recipient to his unrelated customers

**Proviso 2:** If recipient is eligible Full ITC then (for SOG & SOS)

OMV = Value declared in invoice for supply of goods or services.

2) If corporate guarantee service is provided to bank/FI on behalf of recipient who is related person,

VOS = 1% p.a. of guarantee offered, or actual consideration, whichever is higher

**Proviso:** If recipient eligible full ITC, then value declared in invoice shall deemed to be OMV.

#### Rule 29

Supply between principle & agent

(a) Open Market Value (OMV)

OR

90% of price of like kind & quality by the recipient to his unrelated customers

Where such goods are intended for further supply.

(b) If (a) is not determinable then Rule 30 or 31 in order.

#### Rule 30 & 31 are applicable in order in following cases

1) If situation covered in rule 27,28,29 but Valuation can not be done by applying the principles Stated in rules

2) If situation not covered in aforesaid rules.

#### Rule 30: Value of supply based on Cost

Value = 110% of  $\begin{cases} \text{Cost of production (COP)} \\ \text{Cost of acquisition (COA)} \\ \text{Cost of provision of service} \end{cases}$

#### Rule 31: Residual method or Best judgement by using reasonable means

- Consistent with the principles & general provision of Sec 15

- Provision of this chapter (i.e. earlier rules)

**Note:** In case of SOS supplier may option for rule 31 instead of rule 30

**COP/COA** = As per cost accounting standard-4

**COP** = Exclude - Advt. expenses/ insurance expenses/ non-recurring cost/ abnormal cost/ selling and distribution cost/ interest and financial charges

#### Rule 33 : Deduction of expenses incurred as a pure agent

This rule is applicable for all supply of services

Value shall exclude the expenditure & cost incurred by the supplier as a pure agent subject to following conditions.

1) Supplier act as pure agent of the recipient while making payment to 3rd party

2) Amount separately shown in invoice

3) Supplies of goods / services procured by the supplier as a pure agent are in addition to services he supplies on his own A/c.

**Definition of pure agent:** Means a person -

(a) entering into contractual agreement with the recipient to incurred the expenditure as pure agent  
(b) Neither holding any title on supplies procured as a pure agent  
(c) Doesn't use such supplies for his own interest  
(d) Received only the actual amount incurred to procure supplies under pure agent.

#### Rule 34- Rate of exchange of currency (other than Indian Rupees) for conversion of value-

1) SOG = Rate of exchange as notified by board u/s 14 of Customs Act as on the date of TOS u/s 12

2) SOS = Rate of exchange as determined by GAAP, As on the date of TOS u/s 13

**Relevant date for exchange rate shall be determine as per Sec 12 & 13**

#### Rule 35- Value of Supply (if inclusive of GST))

Tax =  $\frac{\text{value including GST} \times \text{Tax Rate}}{100 + \text{Tax Rate}}$

100 + Tax Rate

## Important Clarification

### GST Taxability of Personal and Corporate Guarantees [Cir.No. 204/16/2023]

S. No.	Situations	Reason	Liability of GST
1	Director providing <b>personal guarantee</b> to the bank for company's borrowing.	Taxable value zero (RBI mandate)	<b>No Tax</b>
2	If director providing <b>guarantee is no longer connected with management</b> of Co. but his guarantee is continue	VOS = consideration paid to him by company	<b>Taxable</b>
3	<b>Corporate guarantee</b> provided by a company to the bank/financial institutions for another related co.	VOS = Rule 28(2) (with or without consideration)	<b>Taxable</b>
4	<b>Corporate guarantee</b> provided by a holding company for its subsidiary company.	VOS = Rule 28(2) (with or without consideration)	<b>Taxable</b>

### Taxability & VOS of corporate Guarantee services to related party under rule 28(2) [Cir.No. 225/19/2024]

1) It is taxable irrespective of fact that loan is disbursed or not

2) Recipient (related person) is eligible for full ITC

3) Take over of loan

$\Rightarrow$  Original guarantee continued = No additional service = **No GST**

$\Rightarrow$  Fresh guarantee is given - service = **GST is payable**

4) Multiple guarantors (assume company A & B)

$\Rightarrow$  Total guarantee amount 1 Cr. [A - 60% & B = 40%]

$\Rightarrow$  Value for A = 1% of 60 lakhs & for B - 1% of 40 lakhs

5) **Guarantee 1% per annum**

$\Rightarrow$  If guarantee for 5 years = [1% X 5 years] or actual consideration

$\Rightarrow$  If guarantee for 8 month = [1% X 8/12] or actual consideration

### No Claim Bonus (NCB) by Insurance Company [Cir.No.186/18/2022]

Cases	Clarification
Is NCB considered as a supply?	No, NCB is not a supply
Can NCB be considered a discount?	Yes, NCB is deductible from premium as a discount

### Clarification relating to pure agent [Cir. No. 206/18/2023]

Cases	Clarification
Reimbursement of electricity charges bundled with renting or maintenance	It is a composite supply, taxed at the rate of the principal supply (renting).
Electricity supplied as a pure agent	If real estate owners, developers, or RWAs supply electricity as a pure agent, it is not included in the value of their supply.
If Charging electricity on an actual basis	They are acting as a pure agent.



## Sec 15(5): Overriding sec 15(1)/15(4), VOS notified by Govt. to be determined as per rules

### Rule 31A: VOS of lottery, betting Gambling & Horse racing

VOS of lottery = 100/140 of higher of -  
 → face value (FV) of ticket or  
 → price as notified by organising State  
 whichever is Higher

VOS of actionable claim in betting, gambling or horse racing in a race club - 100% of FV of bet or amount paid in to totalisator.

### Rule 31B: VOS of online gaming including actionable claims involved in online money gaming

Value = total amount paid/payable to/deposited with supplier in money/money's worth, including virtual digital assets, by or on behalf of player.

**Proviso:-** Any refund by supplier to player of balance money shall not be deductible from VOS of online money gaming.

### Rule 31C: VOS of actionable claims in case of casino

Value = total amount paid/payable by/on behalf of player for -

- (i) purchase of tokens, chips, coins or tickets, etc. for use in casino; or
- (ii) participating in any event, including game, scheme, competition, etc. in casino (where token, chips, coins or tickets are not required)

**Proviso:-** Refund by casino to player on return of token, coins, chips, or tickets or otherwise shall not be deductible from value.

**Explanation to rule 31B & 31C:-** If winnings received by player is used for playing further event without withdrawing, it shall not be considered as amount paid to or deposited with supplier.

## Valuation of Imported Services by Related Persons with Full ITC Eligibility [Cir. No. 210/4/2024]

Cases	Clarification
RCM Applicability	Tax under RCM applies to services from related foreign entities to Indian recipients, same as for domestic related parties.
Value of Services	The OMV is deemed as <b>declared value</b> in invoice, when the recipient is eligible for full ITC.
Services without Invoice	If no invoice is issued, the value may be declared as Nil (OMV deemed as Nil).

## Free supply of moulds by original equipment manufacturer (OEM) to component manufacturer [Co. mfg.] [Cir. No. 47/21/2018]

Scenario	Clarification
If contract (between OEM & Co. mfg.) does not specify that mould should be owned by co. mfg.	Apportioned value of mould is <b>not includible</b> in the value of component
If contract (between OEM & Co. mfg.) does specify that mould should be owned by co. mfg. & supply it free by OEM	Apportioned value of mould is <b>includible</b> in the value of component

## Reversal of ITC on Non-Taxable Portion of Life Insurance Premium [Cir. no. 214/8/2024]

- Premiums for taxable life insurance policies relating to saving not included in taxable value per rule 32(4) are not considered non-taxable or exempt supplies.
- Thus, no ITC reversal is required u/s 17(1) & (2) with rule 42/43.

## GST on Incentive Amounts Shared by Acquiring Banks in Digital Payments [Cir. No. 228/22/2024]

- GST is **not applicable** on the incentive amount shared by acquiring banks with other stakeholders in the digital payment ecosystem under the notified Incentive Scheme, as it is considered a subsidy.

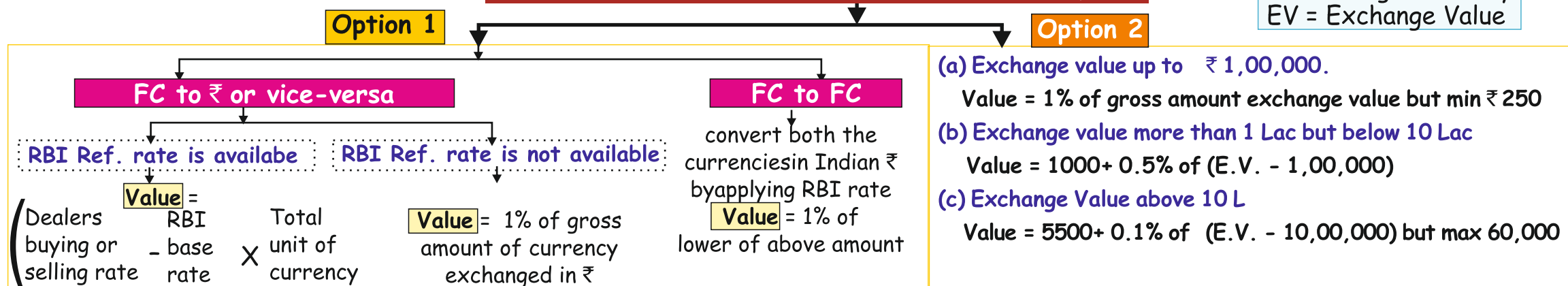
## Clarification on Extended Warranty (EW) [Cir.No. 216/10/2024]

1) Customer opt for EW at the time of SOG	1) It is treated as part of composite supply 2) Principle supply is SOG
2) If supplier of goods (Manufacturer) & supplier of EW (dealer) are different.	Then GST is payable on EW as SOS
3) Customer opt for EW after supply	Then EW is treated as separate supply of service & GST is payable as the rate applicable for service.

## Valuation in special cases [Rule 32]

### 32(2) : Purchase or sale of foreign currency

**Note :**  
 FC = Foreign currency  
 EV = Exchange Value



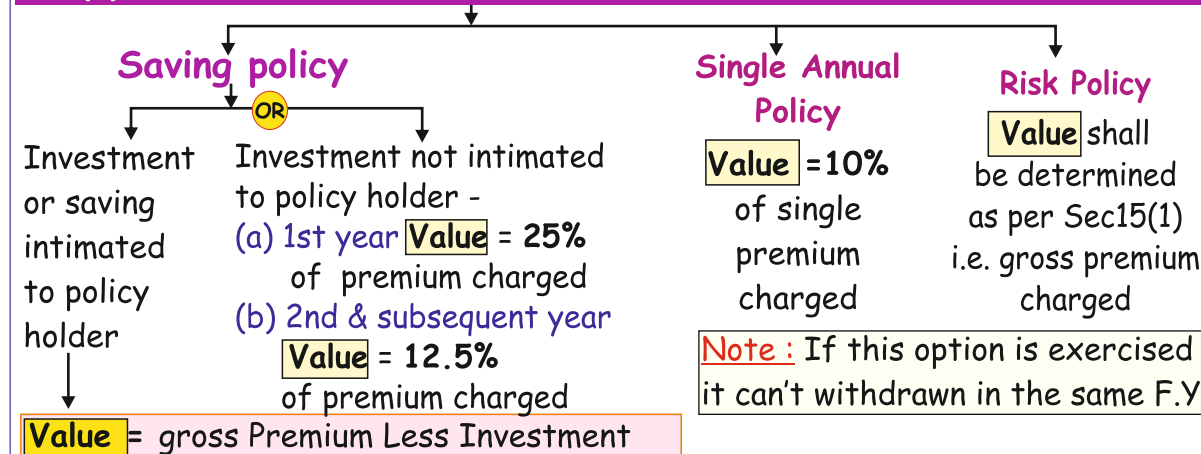
### 32 (3) : Value of the supply of Services in relation to booking of tickets by air travel agent

(a) Domestic Booking - Value = 5% of basic fare

(b) International Booking - Value = 10% of basic fare

**Note:** Basic fare means airfare on which commission is payable to air travel agent. i.e. It doesn't includes other charges & taxes.

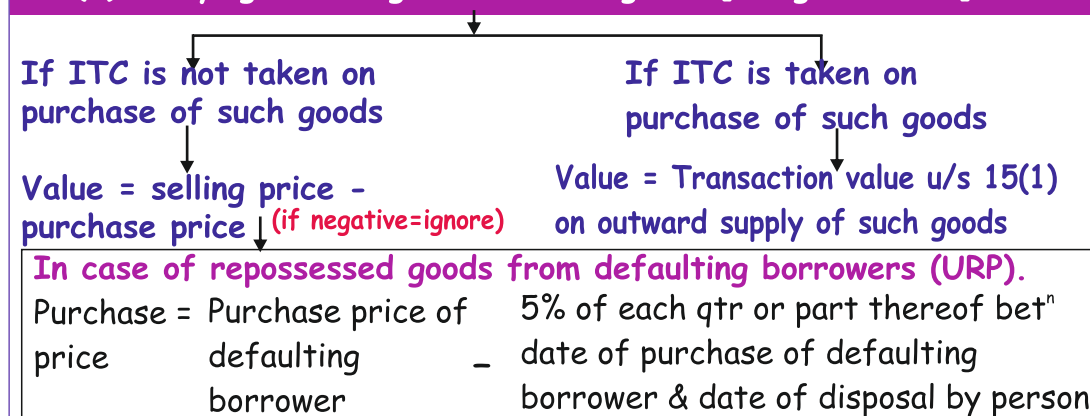
### 32 (4) : Life insurance business



### 32 (6) : Value of token, voucher, coupon, Stamp

Value = money value of goods / services / both redeemable against such coupon, token, voucher, stamp

### 32 (5) : Buying & Selling of 2nd hand goods [Marginal Value]



### Special Margin Scheme for Motor vehicle

Condition	Value Calculation
<b>When ITC is not availed</b>	
Depreciation claimed u/s 32 (if negative=ignore)	Consideration received - Depreciated value (if Consideration ≥ Depreciated value)
No Depreciation claimed u/s 32 (if negative=ignore)	Selling price - Purchase price
<b>When ITC is availed</b>	Normal valuation as per other applicable provisions.



# Chapter 7 - Input Tax Credit



CA Vishal Bhattar

**Sec 2(59) Input :** Means **any goods** used/ intended to be used by supplier, in the course / furtherance of business.(other than Capital Goods)

**Sec 2(60) Input Service :** Means **any service** used/ intended to be used by supplier, in the course / furtherance of business.

**Sec 2(19) Capital Goods :** Means goods, the value of which is capitalised in the books of accounts of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business

**Sec 2(62) "Input Tax":**- 1) CGST / SGST / UTGST / IGST charged on any supply of goods or services or both made to him (Inward Supply)  
2) the IGST charged on import of goods  
3) the tax payable under the RCM **but does not include the tax paid under the composition levy**

**Sec 2(82) "Output Tax":**"Output tax" in relation to a taxable person, **means** the tax chargeable under this Act on  
⇒ taxable supply ⇒ of goods or services or both  
⇒ made by him or by his agent  
**but excludes** tax payable by him on reverse charge basis.

## Sec 16 : Eligibility & Conditions for ITC

### 1) Eligibility criteria-

⇒ **Person**= Registered,

⇒ **Supply**= Used/Intended to be used in course / furtherance of his business

### 2) Conditions for availment of ITC:- (Overriding sec 16)

a) **He is in possession of a Tax Invoice/ debit not or other documents (as specified below)**

**Rule 36- Documents Requirement :-**

- 1) **ITC availed on the basis of following docs.-** Invoice by supplier/ Invoice by recipient (RCM)Self-invoice/ Debit note/ Bill of entry/ Revised Invoice/ Docs. by ISD.
- 2) **Mandatory Requirement in Invoice** - Details of tax, descriptions of goods or service, value of supply, GSTIN & place of supply (Only in case of Inter-State Supply).
- 3) **No ITC**- if tax has been paid & demand is confirmed because of fraud etc.

aa) **the details of the invoice or debit note has been furnished by the supplier in GSTR-1/1A and such details have been updated in GSTR - 2B of recipient.**

36 **No ITC** by a RP unless,-

- (a) The details of such invoices or debit notes have been furnished by the supplier in the statement of outward supplies in Form GSTR 1 & **GSTR 1A** or using IFF &
- (b) the details of **ITC in respect of** such invoices or debit notes have been communicated to the RP in FORM GSTR-2B.

b) **He has received the Goods/Services/Both**

(**For Bill to Ship to**- it shall be deemed to be received

- ⇒ Goods- When goods are delivered by supplier to the recipient
- ⇒ Services- When services are provided by supplier

#### Cummulative Conditions of 16(2)(a)/(ab)/(b)

Situations	Date of receipt of Invoice	Date of receipt of G/S	Updated in GSTR -2B	Eligibility of ITC
A)	25.04.XX	26.04.XX	April	In April
B)	28.04.XX	03.05.XX	April	In May
C)	05.05.XX	29.04.XX	May	In May
D)	10.04.XX	15.04.XX	July	In July

#### ITC Eligibility for Goods Delivered Under Ex-Works Contract - Sec 16(2)(b) [Cir. No. 241/35/2024]-

- ⇒ In the automobiles sector, dealers can claim ITC when vehicles are handed over to the transporter at the OEM's factory gate under EXW contracts. This is considered as "receipt of goods" u/s 16(2)(b)
- ⇒ If the supplier arranges transport and insurance on behalf of the dealer, and the dealer bears the risk of loss in transit, ITC is still allowed.
- ⇒ However, ITC is not allowed if the goods are used for non-business purposes, lost, stolen, or given as gifts/free samples.

(ba) **The details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted(blacklist)**

c) **Tax charged on such supply= has been actually paid to Govt. by the supplier**

#### Sec 41 :- Claim of ITC and Provisional acceptance thereof

⇒ The taxpayer shall self-assess and claim ITC in GSTR 3B.

⇒ In case the taxpayer has claimed ITC of GST which is not paid/ deposited by the corresponding supplier, than the taxpayer / recipient shall reverse the ITC along with interest as per rule 37A.

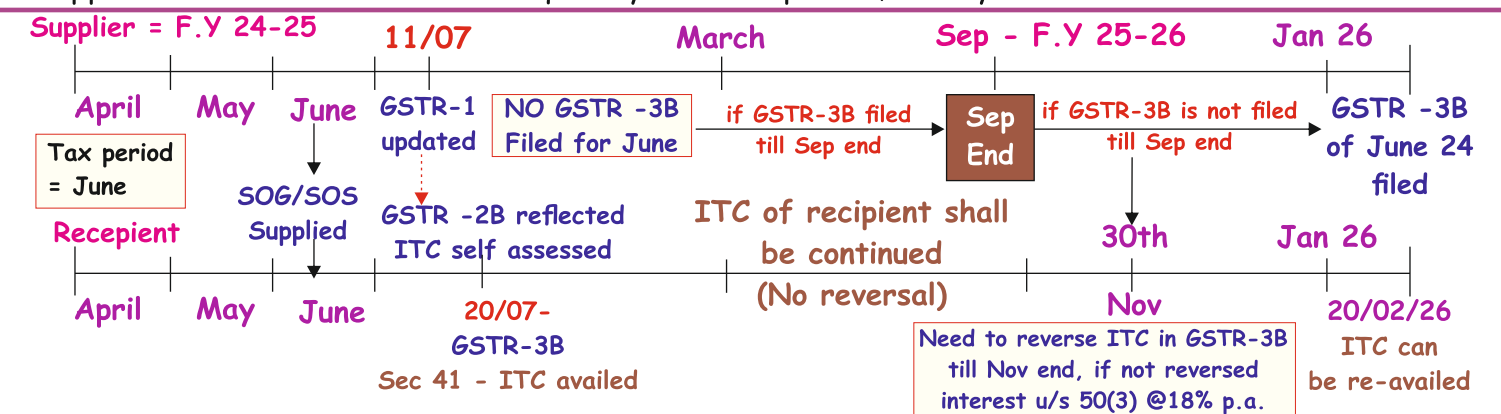
⇒ The recipient shall be eligible to re-claim the ITC reversed, on payment of GST by the supplier.

#### Rule 37A: Reversal of ITC in the case of non-payment of tax by the supplier and reavailment thereof:-

⇒ If the **RP** has availed ITC & supplier furnished his **GSTR-1 /1A** & if supplier has not furnished GSTR-3B of tax period till the **30th Sep** following the end of F.Y., then the **RP** shall reverse ITC in his GSTR-3B on or before **30th Nov** following the end of FY.

⇒ If ITC is not reversed by **RP** till **30th Nov**, then amount shall be payable with interest u/s 50

⇒ If supplier furnishes GSTR-3B subsequently for a tax period, **RP** may re avail ITC reverse earlier.



d) **He has furnished return u/s 39**

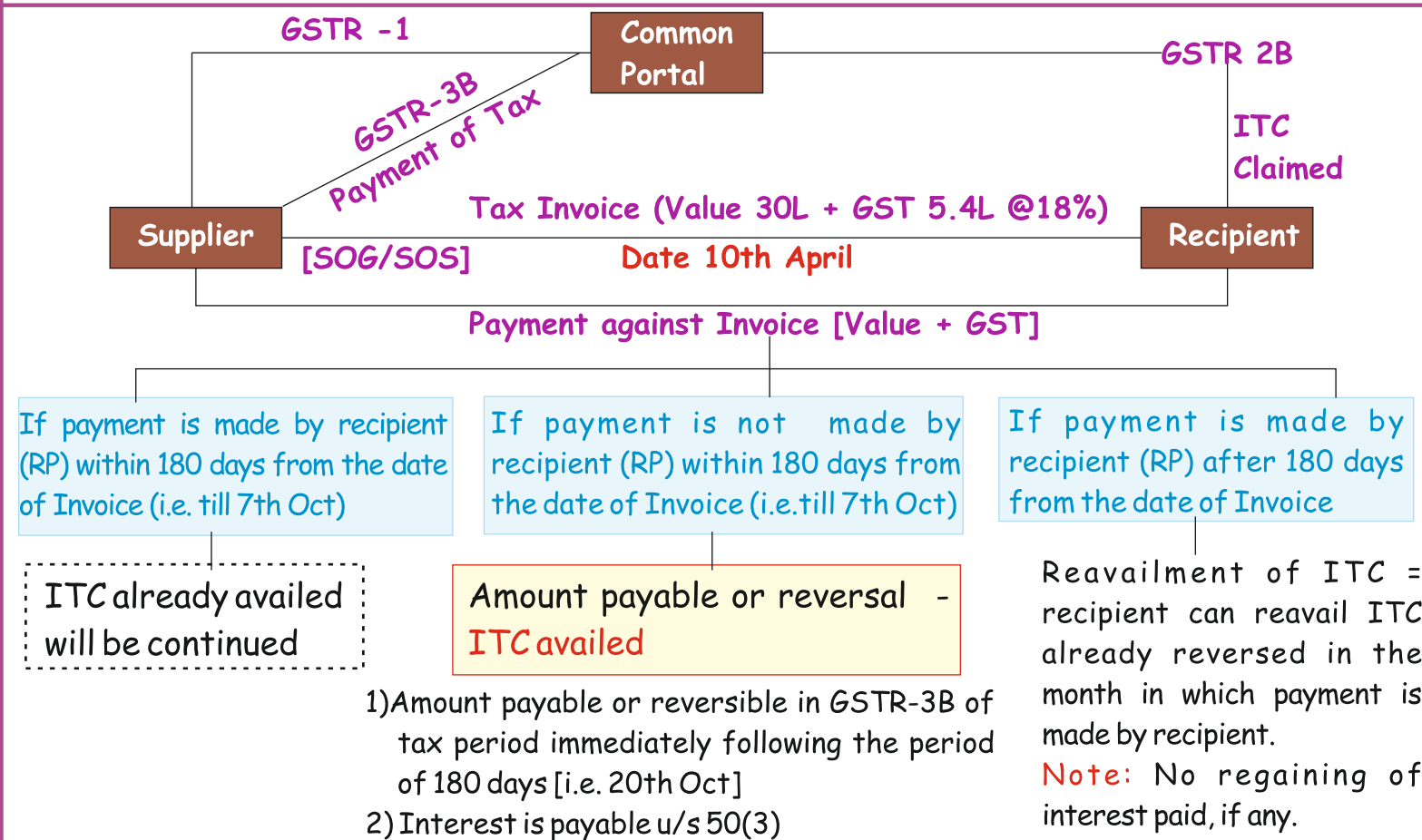
**Proviso 1 :- ITC if Goods are received in Lot :-** Where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment

#### Proviso 2:- Payment for the invoice to be made within 180 days (Rule 37)

1. **Default** : Failure by Recipient to pay (**Wholly or partly**) to the supplier the within 180 days from Invoice date.
2. **Consequence** : Amount equal to the ITC availed **proportionate to amount not paid to supplier** shall be **paid by him along with interest payable u/s 50**.
3. **Details to be furnished** : Details of defaulted supply, value not paid, ITC availed to be mentioned in GSTR-3B for the month immediately after the expiry of 180 days from Invoice date.
4. **Regain of Credit** : Regain when payment is made **to supplier** (Time limit u/s 16(4) is N.A. for regaining of ITC)
5. **Non Applicability** : This provision not applicable
  - a) Tax payable under RCM
  - b) Deemed supplies without consideration [Sch.I]
  - c) Value of supplies on account as per sec 15(2)(b)



## 2nd Proviso:- Payment to supplier within 180 Days [Rule 37]



**Note:-** If payment partly made within 180 days then proportionate reversal for outstanding amount & after such outstanding payment regain that proportionate credit.

## 3) When depreciation is claimed on tax component-

Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961, the input tax credit on the said tax component shall not be allowed.

## 4) Time limit of availing ITC-

A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both

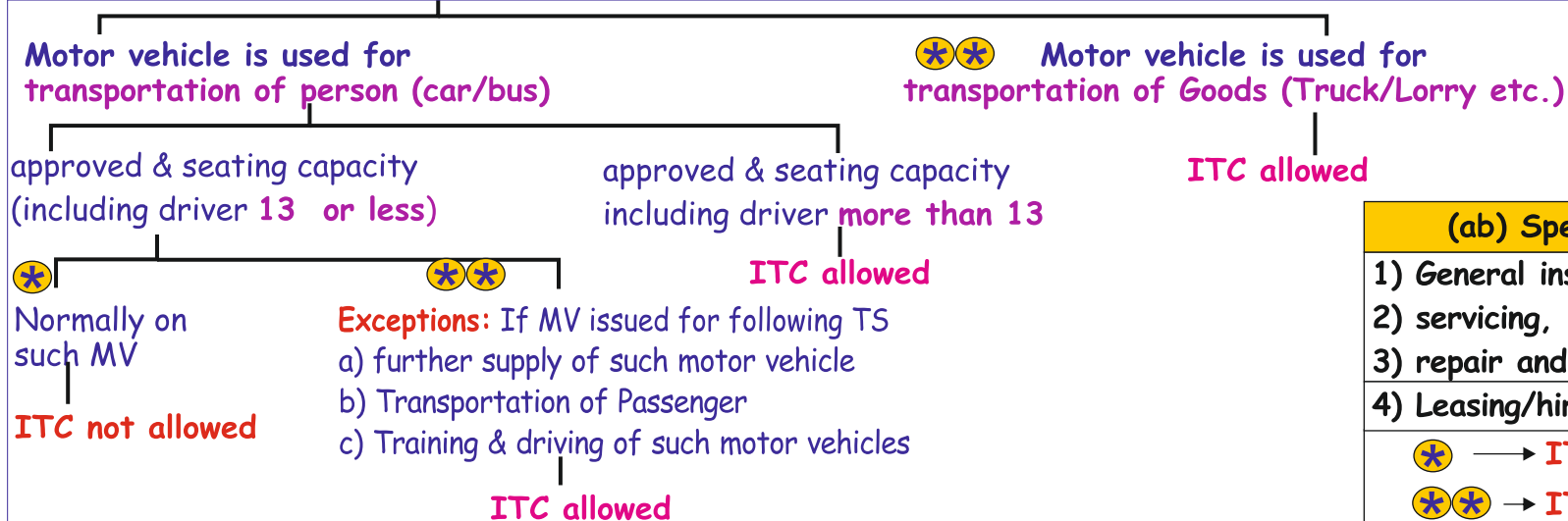
- after the **30th day of November** following the end of financial year to which such invoice or debit note pertains or
- furnishing of the relevant annual return, **whichever is earlier.**

## 6) Claiming ITC for invoices post revocation of registration cancellation

- If RP's registration is cancelled and later revoked, he can claim ITC for invoices not restricted by Section 16(4) at the time of cancellation.
- 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.
  - The return for the period between cancellation and revocation, if filed **within 30 days** of the revocation order.

## Sec - 17(5) Blocked Credit

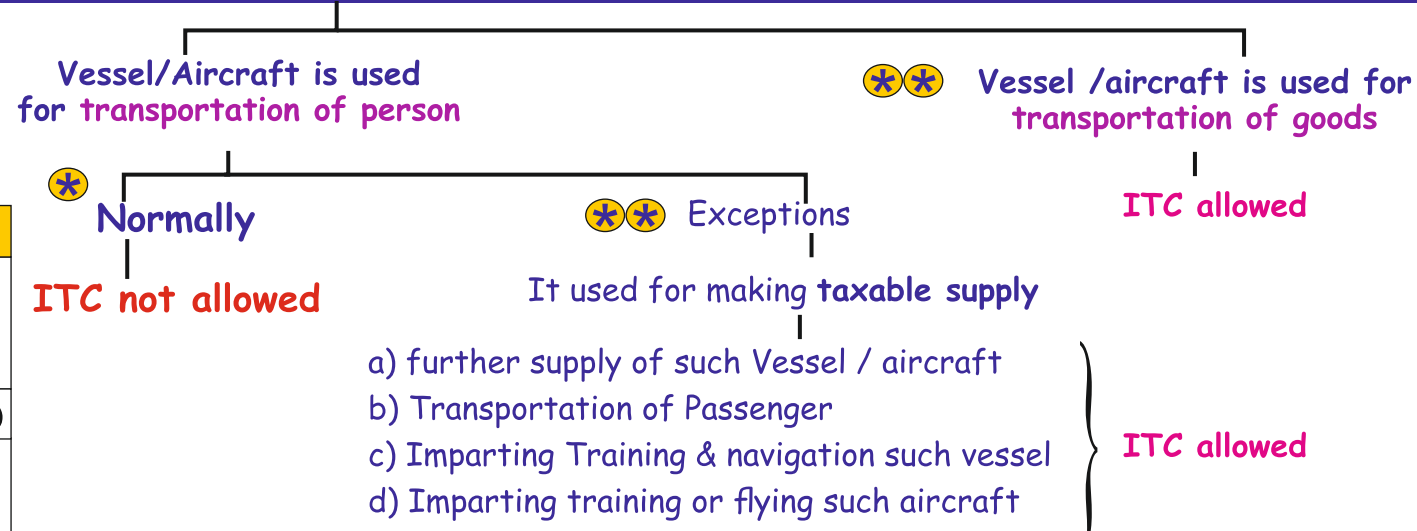
### (a) Motor vehicles



### (ab) Specified services

- General insurance,
  - servicing,
  - repair and maintenance
  - Leasing/hiring/renting (clause b)
- (marked with one star) → **ITC Not available**  
 (marked with two stars) → **ITC available**

### (aa) Vessel & Aircraft



## Availability of ITC in respect of Demo Vehicles (Cir. no. 231/25/2024)

ITC on demo vehicles used for transporting up to 13 people (including the driver) u/s 17(5)(a)	Clarification	ITC on demo vehicles capitalized in books of account by authorized dealers	Clarification
Demo vehicles used to promote sales (Trial run & Demonstration to potential buyers)	<b>ITC is not blocked</b>	Demo vehicles capitalized as "capital goods"	<b>ITC can be claimed on taxes paid.</b>
Demo vehicles used for employee transport or management (not for further supply)	<b>ITC is blocked</b>	Depreciation claimed on the tax portion of the capitalized demo vehicle	<b>ITC cannot be claimed.</b>
Dealers merely acting as agent of manufacturer and manufacturer is selling demo vehicles later	<b>ITC is blocked</b>	Capitalized demo vehicle sold later	<b>Tax must be paid u/s 18(6) &amp; Rule 44(6).</b>

## (b) Goods /services used in business not eligible for IT (mostly for employee, director, Guest etc.)

- (I)
- Food & beverages
  - Outdoor catering
  - Beauty Treatment
  - Healthy Services
  - Cosmetic plastic surgery
  - Life insurance health insurance
  - Leasing, renting, of ineligible MV/vessel/aircraft
- No ITC**
- (ii) Membership of a club, health & fitness center
- No ITC**
- (iii) Travels benefits extended to employee on vacation such leave or home travel concession
- No ITC**

**Exceptions**(in following cases ITC allowed) :-

- making outward supply of same category of goods/services or both or
- Element of composite or Mixed supply

**Note:-** If above supplies are provided to employees under any statutory obligation, ITC Allowed

### Free Sample and gift treatment under GST

Not a supply as no consideration is included but

ITC taken on such goods

It shall be treated as supply  
Value - Rule 31  
ITC - available

ITC not taken

don't take it  
u/s 17(5)(h)

### Buy one, Get One offer



Supplier

Supply

GST = 500

Shirt 1

GST = 500

Shirt 2

Invoice

Shirt 1	5000
Shirt 2	Free
	5000

Single price for both shirts, hence No need to reverse ITC

It is clarified that "leasing" referred in **Sec 17(5)(b)(I)** refers to leasing of motor vehicles, vessels & aircrafts only and not to leasing of any other items. Accordingly, availment of ITC is not barred.

1) Circular no. 172/04/2022 : Proviso after **Sec 17(5)(b)(iii)** ie ITC of goods or services shall be available, which are obligatory for an employer to provide to its employees is applicable to the whole of **Sec 17(5)(b)**.

2) Circular No. 206/18/2023 : Input services in same line of business include transport of passengers or renting of motor vehicle with operator & not leasing of motor vehicles without operator which attracts GST for sale of motor vehicle

## c) & d) Construction Sector

(c) Works Contract (services + Goods)

(d) Goods/Services or both

Construction of immovable property other than Plant & machinery

**ITC not allowed**

**Explanation 1**  
Construction includes

- Reconstruction
- renovation
- addition / alteration
- repairs to the extent of capitalisation

**IMP note:-** If as per GAAP they are treated as revenue expenditure - **ITC allowed**

**Note:-** If any works contract services or goods or service is purchased for construction & plant & machinery - **ITC allowed**

### Explanation 2 :- Definition of Plant & Machinery

Means

- Apparatus
- Equipments
- Machinery

Includes

Such foundation or structural support

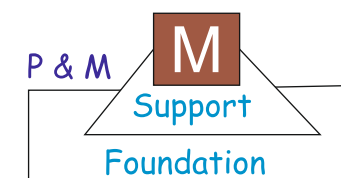
Excludes

- Land & Building or other civil Structure
- Telecommunication Towers
- Pipelines land outside the Factory

**Note:-** if works contract or goods or services purchased for construction of above = **No ITC**

Fixed to the earth by foundation or structural support

used for making an outward supply



I/CG/IS : **ITC Allowed**

**Important Note :-** If works contract services is availed for providing works contract services - **ITC allowed**  
If goods or services are purchased for construction of other's building intended for sale - **ITC allowed**



Other Points		
	Non eligibility of ITC	Explanation
e)	Goods or services or both on which tax has been paid under sec 10	Agr composition supplier ke composition tax, invoice me lgakr de rha he, jo nhl. dena caihye 4a  So, recipient ko js Tax ka credit nhl imlega
f)	Goods or services or both received by N RTP	No ITC (Remark: ITC available on imported goods by N RTP)
fa)	Goods &/or services received by taxable person, which are used/intended to be used CSR activities.	No ITC
g)	Goods or services or both used for personal consumption	No ITC
h)	<div> <div>Goods</div> <div>Lost, destroyed, stolen, written off Wholly or Partly</div> <div> <p>⇒ No ITC is available</p> <p>⇒ If ITC is availed then it needs to be reversed</p> </div> </div> <div> <div>Goods</div> <div>Distributed by way of Gift/sample</div> <div> <p>If ITC is taken on such goods</p> <p>As per para I Sch I, it is treated as supply</p> <p>GST is payable on value as determined u/r 30</p> <p>No need to reverse ITC</p> </div> <div> <p>If ITC is not taken on such goods</p> <p>Then as per sec 17(5) (h)</p> <p>ITC is not allowed</p> </div> </div>	
i)	Tax paid accordance with the provisions of Sec 74.	

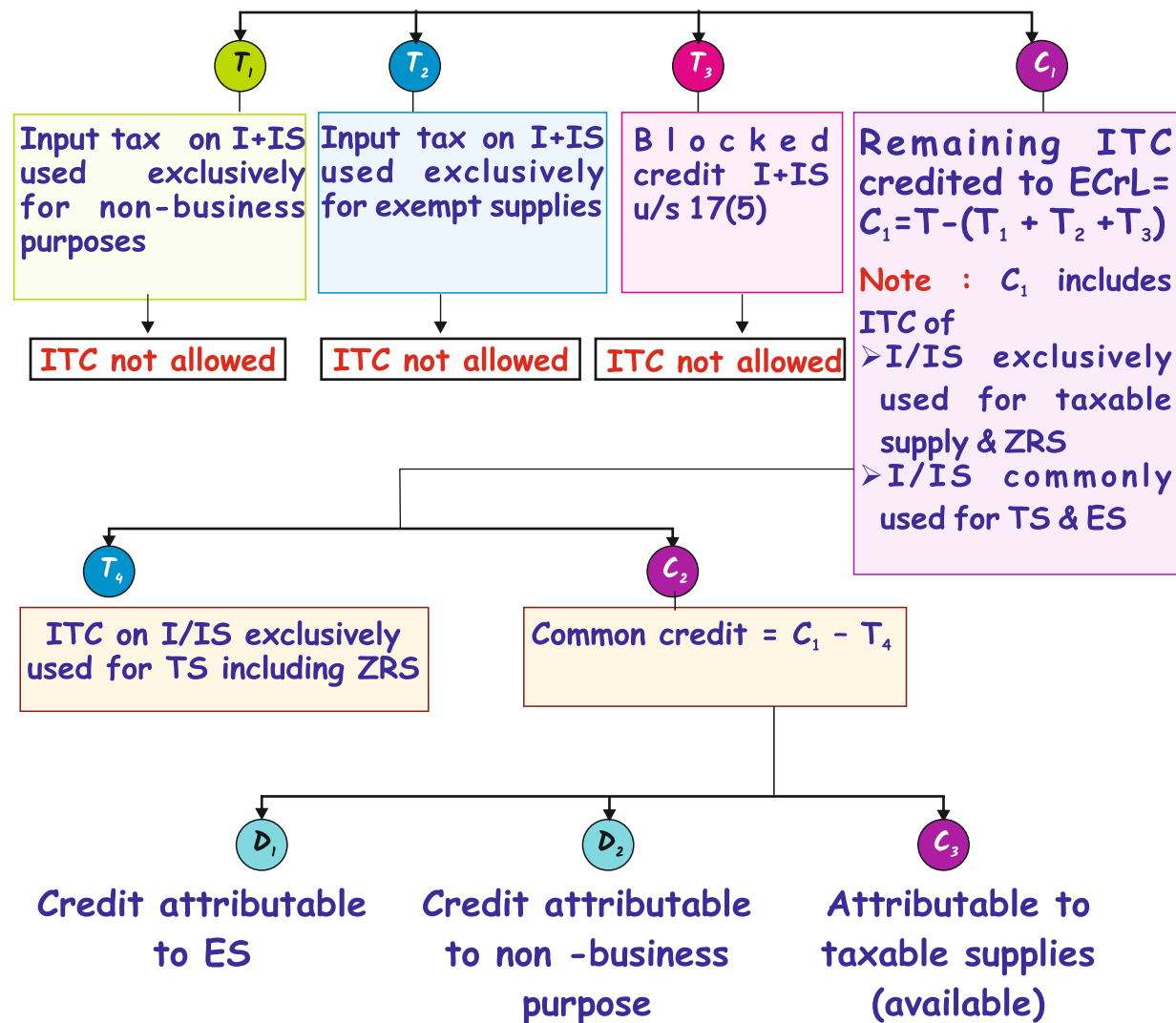
Time Limit for Availing ITC on RCM Supplies from URPs u/s 16(4) (Cir. No. 211/5/2024)	
Issue	Clarification
Services received from URP without consideration	The recipient must issue an invoice and pay tax under RCM.
Time limit for ITC u/s 16(4)	ITC time limit is based on the F.Y. when the self invoice is issued, not when the supply was received.
Invoice issued after TOS	If the self invoice is issued late, the recipient must pay interest on delayed tax & may face penalty u/s 122.
ITC for Ducts & Manholes in Optical Fiber Cable Networks u/s 17(5) (Cir. No. 219/13/2024)	
Issue	Clarification
Ducts & Manholes classification	Ducts and manholes are part of the OFC network and not land or buildings, so they are "Plant & Machinery."
ITC eligibility	Ducts & manholes are eligible for ITC & not blocked u/s 17(5)(c) & (d).
ITC Entitlement for Insurance Co. on Motor Vehicle Repairs in Reimbursement Claims (Cir.No.217/11/2024)	
Insurance Co. = General insurance of Motor vehicle	
<p>Handling of repair/damage cost through cashless mode</p> <p>ITC to Insurance co. on invoice of garage for repair</p> <ul style="list-style-type: none"> <li>➤ not blocked u/s 17(5)</li> <li>➤ Invoice in the name of Insurance Co.</li> <li>➤ Use in outward supply</li> </ul> <p>ITC allowed</p>	<p>Handling of repair/damage cost through Re-imbursement mode</p> <p>ITC to Insurance co. on invoice of Garage for repair</p> <ul style="list-style-type: none"> <li>➤ not blocked u/s 17(5)</li> <li>➤ Invoice not in the name of Insurance Co.</li> </ul> <p>Hence ITC in-eligible u/s 16(2)(a)/(aa)</p>

Sec - 17(1), 17(2) & 17(3) Apportionment of Credit

Sec 17(1) & (2)Goods or Services or both used by RP		17(3): Value of Exempt Supply	Sec 17(4) : Special option of ITC to banking and F.I.
<p>17(1) Partly For Business purpose &amp; Partly Non Business purpose</p> <p>Credit available of Input tax exclusively used for business purpose</p>	<p>17(2) Partly For effecting taxable supplies (including zero rated supply) partly Exempt supplies</p> <p>Credit available of Input tax exclusively used for taxable supplies (including ZRS)</p>	<p>2(47) :-</p> <p>1) Nil rated supply</p> <p>2) Wholly exempt supply</p> <p>3) Non-taxable supply</p> <p>Additional by 17(3) :-</p> <p>4) Supply under RCM</p> <p>5) Transaction in Securities (1 % of sale value)</p> <p>6)Sale of land &amp; Building (Stamp duty Value)</p> <p>7) Supply of warehoused goods to any person before clearance for home consumption (Value of SOG from Duty Free Shops at arrival terminal in international airports to incoming passengers)</p> <p>(Do not consider other Schedule III activities in ES )</p> <p>ES shall not include: -</p> <p>⇒ Interest / Discount on loan advances &amp; discount except in case of bank / FI</p> <p>⇒ Value of Supply of duty credit scrips</p>	<p>1. Availment of Tax Credit : Banking Company/FI including NBFC's have the following options -</p> <p>(a) Option 1 : To comply with the provisions u/s 17(2) (read with rule 42 &amp; 43), or</p> <p>(b) Option 2 : To avail of, every month, an amount equal to 50% of the eligible ITC in that month and the balance 50% shall lapse.</p> <p>2. Conditions on choosing option of 50% availment :</p> <p>(a) The said Company or Institutions shall not avail the credit of -</p> <p>(i) Inputs and Input Services that are used for non-business purposes, and</p> <p>(ii) the credit attributable to blocked Credits</p> <p>3. Withdrawal : Option once exercised, shall not be withdrawn during the remaining part of F.Y.</p> <p>4. No Restriction : 50% of ITC Restriction shall not apply when supplies are made between branches (100% ITC is available).</p>
Method of apportionment incase of I, CG & IS commonly used			

## Rule 42 :- Manner of distribution of ITC w.r.t. I/IS

T = Total Input tax Credit on I/IS



$$D_1 = \frac{E}{F} \times C_2$$

$$D_2 = 5\% \text{ of } C_2$$

$$D_3 = C_2 - (D_1 + D_2)$$

E = Aggregate Value of ES  
F = T/o in State

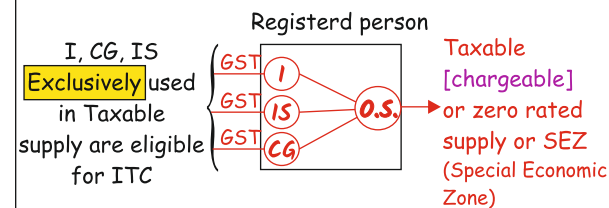
To be calculated only if I/IS is commonly used for business/non-business

- If E/F is not available for a tax period, then E & F at last tax period to be considered
- Value or T/O does not include Excise/VAT/CST (Specially for NTS)

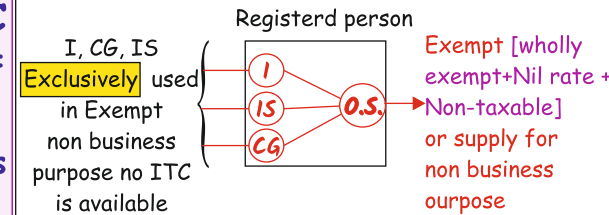
Reversed by the register person in GSTR 3B or in prescribed form

- $C_3$  will be computed separately for ITC of CGST, SGST/UTGST and IGST.
- $\Sigma(D_1 + D_2)$  will be computed for the whole financial year, by taking exempted turnover and aggregate turnover for the whole financial year. If this amount is more than the amount already added to output tax liability every month, the differential amount will be added to the output tax liability in any of the month till September of succeeding year along with interest @ 18% from 1st April of succeeding year till the date of payment.
- If this amount is less than the amount added to output tax liability every month, the additional amount paid has to be claimed back as credit in GSTR 3B or any month till September of the succeeding year.

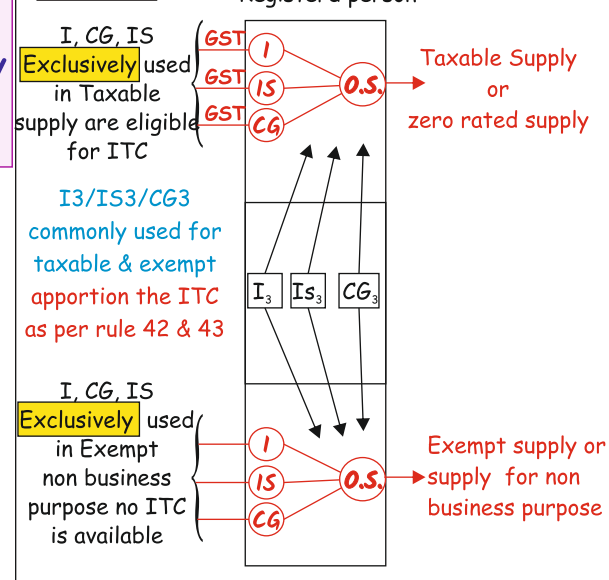
### Case 1



### Case 2

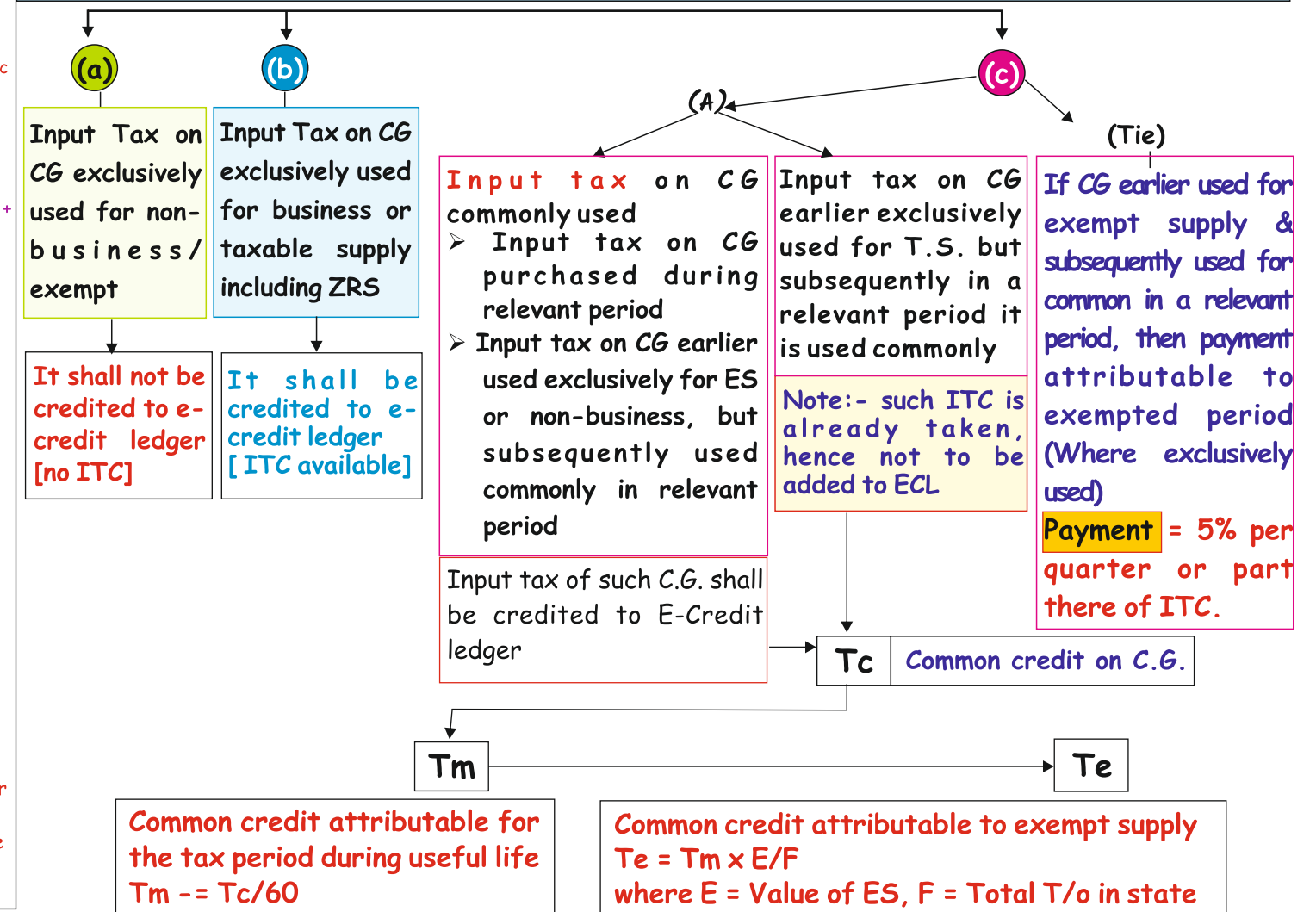


### Case 3

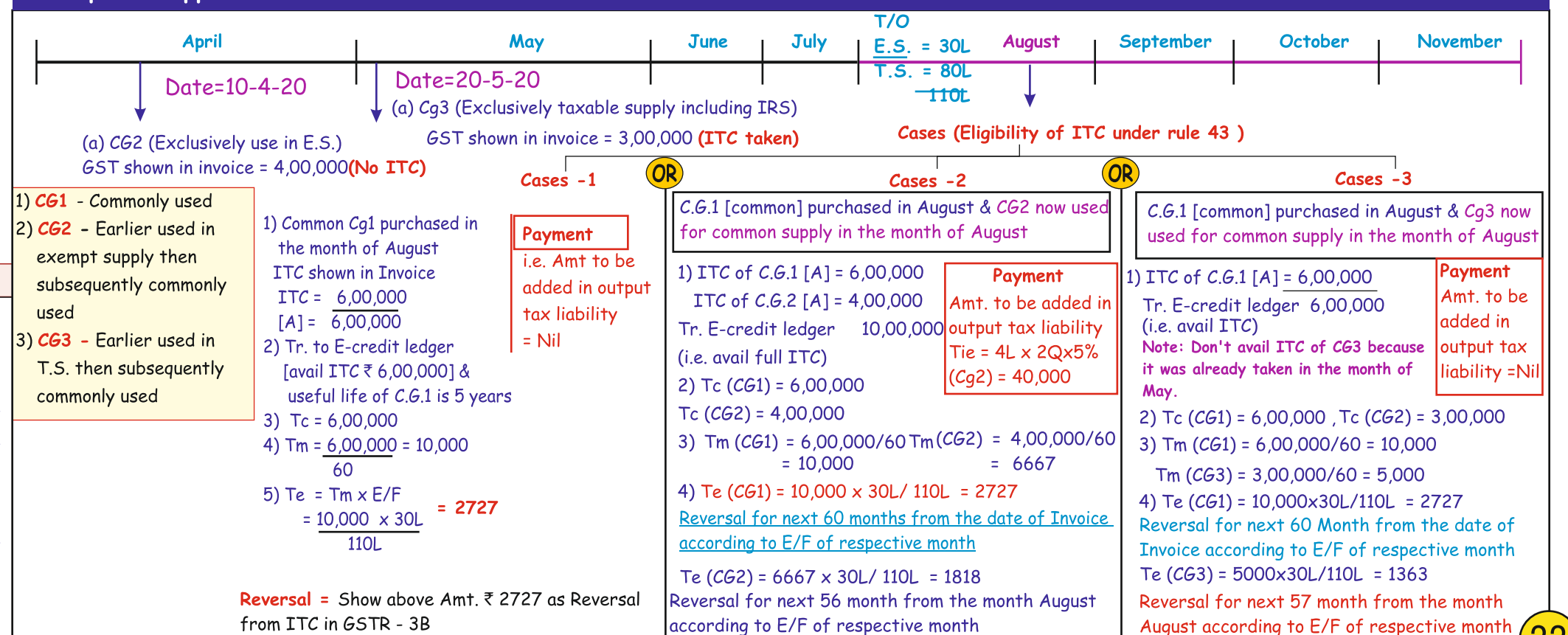


## Rule 43:- Manner of distribution of ITC w.r.t CGs

Total input tax (IT) on capital goods (CG)



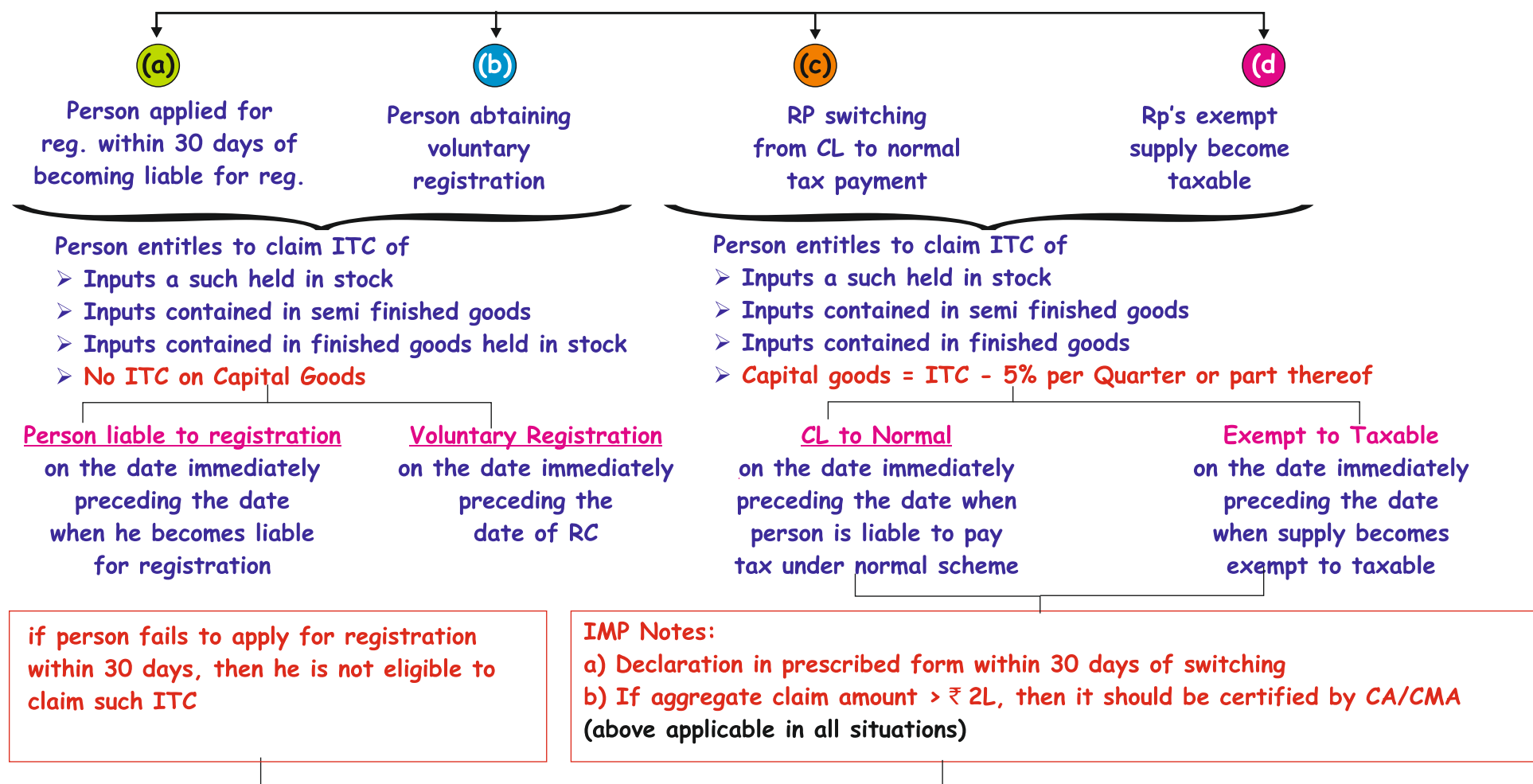
### Example :- Apportionment of ITC under rule 43





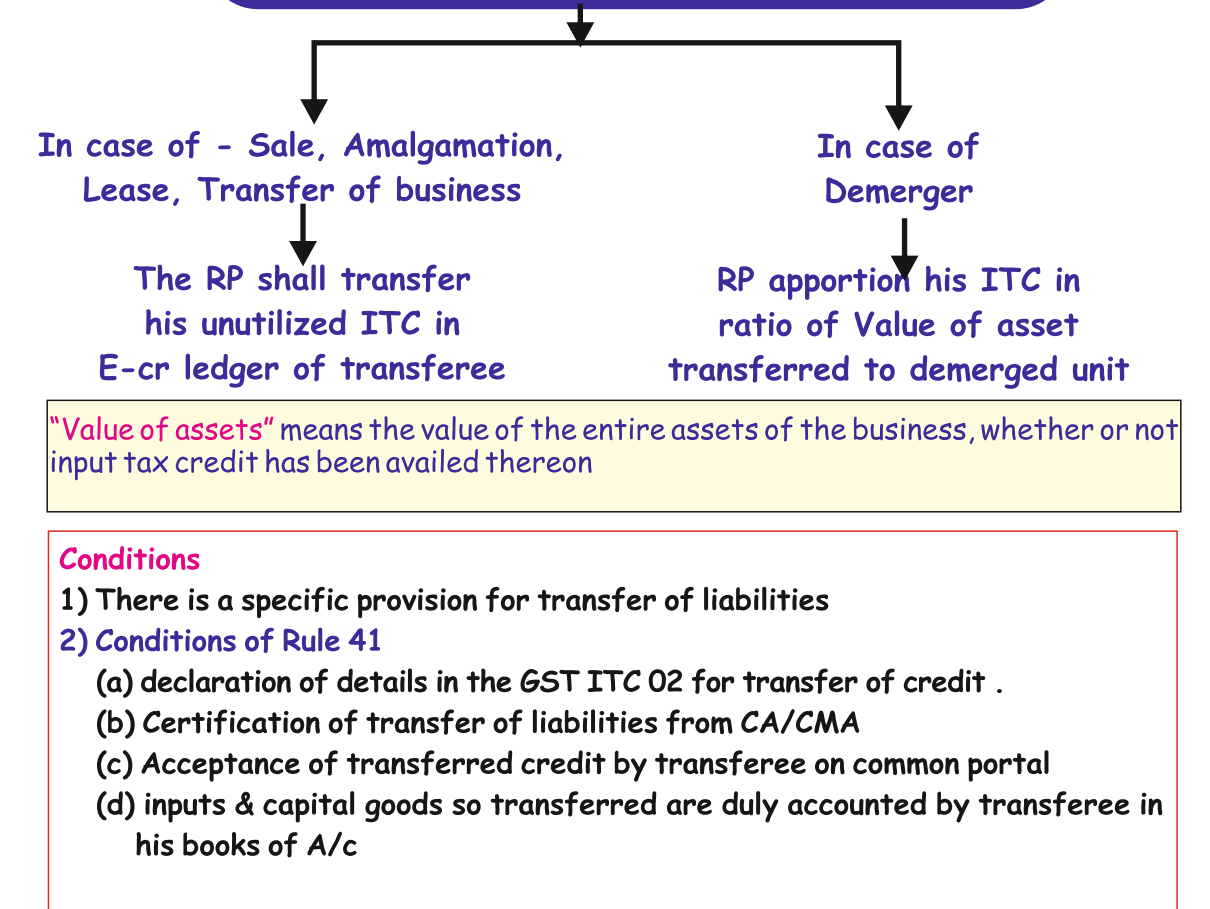
# Sec 18 : Availment or Reversal of Credit

## Sec 18(1) Availment of Credit



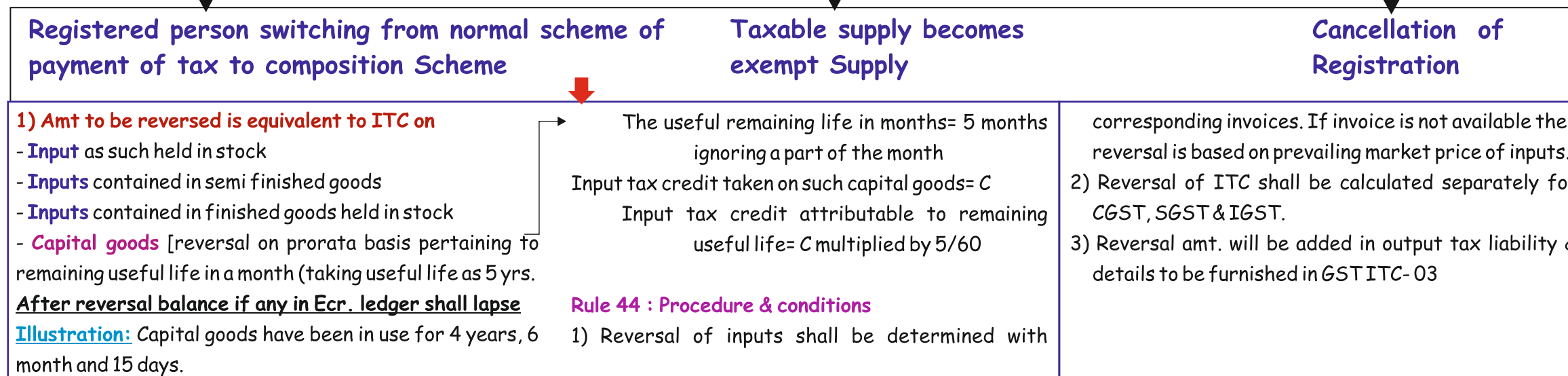
**Section 18(2) :** Person is not entitled to take ITC of I/CG after expiry of one year from the date of invoice.

## Sec 18 (3) Transfer of ITC



## Reversal of Credit

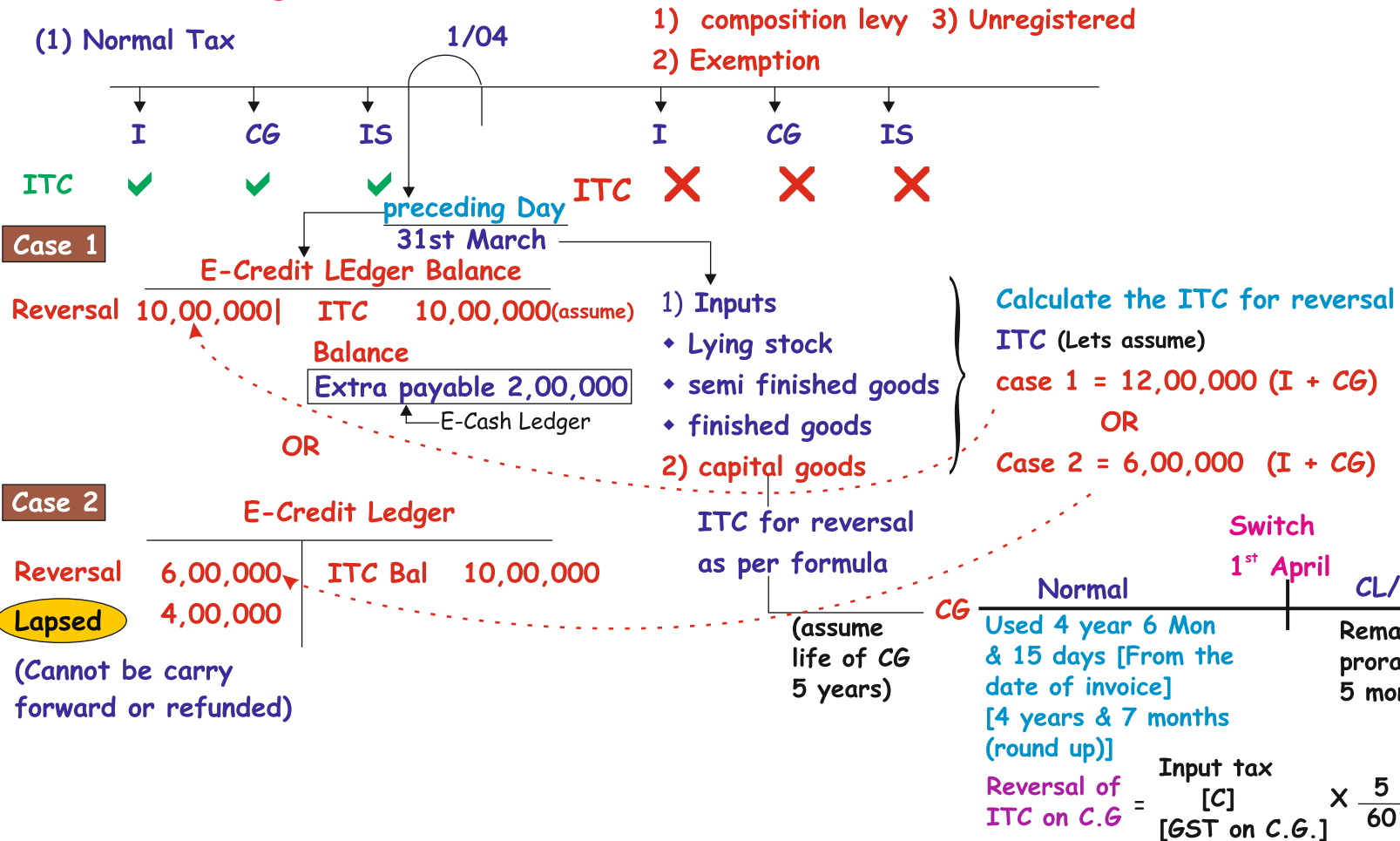
### Sec 18(4) Reversal of credit in Special Cases



### Sec 18 (6) : Reversal of credit on supply of Capital Goods/ Plant & Machinery on which ITC has been taken

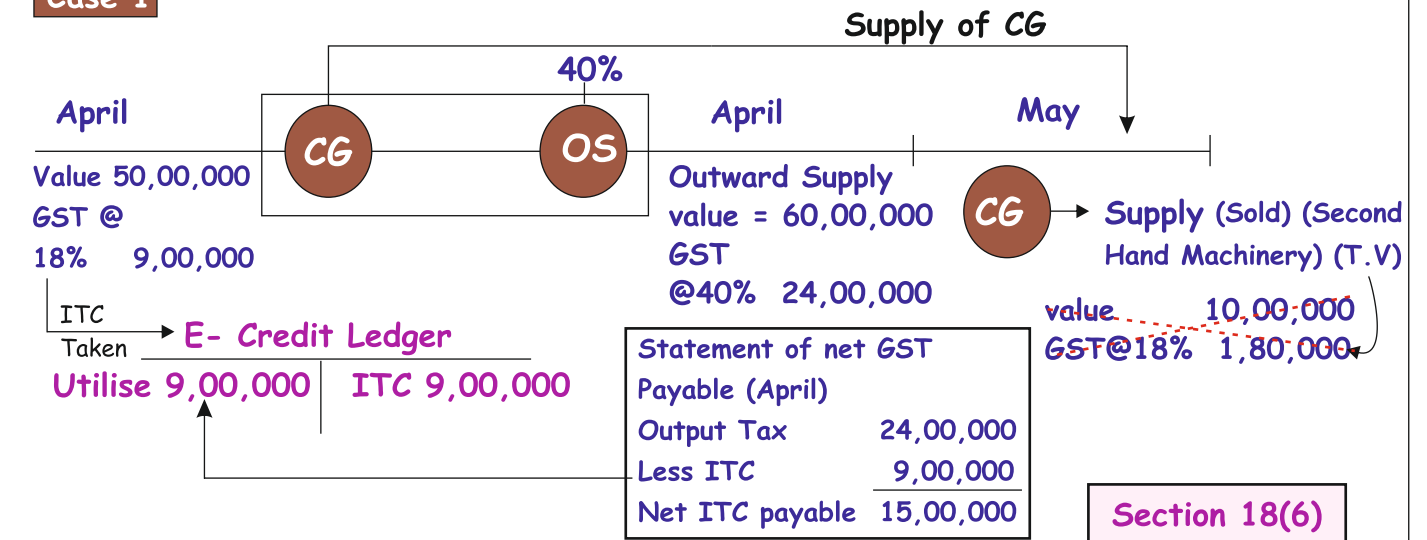
- 1) If capital goods or plant & machinery on which ITC has been taken are supplied [Removed as such by way of sale transfer barter etc.] then registered person shall pay **higher** of the following  
 a) **Payment = ITC - 5% per Qtr. or part thereof** OR  
 b) **GST on transaction value**
- 2) In case of refractory bricks, moulds & dies, jigs & fixtures supplied as a scrap then person may pay tax on transaction value instead of above 2 options.

## Reverse Switching [Section 18(4)]



## Why Sec 18(6) is given

### Case 1



**Imp Note :-** In case of refactories bricks, mpulds, dies, jigs sold as scrap then amount payable = T.V. X GST [criteria of reduction of 5% frpm ITC is not applicable]

Payment higher of following = 8,55,000

1) GST on TV= ₹ 1,80,000 [₹ 10,00,000 X 18%]

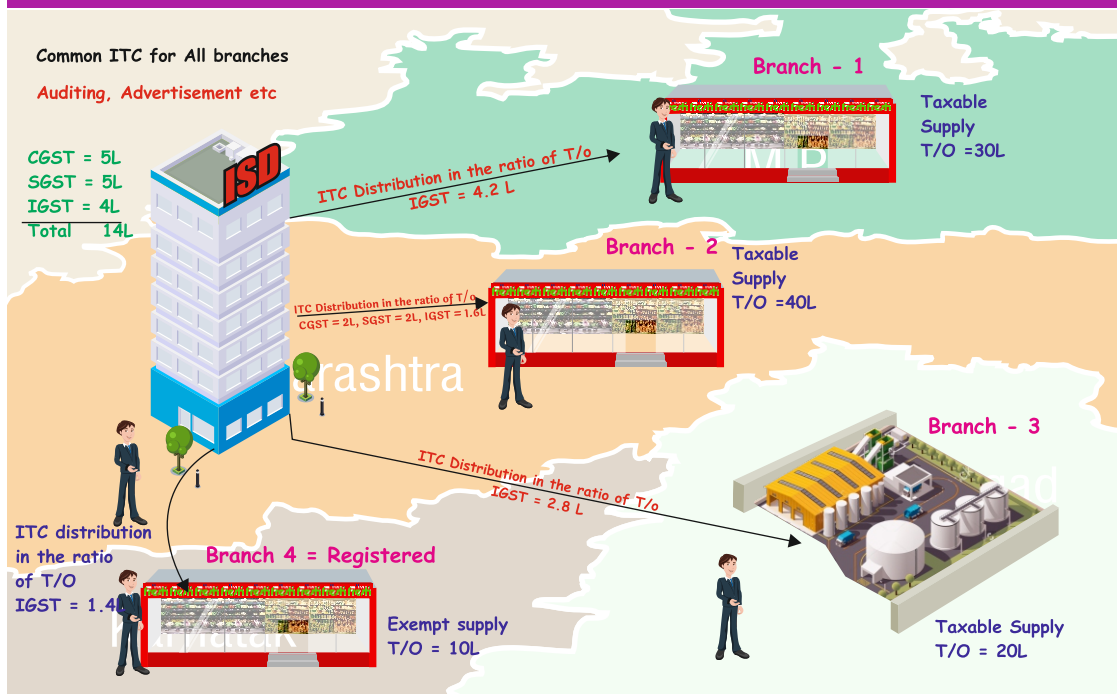
OR

2) ITC taken- 5% per quarter [Part thereof]

= 9,00,000 - 5% X 1 Qtr. X 9L

= 8,55000

## Sec 20 - Distribution of credit by Input Service Distributor (ISD)



**Sec 2(61)- ISD :** Means an office of supplier of goods &/or services which receives tax invoices issued u/s 31 towards receipt of input services & issues a prescribed document to distribute credit of > CGST, > SGST/UTGST, > IGST paid on said services to a supplier of taxable goods &/or services having same PAN as that of said office.

The Input Service Distributor shall distribute the credit of

- Central tax as Central Tax or Integrate Tax and
- integrated tax as integrated tax or central tax State tax
- State tax as State tax or integrated tax

by issuing a document containing the amount of ITC being distributed in prescribed manner.

The Input Service Distributor may distribute the credit of CGST, SGST & IGST subject to the following conditions namely:-

- ISD Challan :-** The credit can be distributed to the recipients of credit against a document containing such details as may be prescribed
- Restriction on credit distribution:-** the amount of the credit distributed shall not exceed the amount of credit available for distribution
- One-to-One Basis:-** the credit of tax paid on IS attributable to a recipient of credit, shall be distributed only to that recipient
- Prorata Distribution :-**
- ITC of IS attributable to more than one recipient -** Distribution on pro rata basis of the T/o in state / UT of such recipient during the relevant period to the aggregate of the turnover of all such operational recipients
- ITC of IS attributable to all recipients -** Distribution on pro rata basis of the T/o in state / UT of such all recipient during the relevant period to the aggregate of the turnover of all such operational recipients

### Relevant Period

☞ If T/o of P.F.Y. is available - Take such T/o

☞ If T/o of P.F.Y. is not available - take T/o of last Quarter of month in which credit to be distributed

### For your self notes:-



Rule 86A: Restrictions on ITC Utilisation	
Authority to Restrict ITC	Commissioner or authorized officer can restrict ITC.
Restriction on Liability & Refund	➤ ITC cannot be used to pay any liability u/s 49. ➤ Unutilized ITC cannot be refunded.
Circumstances for imposing Restrictions	1. <b>Invalid Documents:</b> ITC claimed on documents issued by <ul style="list-style-type: none"> <li>➤ A non-existent or inactive business, a</li> <li>➤ A person who hasn't paid the tax, or</li> <li>➤ Without receipt of goods/services.</li> </ul> 2. <b>Non-existent RP:</b> ITC claimed by a RP found to be non-existent or not operating from the registered business place. 3. <b>Lack of Valid Documents:</b> ITC claimed without possession of valid documents (tax invoices, debit notes etc.)
Duration of Restrictions	Restrictions last up to 1 year, can be lifted if conditions change.

For your self notes:-

Rule 86B: Restrictions on ITC available in Credit Ledger	
Applicability of Rule 86B	Applies to RPs with taxable supply > ₹ 50 lakh/month.
ITC Utilization Limit	➤ Cannot use > 99% of output tax to discharge output tax liability. ➤ 1% must be paid from E-cash ledger.
Exceptions	1. Paid more than ₹ 1L of income tax in last 2 years. 2. Received more than ₹ 1L of ITC refund (ZRS/ITS). 3. Paid more than 1% of tax from E-cash ledger. 4. Government/PSU/LA/Statutory body.
Commissioner's Authority	May remove restriction after verification.

Taxability of Services Between Offices of Same Organisation in Different States(Cir.No.199/11/2023)		
Issue	Clarification	
Can Head Office (HO) Avail ITC for Common Services and Issue Invoices to Branch Office (BO), or Must It Use ISD?	ITC Distribution Method	HO can either use the ISD mechanism or directly issue tax invoices to BO.
	ISD Registration	If HO chooses the ISD mechanism, it must register as an ISD u/s 24(viii).
	Services Specifically for Bos	ITC or invoices can only be issued if the services are specifically for or provided to the BO.
Is HO Required to Issue Invoices for Internally Generated Services to BOs When Full ITC is Available?	Valuation as per Rule 28(2)	If BOs are eligible for full ITC, the invoice value from HO to BO is considered the OMV.
	Uninvoiced Services	If HO doesn't issue an invoice, the value of services is <b>deemed Nil</b> and treated as OMV when full ITC is available.
Is Salary costs to be included by HO?	Inclusion of Employee Salary Costs	HO is not required to include employee salary costs in taxable value, even if BOs can't avail full ITC.

For your self notes:-



# CHAPTER 8:- IGST Act, 2017 (Place of Supply)



CA Vishal Bhatta

<b>Export of Service</b> 1) Location of supplier is in India 2) Location of Recipient as outside India 3) Place of Supply outside India. 4) <b>Amount Received in CFE or ₹ if allowed by RBI</b> 5) Supplier & recipient are not DDP	<b>Circular No. 202/14/2023):-</b> When exporters of services are paid export proceeds in INR from Special Rupee Vostro Accounts of correspondent bank(s) of partner trading country, opened by AD banks, it fulfils conditions of section 2(6)(iv) of IGST Act (i.e. payment received in CFE or INR if allowed by RBI.	<b>Export of Goods</b> ⇒ Goods are taken to a place outside India. <b>Note:-</b> No such condition of receipt of CFE, only requirement is that goods are taken out of India.	<b>"Import of Goods" 2(10)</b> : means bringing goods into India from a place outside India	<b>Import of Service 2(11):</b> means the supply of any service, where- (i) the supplier of service is located outside India (ii) the recipient of service is located in India; and (iii) the place of supply of service is in India
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Supply	SEC 7 - Inter -State Supply & Levy of IGST			SEC 8 -Intra-State Supply	SEC 9 : Supply in Territorial Water
	Inter State within India	Import	Supply outside India		Notwithstanding anything contained in this Act,
Supply of Goods	<b>Sec 7(1): LOS &amp; POS</b> ⇒ Two different States ⇒ State & UT ⇒ UT to UT <b>Comments :</b> Place of supply shall be determined as per Sec 10	<b>Sec 7(2) Imported into territory of India till it cross custom frontiers</b> <b>Comments :</b> 1) Import goods means bringing into India from a place outside India. 2) IGST = ACD 3(7)    3) <b>Value</b> - As per provisions of Customs act 4) <b>POS = Sec 11</b> = location & importer <b>Exception:-</b> IGST on import of goods being supply of online money gaming shall be levied & collected u/s 5(1) of IGST Act & not Sec 12 of customs act.	<b>Sec 7(5)</b> Supply of <b>goods or services</b> or both, a) when the supplier is located in India and the place of supply is outside India b) to or by a <b>SEZ developer</b> or a <b>SEZ unit</b> or c) In the taxable territory, not being an intra-State supply and not covered elsewhere in this section shall be treated in the course of inter-State trade or commerce.	<b>SOG:- where the LOS &amp; POS</b> ⇒ the same State or ⇒ same Union territory  <b>SOS:- where the LOS &amp; POS</b> ⇒ the same State or ⇒ same Union territory	a Where the location of the supplier is in the territorial waters, b Where the place <sup>OR</sup> of supply is in the territorial waters,  LOS (for clause (a) & POS (for clause(b))shall be deemed to be in the coastal State or Union territory where the <b>nearest point of the appropriate baseline</b> is located.
Supply of Service	<b>Sec 7(3) LOS &amp; POS</b> - Two different States - State & UT -UT to UT <b>Comments :</b> 1) Location of supplier of service is defined u/s 2(15) 2) <b>Place of Supply</b> Shall be determined as per Sec 12.	<b>Sec 7(4) : Supply of Service imported into territory of India.</b> <b>Comment :</b> 1) As per Sec 2(11) import of service where, i) Supplier of service located outside India. ii) Recipient located in India iii) Place of supply in India 2) <b>Place of supply</b> shall be determined as per Sec 13 3) If supplier in non-taxable territory & recipient in taxable territory then IGST is payable under <b>reverse charge</b> , except OIDAR service to NTOR 4) Valuation as per Sec 15 of CGST Act.			<p>Territorial Water 12 NM</p> <p>Location of supplier will be the nearest coastal point</p> <p>Oil Extraction</p>

## POS for supply of Goods

### Sec 10 :- Place of Supply of Goods other than imported or export goods

S.No.	Nature of Supply	Parties Involved	Place of Supply
a)	Involves Movement of Goods	Movement by ➔ Supplier ➔ Recipient or ➔ Any other person (transporter)	POS = Location of the goods when the movement of goods terminates for delivery to the recipient
b)	Bill-to-Ship-to Sale	➔ Supplier ➔ Recipient (Shipping address) ➔ Third Person (Billing Address)	POS = Principal place of Business of third person, on whose direction goods are supplied to recipient
c)	Does not involve Movement of Goods	➔ Supplier ➔ Recipient	POS = Location of goods at the time of delivery to the recipient
ca)	Supply of goods to URP (overrides sec 10(1)(a)/(c)) (Does not override sec 10(1)(b)) supply through ECO = address of delivery recorded in invoice	➔ Supplier (registered) ➔ Recipient (unregistered)	POS= a) If address of recipient exist - address recorded in invoice b) If address of recipient does not exist - location of supplier
d)	Installation and Assembly of Goods at Site	➔ Supplier ➔ Recipient	POS = Place of such Installation or assembly of Goods
e)	Goods are supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle	➔ Supplier ➔ Recipient	POS = Location at which goods are taken on board.

**Note :** Where the place of supply of goods cannot be determined, the POS shall be determined as per the prescribed Sec 10(2)

### Sec 11 - Place of Supply Imported Goods or Export Goods

Nature of Supply	Place of Supply
Import of Goods into India	Location of the Importer
Export of Goods from India	Location outside India

## POS of Services

### Sec 12 (1) - Pos where LOS and LOR of Services in India

Sec	Description of Service	Place of Supply	
		Supply to unregistered person (B2C)	Supply to RP (B2B)
12(2)	General rule for all services except covered in 12(3) to 12(14)	(i) If Address of R exists on record POS = LOR (ii) If Address on recipient does not exists on record POS = LOS  <b>POS of Online Services supplied to unregistered recipients. [Cir. No.242/36/2024]</b>  ➔ All online service providers (including online gaming, OIDAR, and ECOs) <b>must record</b> the State of unregistered recipients on tax invoices, irrespective of the value of supply. ➔ This State name acts as the POS under GST (as per Sec 12(2)(b)(I) of IGST Act). ➔ Suppliers must have systems in place to collect and record this information before making the supply. ➔ Missing the recipient's State on the invoice can lead to <b>penalties u/s 122(3)(e)</b> . ➔ The recipient's State must also be reported as POS in <b>GSTR-1/1A returns</b> .	
12(5)	Training and performance appraisal	POS = Location where the service is actually performed.	
12(7)	Organisation of events including ancillary services, sponsorship	POS = Place where event is actually held. <b>Note:-</b> If event is held outside India POS = LOR  Rule 5 prescribed for supply of services attributable to different States or UT, of Sec 12(7)	
	In case of service	Basis of apportionment	
	Services are supplied to a person other than a RP, the event is held in India in more than one ST/UT and a consolidated amount is charged absence of any contract or agreement for separately collecting	Shall be determined by application of the <b>GAAP</b>	
12(8)	Transportation of goods, mail or courier	POS = Location at which goods are handed over for transportation	
12(9)	Passenger transport service	POS = Place where passanger embarks on the conveyance for a continuous jourey <b>Note:-</b> Right to passage for future use where point of embarkment is not known, POS = Section 12(2)	
12(13)	Insurance service	POS = LOR on record of insurance company	
12(3)	Service directly related to immovable property including agents, experts, lodging in hotels, inn, accommodation for functions & ancillary services	POS = Location at which immovable property or boat or vessel is located <b>But if IP is located outside India , POS = LOR</b>	

Location of such registered recipient



Rule 4:- The supply of services attributable to different States or Union territories, under section 12(3)		
In case of service		Basis of apportionment & Value of services
(i)By way of <b>lodging accommodation</b> by a hotel, inn, guest house, club or campsite, and services ancillary to such services (except cover in (ii))		<b>number of nights</b> stayed in such property
(ii) <b>a single property</b> located in two or more contiguous States or Union territories or both, and services ancillary to such services		<b>area of the immovable property</b> lying in each State or Union territory
(ii) <b>In all other services in relation to immovable property</b> including any immovable property for <b>organising any marriage or reception etc.</b>		
(iii) lodging accommodation by a house boat or any other vessel and services ancillary to such services		<b>time spent</b> by the boat or vessel in each such State or Union territory,
12(4)	Restaurant catering, personal grooming fitness, beauty treatment, health services including plastic surgery	<b>POS</b> = Location where service is actually performed
12(6)	Admission to events or amusement park & ancillary Services	<b>POS</b> = Where the event is actually held Where park or other place is located
12(10)	Service on board a conveyance	<b>POS</b> = Location of first schedule point of departure of that conveyance for the journey
12(11)	Supply of telecom services including data transfer, broadcast, cable or DTH	
	(a) Fixed lease or cable line	<b>POS</b> = Place where such fixed line is installed
	(b) Postpaid mobile, internet, DTH	a) If address of R exists = LOR b) If address of R dose not exists = LOS
	(c) Prepaid mobile, internet, DTH	a) Selling through agent = address of agent if on record <b>otherwise LOS</b> b) Direct to final subscriber = Place where voucher is sold
	(d) In all other cases	a) If address of R exist = LOR b) If address does not exist = LOS
	Proviso - Prepaid - electronic payment	<b>POS</b> = LOR in record of supplier

Rule 6 is prescribed supply of services attributable to different ST/UT , under sub section (11) of section 12 of the said Act,		
In case of service		Basis of apportionment
the leased circuit is installed in more than one ST/UT and a consolidated amount is charged, In the absence of any contract or agreement for separately collecting Liability on Intermediary		in proportion to the number of points lying in the ST or UT
12(12)	Banking & Financial Sector including stock broking	a) If address of R exist = LOR b) If address of R does not exist = LOS
12(14)	Advertisement services to Govt. or Local authority Rule 3 (refer from Study mat)	POS shall be determined for each State or UT where advertisement is broadcasted / Run/Played
Sec 13 (1) - POS where LOS or LOR of services is outside India		
Sec	Condition	Place of Supply
13(2)	All services other than covered in 13 (3) to 13(13) default Rule (General Rule)	POS= Location of recipient Note:- If LOR of service is not available , POS = LOS
13(3)	Supply on services on - Goods physically made available by recipient or - Individual physically present	POS = Place of Performance SOG = Proviso 1 : remote service through E-mean POS = Location of goods Proviso 2 : Goods temporarily imported for repairs etc & re-exported w/o use POS = LOR [13(2)]
The supply of service attributable to different States or Union Territory read with 13(7) of the IGST Act.		
Rule No.	In case of service	Basis of apportionment
Rule 7 applicable to Provision of Sec 13(3)	services supplied on the same goods,	by equally dividing the value of the service where the service is performed;
	in the case of services supplied on different goods,	by taking the ratio of the invoice value of goods , as the ratio of the value of the service performed in each State or Union territory;
	in the case of services supplied to individuals,	by applying the GAAP
13(4)	Supply of service directly on immovable property (includes experts renting, architect, interior design etc.)	POS = Place where the immovable property is located or intended to be located
Rule No.		Basis of apportionment
Rule 8 applicable to Provision of Sec 13(4), (In Multiple State)		by applying the provisions of rule 4, mutatis mutandis.
13(5)	Admission/Organisation to events including ancillary services	POS = Place where event is actually held
Rule No.		Basis of apportionment
Rule 9 applicable to Provision of Sec 13(5), (In Multiple State)		by applying the provisions of rule 5, mutatis mutandis.

13(6)	SOS u/s 13(3), (4),(5) in multiple taxable territory	POS = Taxable territory [Entire value is taxable]
13(7)	SOS u/s 13(3),(4),(5) more than 1 ST/UT	Rule 7 / Rule 8 / Rule 9
13(8)	Supply by banks/FI/NBFC to A/c holders - Intermediary services -Hiring all means of transport including Yatch upto 1 Month other than vessel or Aircraft	POS = Location of supplier (Refer material for detailed discussion)
<del>13(9)</del>	<del>Transportation of goods other than mail or courier</del>	<del>POS = Place of destination of goods</del>
	Cir. No. 203/15/2023:-POS of transportation of goods, including through mail & courier will be determined u/s 13(2) & not u/s 13(3)	
13(10)	Passenger transport service	POS = Place where passenger embarks on conveyance for a continuous journey
13(11)	On board supply of services	POS =The first scheduled point of departure of that conveyance for the journey
13(12)	OIDAR Service	POS = LOR
13(13) C.G has Notified services under this	(i) Supply of research & development services related to pharmaceutical sector by person located in TT to a person located in NTT	POS = LOR
	(ii) Repair & maintenance to air craft	POS = LOR
	(iii)Repair , Maintainance to ship & Vessel	

Sec 14 :- OIDAR	
<p>Sec 2(17) Online information and database access or retrieval (OIDAR) services:-</p> <p>⌚ Whose delivery is mediated by information technology over the internet or an electronic network and</p> <p>⌚ The nature of which renders their supply <del>essentially automated and</del></p> <p>⌚ <del>Involving minimal human intervention, and</del></p> <p>⌚ Impossible to ensure in the absence of information technology and</p> <p>⌚ Includes electronic services such as: Advertising on the internet ,Providing cloud services Provision of e-books, movie, music, software and other intangibles via telecommunication networks or internet, Providing data or information, retrievable or otherwise, to any person, in electronic form through a computer network, Online supplies of digital content (movies, television shows, music, etc.), Digital data storage and Online gaming</p>	<p>Sec 2(16) "Non-taxable online recipient"(NTOR)</p> <p>means any unregistered person receiving OIDAR services located in taxable territory.</p> <p>Explanation: Unregistered person includes a person registered u/s 24(vi) solely for TDS u/s 51.</p>

Supplier of Service	Service recipient	Taxability	Who is Liable ?	
Located in non Taxable Territory	NTOR	yes	Liability on Service Provider	
			When SP in NTT is represented by a person for any purpose in taxable territory	such representative liable for paying tax
			If the SP in NTT does not have a physical presence or a representative in the taxable territory	may appoint a person for Payment of Tax
Located in non-Taxable Territory	Other than non- assessee online recipient	yes	Service Recipient(RCM is applicable)	

Sec 16 : ZERO RATED SUPPLY	
1) "zero rated supply" means	
(a) Export of goods or services or both; or	
(b) SOG &/or SOS for authorised operations to SEZ developer/ SEZ unit.	
2) ITC may be availed for making ZRS, notwithstanding that such supply may be an exempt supply. (except block credit)	
3)	(1) RP making ZRS is eligible to claim refund of unutilised ITC on supply, without paying IGST, under bond/ LUT, u/s 54 of CGST Act. Proviso:-If RP does not realise sale proceeds of ZRS of goods, he is liable to deposit refund received + interest u/s 50 of CGST Act within 30 days after expiry of time limit given under FEMA, 1999.
	(2) Govt. may notify- i)class of persons to make ZRS by paying IGST & claim refund of tax paid; ii) class of goods or services to be exported by paying IGST & supplier may claim refund of tax paid.
4) The Govt, with Council's recommendation and conditions, can issue a notification to specify:	
1. Class of people can pay IGST on ZRS and claim a refund u/s 54.	
2. Class of goods/services can be zero-rated for which Supplier can pay IGST and claim a refund	
5) No refund of unused ITC or IGST on ZRS of goods will be allowed if the goods are subject to export duty, despite the rules in Sec 16(3) & (4).	

POS of goods to URPs u/s 10(1)(ca) (Circular No. 209/3/2024)
<p>⌚ If goods sold through e-commerce platforms to URP &amp; billing address is different from the delivery address on the invoice, <b>POS is where the goods are delivered.</b></p> <p>⌚ The supplier can use the delivery address on the invoice to determine the POS.</p>

POS applicable for custodial services provided by banks to FPIs (Circular No.220/14/2024):
<p>⌚ Custodial services provided by banks or FI to FPIs should <b>not be considered</b> services to the 'account holder' u/s 13(8)(a) of the IGST Act.</p> <p>⌚ Thus, POS for these services should be determined <b>under default rule in section 13(2).</b></p>



For your self notes:-

# Chapter 09 - SEC 49 : Payment of Tax



CA Vishal Bhattar

Debit	Sec 49(1): E-Cash Ledger	Credit
<b>49(3) Utilization of E-Cash Ledger</b>	<b>Deposit of Amount in E-Cash Ledger</b>	
It may be utilised for making payment of <b>[Liability Register]</b>	<ul style="list-style-type: none"> <li>Internet banking /UPI/IMPS</li> <li>By using credit or debit cards</li> <li>NEFT or RTGS</li> </ul>	
<ul style="list-style-type: none"> <li>Tax (output/RCM)</li> <li>Interest</li> <li>Penalty</li> <li>Fees (late fee)</li> <li>Any other dues</li> </ul>	Payment (PMT-06) by above mode only through authorised bank.	
Balance if any in E- cash ledger will be carry forward or refunded	<ul style="list-style-type: none"> <li>Amount of TDS u/s 51</li> <li>Amount of TCS u/s 52</li> </ul>	
1) Over the Counter(OTC) cash Payment - ₹ 10,000 per challan per tax period		
<b>Exception : Cash payment (OTC) without limit:-</b>		
a) Payment by Govt. Department or person notified by Comm.		
b) P.O. authorised to recovery dues from person including recovery through sale of property/during investigation etc.		
2) <b>Special Payment mode for OIDAR or Online money gaming:-</b> International money transfer system of SWIFT network.		

## Rule 87 :- Tax Payment Challan

E-Challan	PMT- 06	Other Aspects relating to challan
<b>Validity</b>	for 15 days from generation on CP	<b>CPIN :-</b> 1. <b>Common portal Identification Number.</b>
<b>Date of payment</b>	When amount is successfully credited in government A/C. & CIN generated by Bank.	2. It is created for every Challan successfully generated by the taxpayer.
<b>Credit to E-cash Led.</b>	On receipt of CIN the same amt. is credited into the E-cash ledger	3. <b>It is a 14-digit unique number to identify the challan.</b>
<b>RBI's e-Scroll</b>	If CIN is not generated after payment, the ledger can be updated based on RBI's e-Scroll,	4. CPIN remains valid for a period of 15 days.
<b>Non-Generation of CIN</b>	If CIN isn't generated or reflected on the portal, use PMT-07 to make a representation.	<b>CIN:-</b> 1. <b>Challan Identification number</b>
<b>Reporting Discrepancies</b>	Report any discrepancies on the CP in prescribed form.	2. It is when payment is actually received by authorised banks or RBI & credited in the Govt. A/c
<b>Payment by URP</b>	URP must pay through the E-cash ledger using a temporary ID generated on CP. eg. CTP, N RTP	3. It is indication of successful payment of account.
		4. CIN is communicated by authorised bank to taxpayer as well as to CP.
		5. <b>It is 18 digit number that is 14 digit CPIN plus 4 digit Bank code.</b>

Debit		E-Credit Ledger		Credit
49(4) Utilization of E-Credit		49(2) Amount assessed in E-credit Ledger		
It may be used for making payment of output tax only		The IC as self assessed in the return of a R.P. shall be credited to his E-Credit ledger		
Balance if any in E-credit ledger will be carry forward (without time limit)				
Analysis:-				
Tax dues	Utilisation of cash ledger	Utilisation of Credit ledger	Manner of utilization of ITC [Sec 49(5) + Sec 49(A) + Sec 49(B)]	
GST	✓	✓	INWARD SUPPLY      OUTWARD SUPPLY	
Other Dues			First      Any      Any	
Interest	✓	✗	IGST      CGST      SGST	
Penalty	✓	✗	First      Second	
Fees	✓	✗	CGST      IGST	
Other Amt.	✓	✗	First      Second	
			SGST      IGST	
			Note: Cross credit of CGST & SGST/UTGST are not allowed.	

## Imp Points - E-Credit Ledger (Cir.No. 172/04/2022)

- Used for Payment of Output Tax
  - Cannot be used for RCM
  - Cannot be used for payment of other liabilities
- Note:-** Cannot be used to repay erroneous refunds sanctioned in cash

## Sec 49(6) Refund :- E-cash & E-Credit Ledger

- Refund of excess balance:-
- E-cash ledger:-** Immediately allowed on filing application of refund in FORM RFD - 01
  - E-Credit Ledger :-** Refund of excess balance of ITC is not allowed except in following cases
    - i) ITC of ZRS
    - ii) Inverted duty rate
- (Output tax is less than Input tax) **Detailed discussion in chapter refund**

E- Liability Register					
<b>Discharge of Tax Liability Sec 49(7) &amp; (8) (IMP)</b>	<ol style="list-style-type: none"> <li>All liabilities(tax, interest, penalty etc.) shall be recorded and maintained in an Electronic Liability Register</li> <li>Order of Discharge of liability -                     <ol style="list-style-type: none"> <li>Self-assessed tax, and other dues related to <b>Returns of Previous Tax Period</b></li> <li>Self-assessed tax, and other dues related to the Return of the <b>Current Tax Period</b></li> <li>Any other amt payable under this Act including the demand for recovery of tax u/s <b>73/74/74A</b></li> </ol> </li> </ol> <p><b>*Other dues : Interest, Penalty, Late fee</b></p>				
<b>Utilization of E-Liability Register</b>	<table> <tr> <th>Debit Amount (DR)</th><th>Credit Amount (CR)</th></tr> <tr> <td> <ul style="list-style-type: none"> <li>Amount payable towards tax, interest, fees penalty or any other dues.</li> <li>Amount payable on demand order u/s <b>73/74/74A</b></li> </ul> </td><td> <ul style="list-style-type: none"> <li>Electronic cash ledger</li> <li>Electronic Credit ledger</li> </ul> </td></tr> </table>	Debit Amount (DR)	Credit Amount (CR)	<ul style="list-style-type: none"> <li>Amount payable towards tax, interest, fees penalty or any other dues.</li> <li>Amount payable on demand order u/s <b>73/74/74A</b></li> </ul>	<ul style="list-style-type: none"> <li>Electronic cash ledger</li> <li>Electronic Credit ledger</li> </ul>
Debit Amount (DR)	Credit Amount (CR)				
<ul style="list-style-type: none"> <li>Amount payable towards tax, interest, fees penalty or any other dues.</li> <li>Amount payable on demand order u/s <b>73/74/74A</b></li> </ul>	<ul style="list-style-type: none"> <li>Electronic cash ledger</li> <li>Electronic Credit ledger</li> </ul>				
<b>Certain liability only to be discharge through cash ledger</b>	<ul style="list-style-type: none"> <li>TDS u/s 51 or TCS u/s 52</li> <li>Amount payable under RCM</li> <li>Amount payable u/s 10 (C.L.)</li> <li>Any amount payable towards interest, penalty, fees.</li> </ul>				
<b>Reduction in penalty</b>	If tax get reduced after payment of tax , interest or penalty as mentioned in SCN/DO u/s <b>73/74/74A</b> the E-Liability regiser shall be credited accordingly.				

## Special Discussion- Transfer of balance of E-Cash Ledger (all following amounts are assumed)

Major Head				20th of next month			Transfer between own E-cash ledger	Transfer bet <sup>n</sup> E-Cash Ledger of DDP (PMT - 09)
Minor Head	IGST (₹)	CGST (₹)	SGST (₹)		IGST	CGST	SGST	
Tax	50,000	10,000	10,000	Output Tax	60,000	30,000	30,000	R.P. can transfer (through PMT-09) amount between different major & minor heads within their E-cash Ledger for payment
Interest	1,000	500	500	Less: ITC	(30,000)	(5,000)	(5,000)	IGST/CGST/SGST/UTGST/Cess
Fee	-	-	-	<b>Net liability</b>	<b>30,000</b>	<b>25,000</b>	<b>25,000</b>	<b>Note :-</b> Any transfer between any head-allowed
Penalty		2,000	2,000	<b>Existing Bal.</b>	<b>(50,000)</b>	<b>(10,000)</b>	<b>(10,000)</b>	
Other	-	-	-	<b>Shifting</b>	<b>IGST</b>	<b>10,000</b>	<b>10,000</b>	R.P. can also trasfer any amount available in major & minor heads of IGST/CGST in E-cash ledger to the E-Cash Ledger for IGST/CGST of <b>DDP (u/s 25(4)/25(5))</b>
					<b>Interest</b>	<b>1,000</b>	<b>1,000</b>	Provided there is no unpaid liability in his (first DDP who is transferring amount) E-Liability register.
					<b>Penalty</b>	<b>2,000</b>	<b>2,000</b>	<b>Note:-</b> Transfer major & minor head of SGST/UTGST between DDP is not allowed.



## Sec 50 - Interest

### Sec 50(1): Delay payment of Tax in Full/part

- Interest @ 18% p.a. (calculation on day wise basis)
- From next day after due date till day of payment

If tax is paid after due date but before proceeding u/s 73/74/74A started

Interest is on tax payable through E-cash Ledger (net GST liability + RCM)

If tax is paid after start of proceeding u/s 73/74/74A

Interest is payable on GST gross liability

**Proviso:-** If any amt is credited (deposited) to E-cash ledger by or before due of return but debited for tax payment after due date of return (because of late filing of return)

interest won't payable to that intent if the amount remains in the ledger from the due date until debited.

### Sec 50(3): Utilisation of wrongly availed ITC

Interest @ 18% p.a. to the extent of ITC wrongly utilise (calculation on day wise basis)

From : day next to the date of utilization of wrongly availed ITC

To : Date of reversal or date of payment

Date of utilisation (ITC balance E-credit ledger fall below the ITC wrongly availed)

If amount in E-credit falls below wrongly availed ITC on A/c of payment of tax through return

If amount in credit ledger falls below wrongly availed ITC otherwise

Due date of return or actual date of filing return whichever is earlier

Date of debit to E-credit ledger

### Sec 50(1) - Calculation of Interest for delay Payment of Tax (all amounts are assumed)

Particulars	IGST (₹)	CGST (₹)	SGST (₹)
Output tax payable	4,50,000	2,85,000	2,85,000
Less: ITC	(2,50,000)	(55,000)	(55,000)
Net Tax (A)	2,00,000	2,30,000	2,30,000
Tax under reverse charge is payable in cash (B)	18,000	32,000	32,000
Total tax payable in cash [(A) + (B)]	2,18,000	2,62,000	2,62,000
Interest payable @ 18% per annum (rounded off) assume delay in payment 60 days	6,450 (2,18,000*18%*60/365)	7,752 (2,62,000*18%*60/365)	7,752 (2,62,000*18%*60/365)

### Sec 50(3) - Calculation of Interest for wrongly availed & utilise ITC

Month	Opening balance in electronic credit ledger [A]	Eligible ITC (B)	ITC wrongly availed (C)	Total ITC (D) = (A+B+C)	Output liability (E)	Closing balance in E-credit ledger (F) = (D-E)	Due date of return filing	Actual date of filing Return	Amount on which Interest is applicable
April	-	7,00,000	50,000	7,50,000	7,00,000	50,000	20 May XX	20 May XX	-
May	50,000	5,00,000	-	5,50,000	5,00,000	50,000	20 Jun XX	20 Jun XX	-
June	50,000	3,00,000	-	3,50,000	3,30,000	20,000	20 Jul XX	20 Jul XX	30,000
July	20,000	6,00,000	-	6,20,000	6,10,000	10,000	20 Aug XX	18 Aug XX	10,000
Aug	10,000	5,00,000	-	5,10,000	5,10,000	-	20 Sep XX	25 Sep XX	10,000

June :- Interest = ₹ 30,000 \* 18% \* 92 days (21st July to 20th Oct 20XX) / 365 days = ₹ 1,361

July :- Interest = ₹ 10,000 \* 18% \* 63 days (19th Aug to 20th Oct 20XX) / 365 days = ₹ 311

August :- Interest = 10,000 \* 18% \* 30 days (21st Sep to 20 th Oct 20XX) / 365 days = ₹ 148

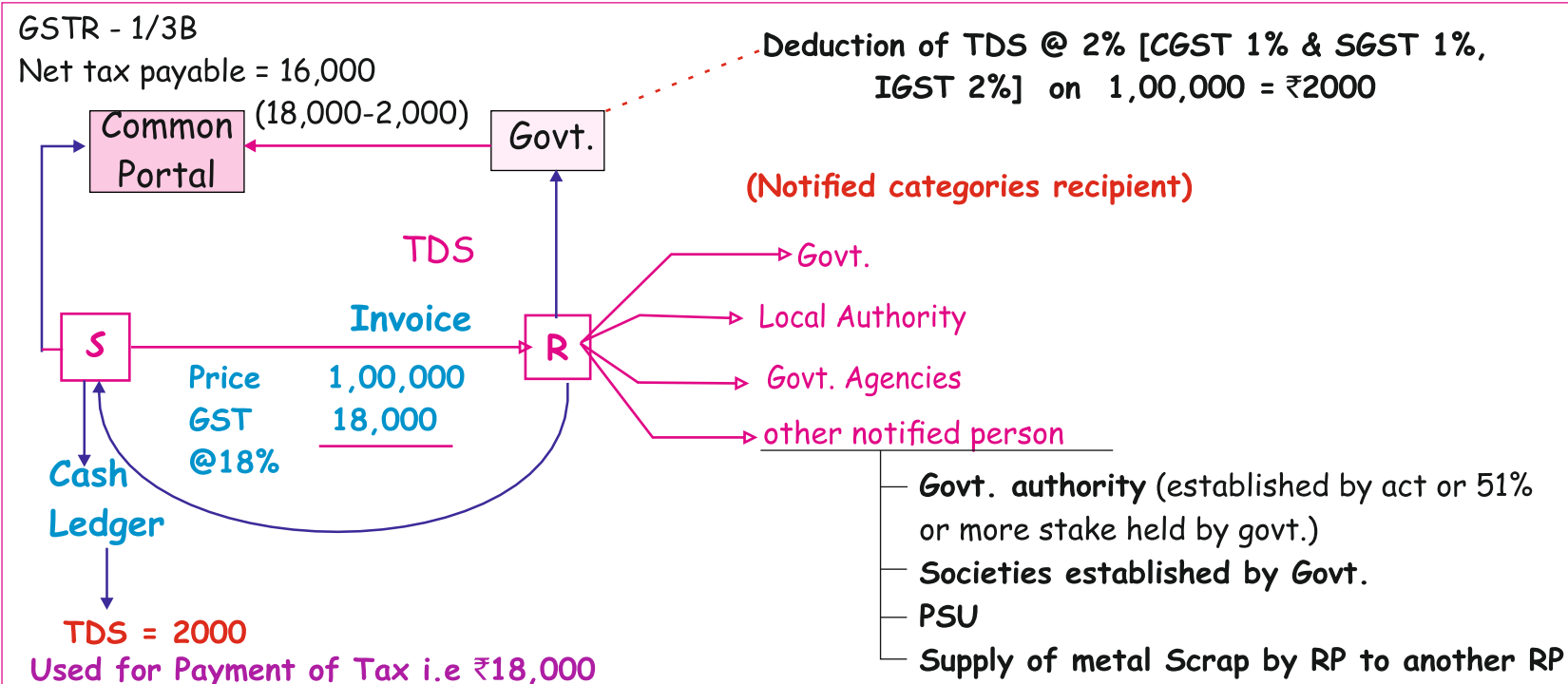
Assume payment/reversal of ITC made on 20th October

## Chapter 09 - TDS - TCS

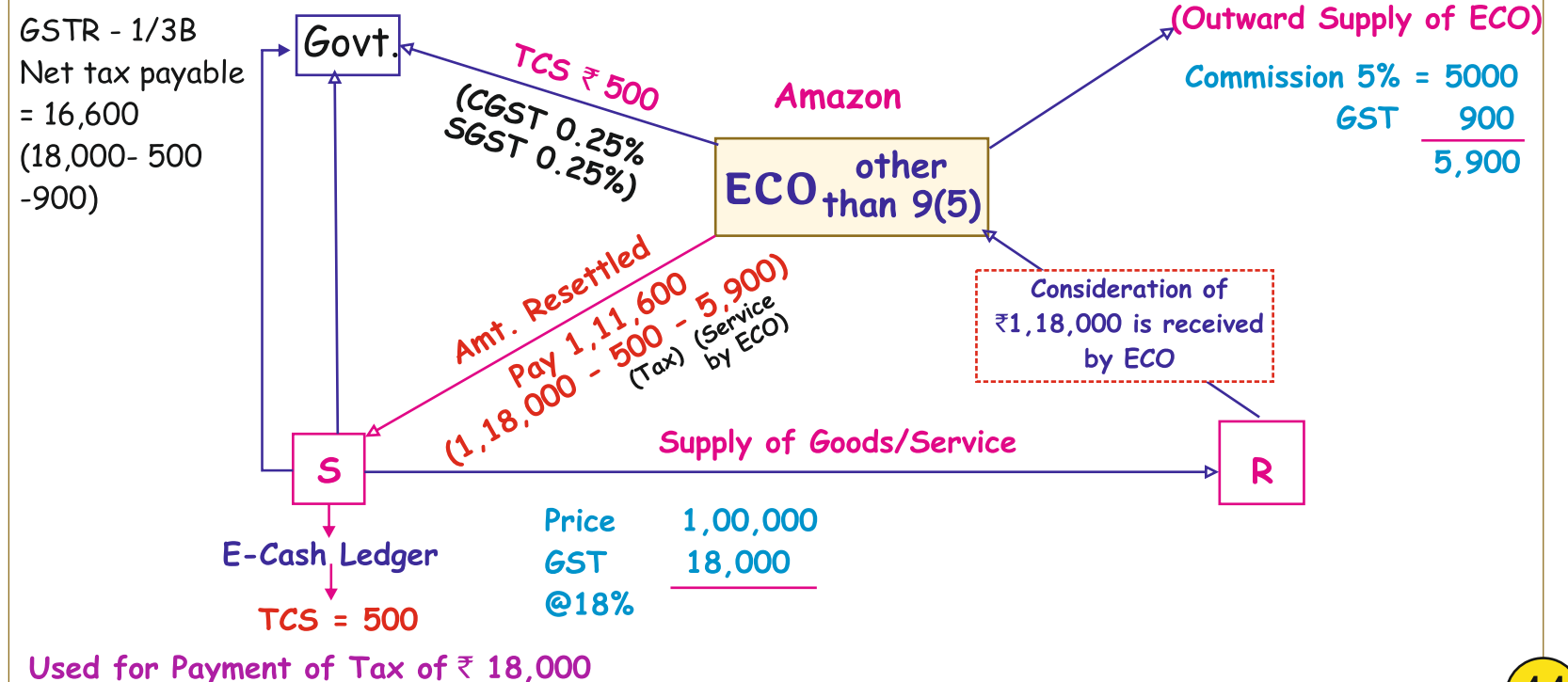


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### Sec 51 TDS



### Sec 52 TCS



Sec 51- TDS	
Who is liable (i.e who will deduct TDS)	<ul style="list-style-type: none"> <li>Specified persons like <b>CG, SG, LA</b> , Govt Agencies.</li> <li>Public Sector Undertakings (PSU).</li> <li><b>Society</b> established by CG/SG under Society Act.</li> <li>An <b>authority/Board</b> or Other body established by Any act or Govt. with 51% or more equity concern with Govt.</li> <li><b>Any RP receiving supplies of metal scrap from other RP.</b></li> </ul>
TDS rate	1% CGST, 1% SGST or 2% IGST
Threshold limit	TDS is applicable only when <b>taxable value of contract exceeds ₹2.5 lakh</b> (excluding GST). TDS is deducted at the time of credit or payment, whichever is earlier.
Payment	
Due date	Deductor shall deposited TDS deducted by <b>10th of succeeding month</b> .
TDS Certificate	<b>GSTR-7A</b> to be provided to deductee.
TDS Return	<b>GSTR-7 (to be filed on or before the 10th day of the next month.)</b>
Non-Compliance	Failure to deposit TDS: Interest @ 18% u/s 50(1) & Penalty u/s Sec 73 or 74/ <b>74A</b> /122
E-cash ledger	TDS deducted shall <b>reflect in Cash ledger</b> of Deductee.
Excess or erroneous deduction of TDS	<b>Refund</b> as per Sec 54, <b>but no refund, if TDS is credited to E-cash ledger of deductee.</b>
Non-Applicability	<ul style="list-style-type: none"> <li>Value of taxable supply in a Contract value <math>\leq</math> ₹ 2,50,000</li> <li>Exempt supplies</li> <li>Supplies under RCM.</li> <li>Supplier is URP.</li> <li>LOS &amp; POS are in same state, but LOR is in different state.</li> <li><b>SOG/SOS</b> between all notified persons u/s 51(1)(a) to (d), <b>excluding metal scrap received by RPs.</b></li> </ul>

#### CBIC Clarification:

1)	<b>1) TCS by Tea Board of India (Cir. no 74/48/2018)</b>
2)	<b>Multiple ECOs :</b> In a scenario involving multiple ECOs where a customer orders through ECO-1, which is linked to ECO-2 (the one with a supplier agreement), TCS will be collected by ECO-2, the ECO making payment to the supplier. ECO-1 will not have the GST information of the supplier.

Sec 52- TCS	
Who is liable	Every ECO not being an agent is required to collect tax on <b>Net value of Taxable supplies</b> .
TCS Rate	<b>0.25 % CGST, 0.25% SGST &amp; 0.50% IGST</b>
Net Value of Taxable supplies:	Aggregate value of taxable supplies <b>other than</b> notifies services u/s 9(5) XX Less: Aggregate value of taxable supplies returned to supplier (XX) Net value of taxable supplies XX <b>Note:</b> Above value is calculated for each supplier on <b>monthly basis</b> . No TCS if net value is Nil or Negative.
TCS in case of services notified u/s 9(5)	Notified services u/s 9(5) where TCS provisions are applicable: a) Renting of accommodation by hotel who is liable to register u/s 22(1). b) Housekeeping services by supplier who is liable to register u/s 22(1). c) Restaurant services at specified premises where tariff $\geq$ ₹7,500 p.u per day. <div>In this cases Sec 9(5) is not applicable</div>
Monthly Statement	<b>GSTR-8 by 10th of next month</b> but maximum within 3 years from its due date. <b>Note:</b> After filing of GSTR-8 by ECO, supplier can claim TCS in their E-cash ledger.
Annual Statement	<b>GSTR-9B before 31st Dec following the end of FY.</b>
Rectification of errors:	Any omission or incorrect particulars (other than in scrutiny, audit, inspection), ECO can rectify in the statement along with interest. <b>Time limit:</b> Earlier of 30th Nov of next FY or date of filing Annual statement.
Late Fee	<b>Lower of:</b> ₹ 200 [ ₹100 each for CGST & SGST] for every day during which such failure continues or ₹ 10,000 [ ₹5,000 each for CGST & SGST]
Penalty	U/s 122 & Penalty upto ₹ 25,000
Registration:	<ul style="list-style-type: none"> <li>If ECO required to collect TCS u/s 52 &amp; Supplier supplying goods through ECO liable to TCS are <b>compulsorily</b> register under GST (subject to exception covered in sec 24).</li> <li>Supplier supplying services through ECO liable to TCS               <ul style="list-style-type: none"> <li><b>Services u/s 9(5):</b> TCS is not applicable if ECO is liable to pay tax.</li> <li><b>Services other than Sec 9(5):</b> Threshold is available u/s 22.</li> </ul> </li> <li>ECO has to obtain separate registration for TCS though already register for GST.</li> <li>ECO is required to register for TCS in <b>each</b> state/UT in which suppliers listed on their platform are located,</li> </ul>
Foreign ECO:	Foreign ECO not having place of business in India would be liable to TCS where supplier & customers are in India & shall register in each state/UT.
Non-Applicability	<ul style="list-style-type: none"> <li>If supplier is not liable for registration, ECO is not required to collect TCS.</li> <li>Exempt supplies.</li> <li>Composition taxpayers cannot make SOS through ECO.</li> <li>Import of goods or services as it is covered under RCM.</li> <li>Supplies own product through his own website.</li> <li>Goods purchased from different Vendors &amp; then sold under own billing.</li> </ul>



# Chapter 10:- REGISTRATION



CA Vishal Bhattar

## Sec 22 Persons liable for registration

Every supplier liable to be registered in the State or UT from where he makes a taxable supply, if his **Agg. T/O** in a F.Y. **exceeds following limits.**

**Analysis:-** Limit for Threshold

State/UT	If exclusively engaged in SOG	If engaged in SOS or SOG + SOS
⇨ Manipur ⇨ Mizoram ⇨ Nagaland ⇨ Tripura	10 lakhs	10 lakhs
⇨ Pondicherry ⇨ Uttarakhand ⇨ Meghalaya ⇨ Arunachal Pradesh ⇨ Telangana ⇨ Sikkim	20 lakhs	20 lakhs
All the other States incl. following Sp. category state - Assam, J&K, H.P.	<b>40 lakhs</b>	20 lakhs

In following cases extended limit 40 Lakh is not applicable

a)	Required to take compulsory registration	General threshold also not available
b)	Person who taken voluntary registration.	
c)	Supply of i) Ice-cream or edible ice ii) Pan Masala iii) All Tobacco & Tobacco product iv) Fly ash bricks v) Fly ash aggregates vi) Fly ash blocks vii) Building Bricks viii) Bricks of fossils ix) Earthen or ruffing tiles	10L/20L threshold is available

**Interest or Discounting :-** For Calculation of threshold limit, Interest or Discount on loan, advances & deposits is includible, but for determining extended limit, it shall not be considered.

**Other aspects:-**

Agent	Supply made by agent on the behalf of principals to be <b>added</b> in agg. t/o of agent (if agent issues own invoice = compulsory reg. u/s 24)
Job-worker	Supply made by job worker on the behalf of principals <b>not to be added</b> in agg. t/o of JW
Transfer of business	When business is transferred, whether on account of succession or otherwise then Transferee/Successors shall take new reg.

## Sec 23: Persons not liable for Registration (even if agg. t/o exceeds threshold)

- Engaged in exclusive supply of
  - ⇨ not liable to tax or
  - ⇨ wholly exempt from tax.
- An **Agriculturist**, to the extent of supply of produce out of cultivation of land.
- Person who are only engaged in making supplies on which is tax **liable to be paid on reverse charge** basis by the recipient u/s 9(3)

**Note:** This notification doesn't apply to suppliers of metal scrap.

**Sec 2(7) of "agriculturist"** means an individual or a HUF who undertakes cultivation of land -

- by own labour, or
- by the labour of family, or
- by servants on wages under own or family supervision

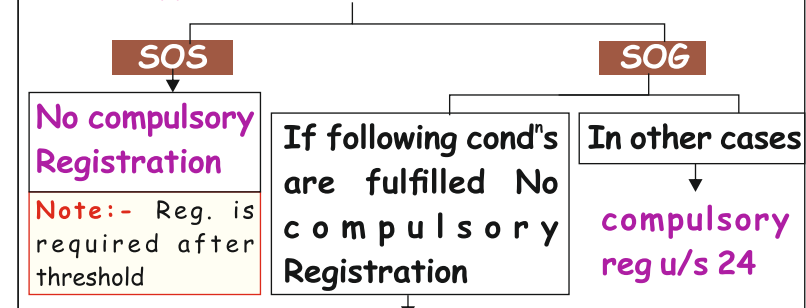
## Sec 24:- Compulsory Registration

- Persons making any inter-State taxable supply**  
**Exceptions :** Following category of person not required to register till threshold of 20/10L even though making Inter-State taxable supply  
 (a) Persons making inter-State **supplies of taxable services**  
 (b) Person making inter-state taxable supplies of **handicraft goods**.  
**Conditions:** Person holding PAN & generate E way bill
- Casual taxable persons making taxable supply**  
**Exceptions :** CTP making taxable supplies of handicraft goods. (eligible for 10L/20L/40L threshold)
- Persons who are required to pay tax under **reverse charge**
- Person who are required to pay tax under **Sec 9(5) -ECO**
- Non-resident taxable persons** making taxable supply
- Persons who are required to **deduct TDS u/s 51**. (Separate Registration for TDS is required)
- Persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an **agent or otherwise** (agent issuing own invoice)

(viii) **Input Service Distributor**, (Separate Registration for ISD is required)

(ix) **every ECO who is required to collect TCS u/s 51.** ((Separate Registration for TCS is required)

(x) **Person supplies goods or services through ECO u/s 52**



- ⇨ No inter State Supply for such supplier by ECO
- ⇨ Declared on portal PAN & address of POB & State
- ⇨ Portal will grant enrollment no. after validation of PAN
- ⇨ ECO shall not allow supply unless enrolment no. provided to it.
- ⇨ Supplier after crossing threshold apply for Reg. & enrollment no. shall be ceases

**Note:-** Registration is required after threshold

(xi) **every person supplying OIDAR** services from a place outside India to a person in India, other than a RP.

(xii) **every person supplying online money gaming** from a place outside India to a person in India; and

(xiii) Any other person **notified by C.G.**

## Sec 25:- Timeline for application for Registration & other procedure

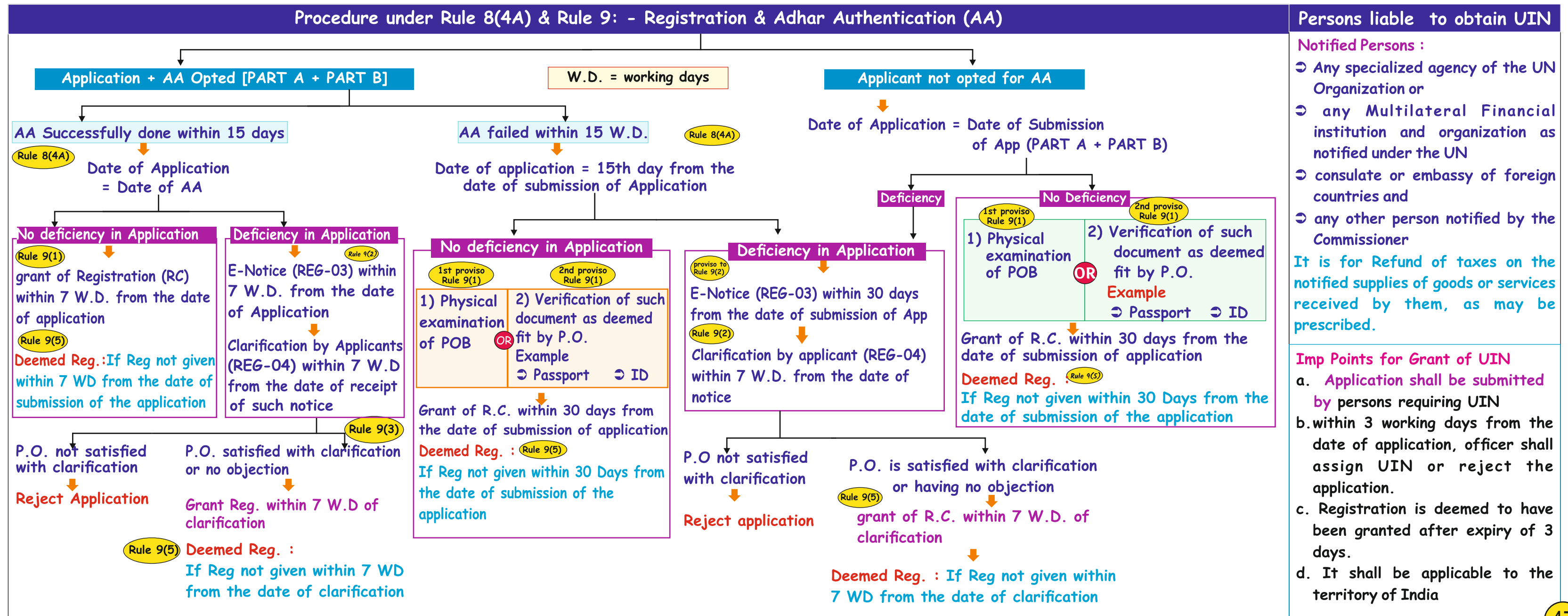
Particulars	Where	When
<b>Person who is liable to be register u/s 22/24</b>	In every such ST/UT in which he is so liable	within <b>30 days</b> from the date on which he becomes liable to registration
<b>Units in SEZ or SEZ Developer</b>	shall apply for a separate registration for unit in SEZ & outside the SEZ in a same ST or UT.	
<b>Person making supply in Territory Water</b>	in the coastal State or UT where the nearest point of the appropriate baseline is located.	
<b>A CTP or a NRTP</b>	in every such State/UT in which he is so liable	at least <b>5 days</b> prior to the commencement of business
<b>PAN</b>	1. Person shall have a PAN in order to be eligible for grant of registration 2. <b>Exceptions :</b> (a) A Person required to deduct TDS (b) A NRTP (Passport basis)	
<b>Registration in State</b>	Normally single registration in a state shall be allowed but Separate registration if multiple place of business within a State/UT may be granted at the option of supplier.	

<b>Voluntary Registration</b>	A person who is not liable to be registered under section 22 or section 24 may get himself registered voluntarily. All the provision of this act is applicable.	
<b>DDP</b>	Already discussed in sec 25(4) and 25(5)	
<b>Bank Details</b>	<b>Rule 10A :-</b> RP (except person liable to TDS/TCS) shall furnished Bank A/c details on common portal after obtaining certificate of registration & a GSTIN but <b>earlier of :</b> ⇨ within 30 days from date of grant of registration, or ⇨ before furnishing GSTR-1 or IFF. <b>Note:-</b> In case of TDS/TCS, Bank details are mandatory at the time of Registration.	
<b>Issue of Registration Certificate [Rule 10]</b>	1. <b>Certificate of registration in GST REG-06</b> and GSTIN of 15 digit . 2. Display of RC and GSTIN on the name board at the entry and in a prominent location at his Principal POB and additional POB. 3. Effective date of registration :	
	Application files from Liability date	Registration Effective from
	within 30 days	Date on which the person becomes liable to registration
	Not within 30 days	date of grant of registration



## Sec 25 - Authentication (Aadhar) Process under GST

Object	To control fake invoices, dummy address registration & multiple registration at same place.		AA not applicable to 25(6D)	(a) not a citizen of India (b) a Department or establishment of the CG or SG (c) a Local Authority (d) a Statutory Body (e) a Public Sector Undertaking (f) a person applying for registration u/s 25(9)(UIN)
Sec 25 (6A) read with Rule 10B	Person Applying for fresh Registration			
RP shall undergo authentication of Addhar no.(if addhar is not authenticated earlier) for following purposes 1) application for revocation of cancellation of registration 2) For filing of refund application 3) refund for export goods	Sec 25 (6B): Individual	Sec 25 (6C) : Every person other than individual	Physical verification of business premises	(1) If physical verification of POB is needed after grant of registration:- PO may get it done & verification report & other documents with photos, shall be uploaded in REG-30 within 15 working days following date of such verification.  (2) If physical verification of POB is needed before grant of registration:- PO shall get it done & verification report & other documents with photos shall be uploaded in REG-30 at least 5 working days prior to completion of time period to grant reg.
	1) Authentication: Individual shall undergo ⇒ Authentication or ⇒ Furnish proof of possession of Aadhar no. with Reg. application in order to eligible for grant of reg.	1) Authentication: Such person shall undergo Authentication or Furnish proof of possession of Aadhar no. of ⇒ Karta (HUF) ⇒ M.D. (Company) ⇒ Whole time director (Company) ⇒ Member of managing committee (AOP) ⇒ Board of trustees (Trust) ⇒ Authorised representative ⇒ Authorised Signatory ⇒ Notified person by C.G.		
The consequences for failure to undergo authentication or Aadhar No. is not assigned : Reg. shall be granted only after physical verification of the place of business in the presence of the said person				

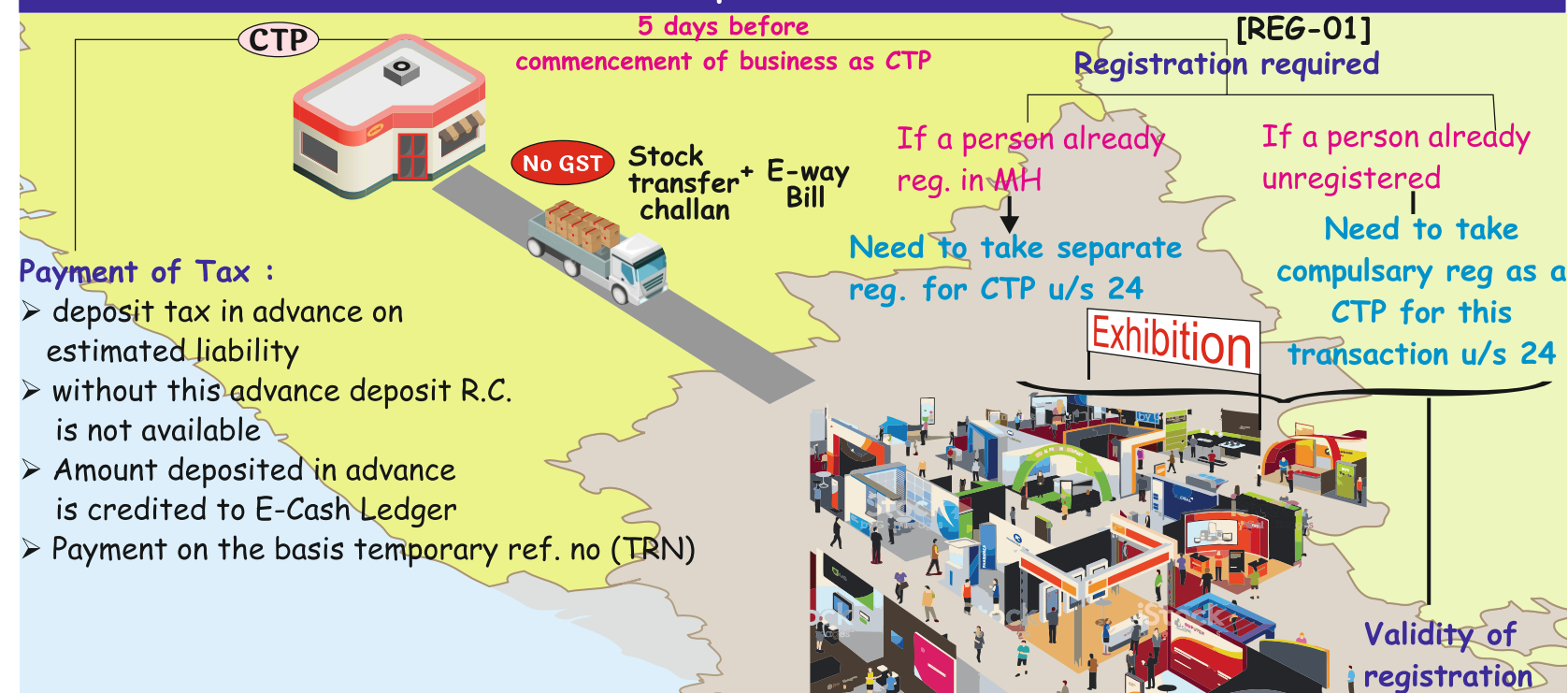




## Sec 26 - Deemed Registration

Grant of registration/UIN under any SGST Act/ UTGST Act is deemed to be registration/UIN granted under CGST Act/ IGST Act

## Sec 27 Concept of CTP and NRTP



### Eligibility of ITC

- CTP can take ITC of Input/CG/IS while making payment of tax in advance
- If reg. extended for further 90 days then he again deposit tax on estimate liability

### Return filing [CTP]

- 1) He will submit GSTR -1 on 11th of next month [during CTP period]
- 2) He will submit GSTR -3B on due date [during CTP period]
- 3) a) If final tax is more than adv. tax paid then differential amt. is payable  
b) If final tax is less than adv. tax paid then he can claim Refund

- 1) For a period as mentioned in application
- 2) but max for 90 days [which can be further extended for 90 days]

## Concept of CTP and NRTP

**CTP= a person who occasionally undertakes transactions**

- involving supply of SOG &/or SOS
- in the course or furtherance of business,
- whether as principal, agent or in any other capacity,
- in a ST/UT where he has no fixed POB

**NRTP= any person who occasionally undertakes transactions**

- involving supply of SOG &/or SOS
- whether as principal or agent or in any other capacity,
- but who has no fixed place of business or residence in India.

### Registration provisions

- Compulsory registration u/s 24
- Registration before commencement of business and with advance POT
- Registration REG-01
- PAN required

- Compulsory registration u/s 24
- Registration before commencement of business and with advance POT
- Registration REG-09
- Valid passport required

### Threshold Exemption

Not available

Not available

### Composition Scheme

Not available

Not available

### Return provisions

GSTR-1, GSTR-3B

GSTR-5

### ITC provisions

ITC of all I/CG/IS is available

ITC only on imported goods is available

### Important Comment

- 1) CTP or NRTP will apply for Registration at least 5 days prior to commencement of business
- 2) Advance deposit of tax at the time of Submitting the registration application.
- 3) Registration is valid for 90 days (further extension for 90 days)
- 4) Annual Return is not required for CTP & NRTP

## Sec 28 :- Amendment of Registration

1. Intimation of any changes in the information furnished to be made to proper officer **within 15 days**.
2. Amendments in non core field can be made directly on common portal but approval is required for Amendments in core fields.

Core Field

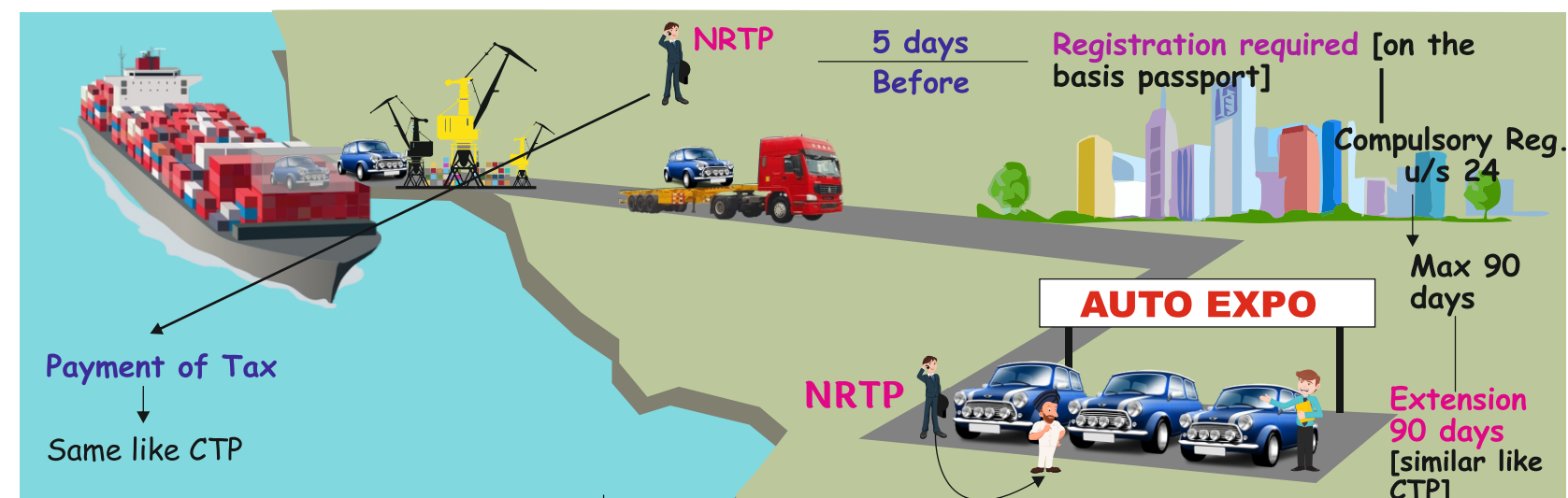
Legal name of business

Address of PPOB/ APoB - Principal place of Business

Non Core Field

Addition, deletion or retirement of partners or directors, Karta, Managing Committee, Board of Trustees, Chief Executive Officer or equivalent, responsible for day to day affairs of the business

Mobile no./e-mail address of authorised signatory can be amended only after online verification through GST Portal.



### Eligible of ITC

No ITC except Imported goods

### Return

Special Return (GSTR-5)

### Sale - Tax invoice

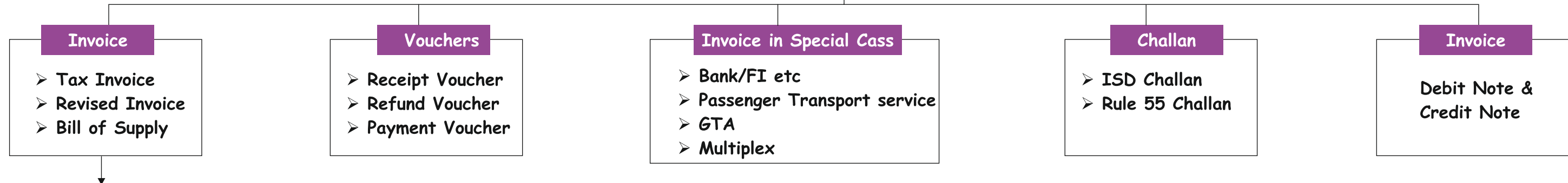
value 1,00,000  
IGST  
%18% 18,000

Sec 29:- Cancellation of Registration			
Suo Moto Cancellation [Section 29 (1) & (2)]	⌚ Business discontinued ⌚ Transferred including death ⌚ Demerged ⌚ Amalgamated with others ⌚ Otherwise disposed of		
	⌚ Change in the constitution of the business		
	⌚ The TP is no longer liable to be registered u/s 22 or 24 or ⌚ intends to optout of the registration voluntarily		
Cancellation of registration by PO on his own motion only	Following are the circumstances where the PO may cancel the registration of a person from such date, including any retrospective date, as he may deem fit:-		
	a)	A RP has contravened following provisions (Rule 21):-	
	b) & c)	Dummy POB or invoice	⌚ He does not conduct any business from the declared POB or ⌚ He issues invoice/bill without supply in violation of GST law.
		Violation of Specified provision	⌚ He violates the provisions of Anti-Profeetering measure ⌚ He violates the provision of furnishing of bank account details ⌚ He avails ITC in violation of sec 16 oread with rules ⌚ He violates the provision of rule 86B [restriction of 99% ITC]
		Mismatch of GSTR-1/1A & 3B	Outward supply declared in GSTR-1/1A for one or more tax period is in excess of supplies declared in return.
		Non-filing of return	Normal scheme RP has not furnished monthly returns for a continuous period of 6 months
			QRMP scheme RP has not furnished returns under QRMP for a continuous period of 2 tax periods (i.e. 2 quarters).
		Composi- tion Levy	A person paying tax under Composition Scheme (Sec 10) has not furnished return for a F.Y. beyond 3 months from the due date of furnishing the said return
		fails to file return after revocation order	⌚ failed to file returns due between the order of cancellation and revocation of registration within 30 days of the revocation order. ⌚ If the cancellation was retrospective, failed to file all returns from the date of order of cancellation date to the revocation order within 30 days.
	d)	No start of business	Voluntary RP u/s 25(3)(Voluntary registration) has not commenced business within 6 months from the date of registration.
	e)	Fraudulent Activity	Registration has been obtained by means of fraud, wilful misstatement or suppression of facts.
	Proviso	PO shall not cancel registration without giving the person an opportunity of being heard.	
	Proviso	During pendency of proceedings relating to cancellation of registration, PO may suspend the registration for the period & in the manner prescribed.	

Suspension of Registration	
Applied for cancellation	OR Suspend the Registration
While pendency of cancellation proceeding	
Scenerio	Effective Date of Suspension
Registered Person applied for cancellation of registration.	Date of Submission of application or Date from which cancellation is sort } <b>Later</b>
Cancellation initiation by Department	Date Determination by Proper Office
➤ While Registration suspended - ➡ shall not make taxable supply (i.e. shall not issue a tax invoice & shall not charge the tax on supplies paid not him ) ➡ Shall not furnish any return ➤ Suspension shall be revoked with effect from suspension Date [Provision of revised tax invoice & first return applicable]	
Procedure for Cancellation	
Where the RP applies for cancellation	Where the PO cancels the registration
1) RP shall apply within 30 days of occurrence of the event warranting cancellation, 2) furnishing the details of ➡ inputs held in stock or ➡ inputs contained in semi-finished/ finished goods held in stock and of ➡ capital goods held in stock on the date from which cancellation of registration is sought, liability thereon, payment, if any made & relevant documents.	PO shall issue a SCN to the registered person who has to reply to said notice within 7 days.
Proper officer (PO) shall issue the order of cancellation within 30 days of submission of application for the same.	Proceedings shall be dropped
	If reply to SCN is satisfactory
	Where instead of replying to SCN, person furnishes all pending returns & makes full payment of tax along with interest & late fee.
	Cancellation order shall be issued within 30days of reply to SCN where registration is liable to be cancelled
Sec 30:- Revocation of Cancellation of Registration	
1) RP whose reg. is cancelled by P.O. apply for revocation [subject to rule 10B] of cancellation within <b>90 Days</b> from date of service of order of cancellation.	3) On application P.O. may revoke cancellation or reject application
2) <b>Extension :-</b> by Commissioner or an authorised officer- not below the rank of AC or JC for further upto 180 days	4) Revocation under SGST/UTGST act shall deemed to revocation under CGST/ IGST Act.



# CHAPTER 11 - TAX INVOICE, DEBIT NOTE & CREDIT NOTE

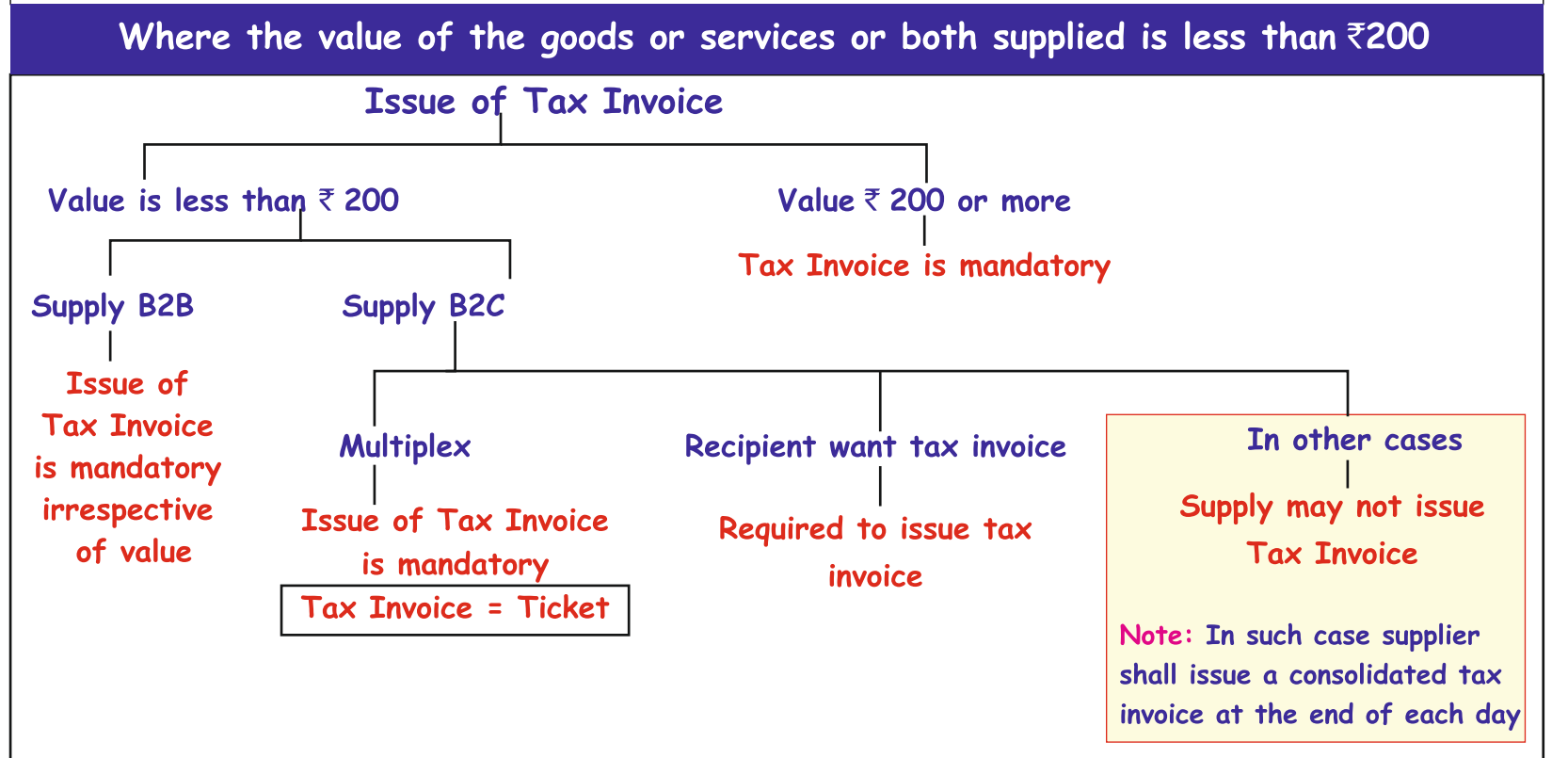


Particular	Tax Invoice : Supply of goods		Tax Invoice : Supply of Service	
Normal case	Invoice shall be issued - On or before		Invoice shall be issued - On or before	
	a) If movement involved-	At the time of removal for supply	a) Provision of services	within 30 days from Completion
	b) In other case-	At the time of delivery or made available	b) Bank/FI/NBFC/ Insurer	within 45 days from Completion
			Insurer/ Bank/ FI/ NBFC/ Telecom/ other notified person	where service to DDP, i) When Supplier records in books of A/c ii) Last date of qtr. whichever is earlier
	Government may (a) specify the categories of services or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed. (b) subject to the condition mentioned therein, specify the categories of services in respect of which— (i) any other document deemed to be a tax invoice or (ii) tax invoice may not be issued.			
Continuous Supply of goods / services	Invoice shall be issued before or at the time ➤ each such successive statement or ➤ each such successive payment is received Whichever is earlier		Invoice shall be issued on or before a) Due date of payment by recipient ascertainable in contract-on such date b) If due date not ascertainable - date of payment received c) If completion of event are fixed in contract-Last date of completion of such event	
Supply on sale or return/ Approval basis	Invoice shall be issued a) Before/at the time of supply [i.e. approval given by recipient] b) 6 months from the date of removal, } whichever is earlier		—	
Cessation of SOS	—		Invoice shall be issued at the time when supply ceases & such invoice only to the extent supply made before such cessation	

Content of Invoice [Rule 46]			
a) Name, Address and GSTIN	f) HSN code	i) Total value	n) Address of delivery
b) Consecutive Number Series	g) Description of SOG/SOS	j) Taxable value	o) If reverse charge applicable
c) Date of Issue	h) Quantity of goods	k) Rate of tax	p) Signature of digital Signature
d) Name of address & GSTIN or UIN of recipient	l) Amount of tax charged	q) Nature of document	
e) Other details of Unregistered recipient	m) Place of supply	r) Quick Response(QR) Code	

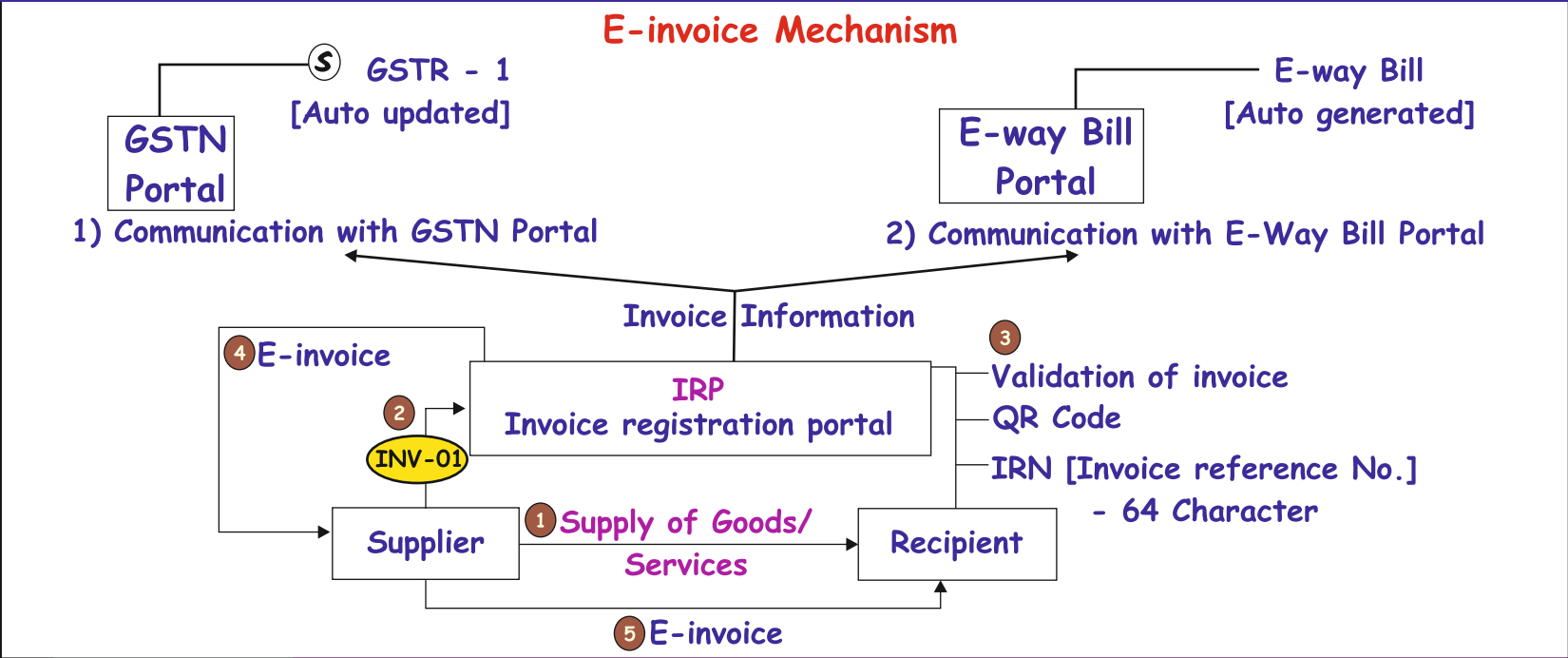
s) Declaration that not required to prepare an invoice as per rule 48(4)

Notes : 1)Consecutive serial number shall not exceed 16 characters for tax Invoice in one/multiple series shall be maintained same for a F.Y.



Manner of issuing Tax Invoice Rule 48:-	
Normal Invoice	1) In case of taxable SOG Invoice shall be prepared in <b>Triplicate</b> 2) In case of taxable SOS Invoice shall be prepared in <b>Duplicate</b> 3) Serial number of invoices issued during a tax period shall be furnished electronically in GSTR - 1/ <b>1A</b>
E-Invoice	1)Notified classes of person obtaining invoice reference no. from E-invoice portal 2) Invoice void, if invoice reference no. not quoted 3) Does not require to issue Duplicate or Triplicate copy

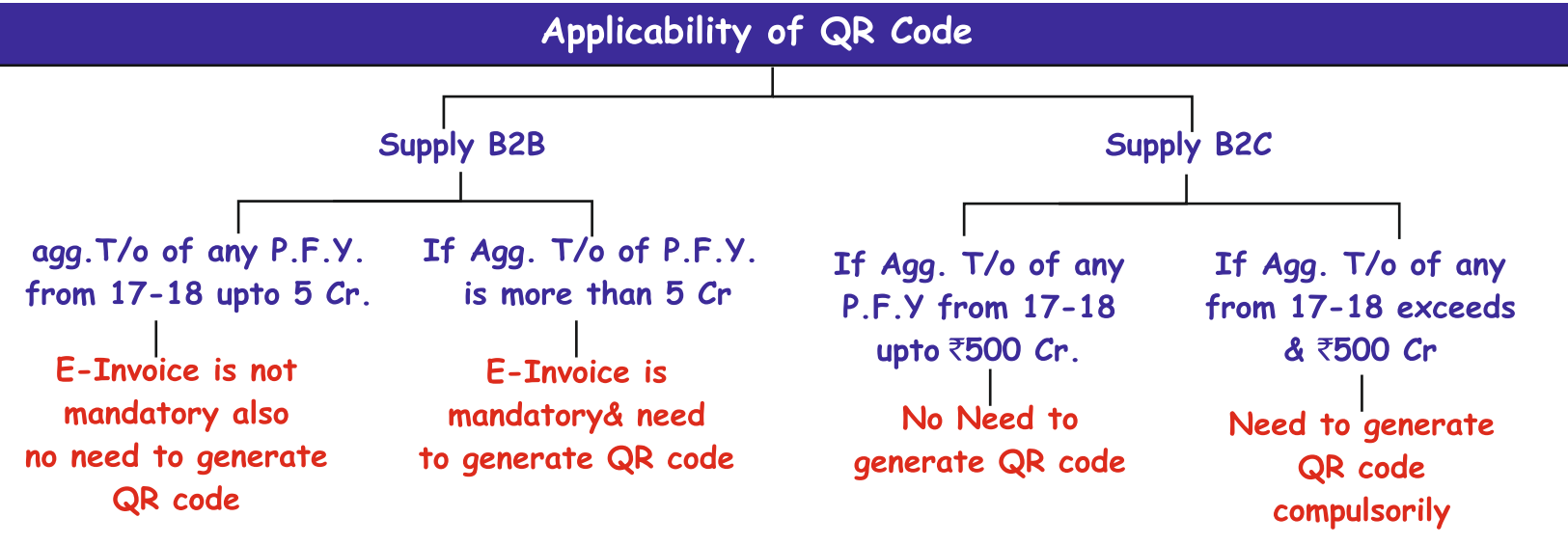
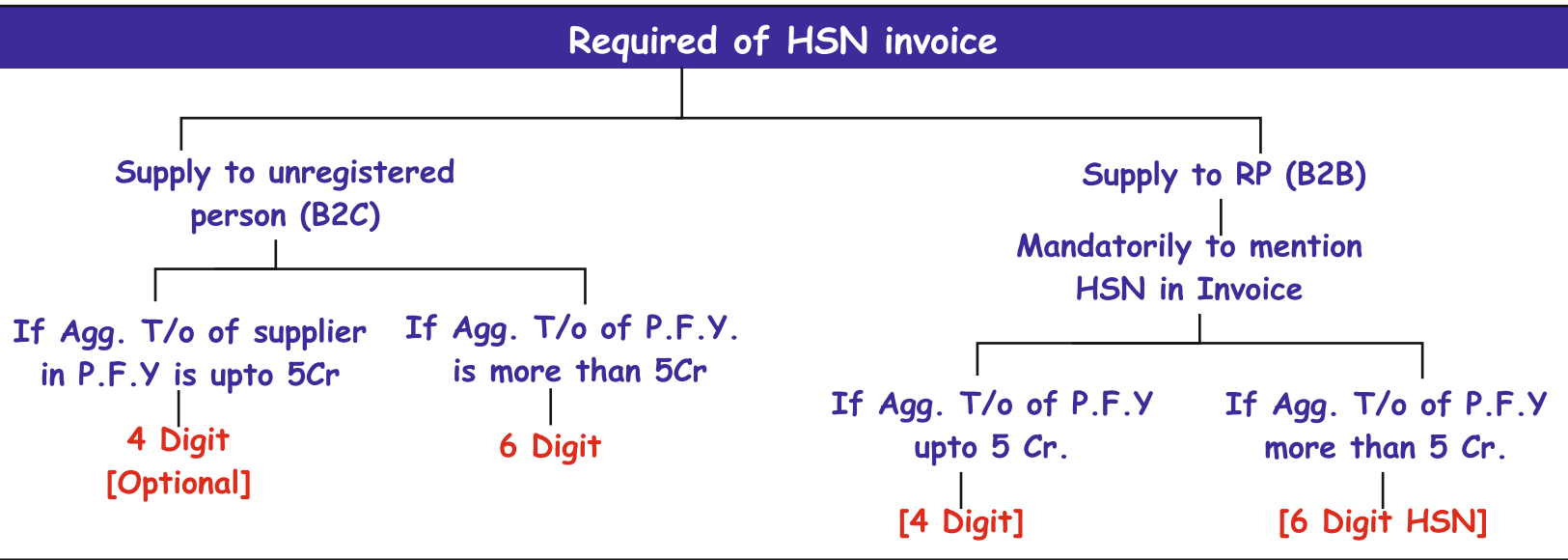
Rule 48(4) : E-invoicing



1	What is E-Invoicing?	An E-invoice refers to the requirement for businesses to generate and issue invoices electronically through the government's IRP (Invoice registration portal).
2	Applicability	RP with an Agg. T/o exceeds ₹5 crores in Any P.F.Y. from 2017-18 onwards are required to issue e-invoices for ➤ B2B transactions ➤ exports Supply ➤ Debit Note & Credit note.
3	Non-Applicability	<ol style="list-style-type: none"><li>for B2C invoices</li><li>RP with an Agg. T/o below / upto ₹5 crores in all F.Y. from 2017-18,</li><li>Input Service Distributors (ISD),</li><li>Import of goods,</li><li>Government, LA, SEZ units, insurers, banks, NBFCs, GTA, suppliers of passenger transportation &amp; Multiplexes.</li><li>Certain reverse charge scenarios (explain later).</li><li>Exempt Supply (nil rate + wholly exempt + non-taxable)</li></ol>
4	Advantages of E-Invoicing	<ul style="list-style-type: none"><li>Efficiency: Automates reporting of invoices in GST returns and e-way bill generation.</li><li>Accuracy: Reduces transcription errors &amp; facilitates reconciliation with purchase orders.</li><li>Tax Compliance: Helps in matching ITC with output tax, reducing tax evasion.</li><li>Fraud Prevention: Curbs fake invoicing and fraudulent ITC claims.</li></ul>
5	Important Notes for SEZ	<ul style="list-style-type: none"><li>SEZ Units vs. Developers: Only SEZ units are exempt from E-invoicing &amp; not SEZ developers i.e. provision of E-invoice applicable to SEZ Developer.</li><li>Entity-Wide Exemption: The exemption applies to the entire entity of SEZ unit, regardless of the nature of the supply.</li></ul>
6	E-Invoice incase of Reverse Charge	<p>E-invoicing mandates are primarily directed at suppliers based on their annual turnover thresholds</p> <ul style="list-style-type: none"><li>If supplier is RP (u/s 9(3)) :- Supplier required to generate an E-invoice for taxable supplies (for B2B), regardless of whether the transaction is under RCM or not.</li><li>If supply from URP to RP (u/s 9(3)/(4)):- Since the supplier is unregistered, they are not required to generate an e-invoice.</li></ul> <p>Note:- Although the recipient is responsible for paying GST under RCM, they are not required to generate an e-invoice as the responsibility of e-invoicing rests solely with the registered suppliers who meet the turnover criteria, and this does not extend to recipients under RCM.</p>

7	Non-applicability of provision of normal invoice	<ul style="list-style-type: none"><li>Normal Invoice or computer generated invoice applies in any manner shall not be treated as an invoice (if provision of E-invoice is applicable).</li><li>3 copies of invoices is not required in case of E-invoice.</li><li>Digital signature also not required in case of E-invoice.</li></ul>
8	Amendment/cancellation of e-invoices	<ul style="list-style-type: none"><li>Cancellation need to be reported into the IRN Portal within 24 hours.</li><li>After 24 hrs should be manually cancelled on the GST portal before the returns are filed.</li><li>Once an IRN is cancelled, the same invoice number cannot be used again.</li><li>Any amendments to an e-invoice can be made only on the GST Portal.</li></ul>
9	Circular No. 198/10/2023	E-invoices must be issued for supplies to registered Government Departments / agencies / LA by RP surpassing the turnover threshold of ₹5 CR.

HSN & QR Code in Invoice



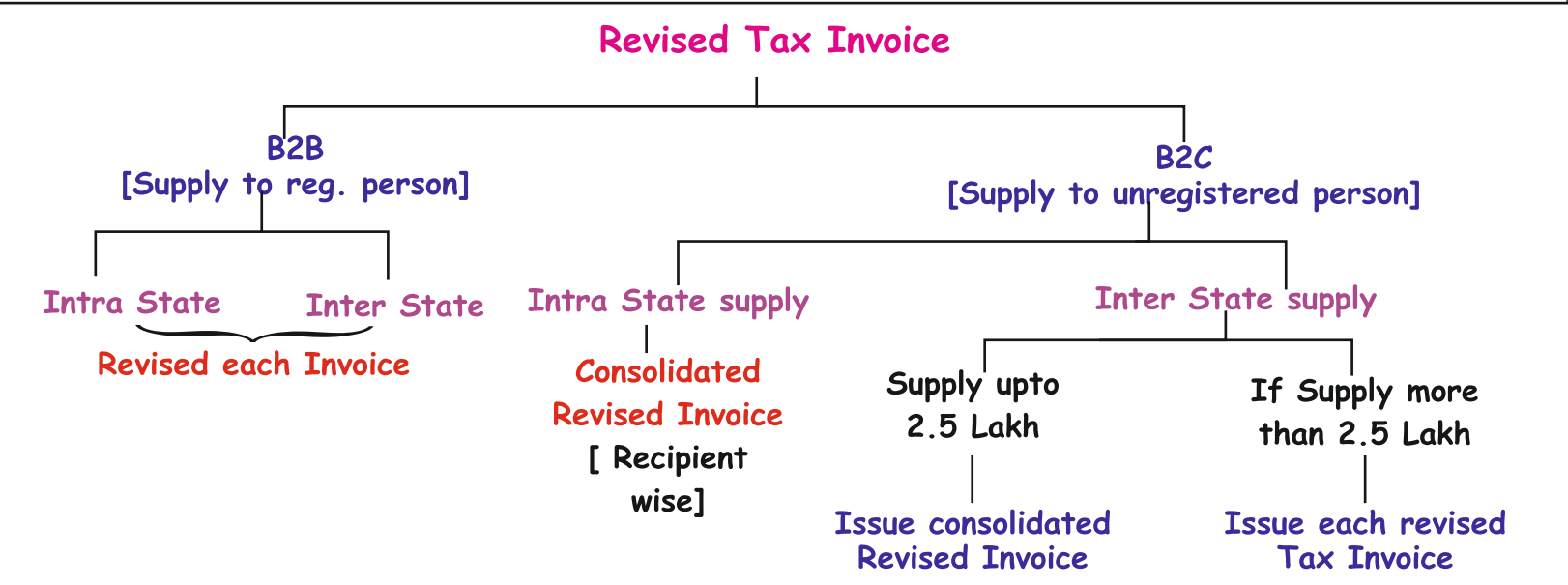
Student Notes:-



**Revised Invoice:-**  
Revised Invoice to be issued from effective date of registration till the date of issuance of RC within 1 month from the date of issuance of RC.

**Consolidated revised tax invoice:-** RP may issue a consolidated revised tax invoice

- 1. in respect of all taxable supplies made to a recipient who is URP
- 2. In the case of inter-State supplies, where the VOS does not exceed ₹ 2.5 Lakhs to URP



**Bill of Supply:-**

- 1. On Supply of **Exempt** Goods or Services
- 2. Paying tax under **Composition Scheme**.

Endorsement for Export Invoice:-		
Condition	Declaration in invoice	Required Details
Payment of Integrated Tax	"Supply meant for export/supply to SEZ unit or SEZ developer for authorised operations on payment of integrated tax"	(i) Name and address of the recipient (ii) Address of delivery (iii) Name of the country of destination
Without Payment of Integrated Tax	"Supply meant for export/supply to SEZ unit or SEZ developer for authorised operations under bond or letter of undertaking without payment of integrated tax"	(i) Name and address of the recipient (ii) Address of delivery (iii) Name of the country of destination

**Invoice-cum-bill of supply**

Person is supplying taxable as well as exempted supply a single "Invoice-cum-bill of supply" may be issued for all such supplies.

**Student notes**

**VOUCHERS**

**Receipt Voucher** Sec 31 (3)(d)

A RP shall, on receipt of advance payment with respect to any supply of goods or services , issue a Receipt Voucher evidencing receipt of such payment.

if, at the time of receipt of advance, rate of tax/nature of supply is not determinable

Where at the time of receipt of advance	Rule & Nature
(i)Rate of tax is not determinable	tax shall be paid at the rate of 18%
(ii) nature of supply is not determinable	Same shall be treated as inter-State supply

**Refund Voucher** Sec 31 (3)(e)

Where on receipt of advance payment with respect to any supply of goods or services the RP issues a Receipt Voucher, but subsequently

- no supply is made and
- no tax invoice is issued in pursuance thereof,

the said registered person may issue to the person who had made the payment, a Refund Voucher against such payment.

```
graph LR
    S[Supplier] -- "1) Advance  
2) Receipt Voucher  
3) No Supply &  
4) No Invoice  
5) Refund Voucher" --> R[Recipient]
```

**When to issue refund voucher**

**Analysis:-**

Supply is made but no Invoice is given	Invoice is made but no supply is done	Supply is not made & also no Invoice is issued
Refund voucher not allowed <b>Note:-</b> GST is payable on supply	Refund voucher not allowed <b>Note:-</b> In that case supplier can issue credit note & claim the adjustment in output tax	Refund voucher is allowed <b>Note:-</b> supplier can claim GST refund of advance [In case of refund voucher only refund is allowed]

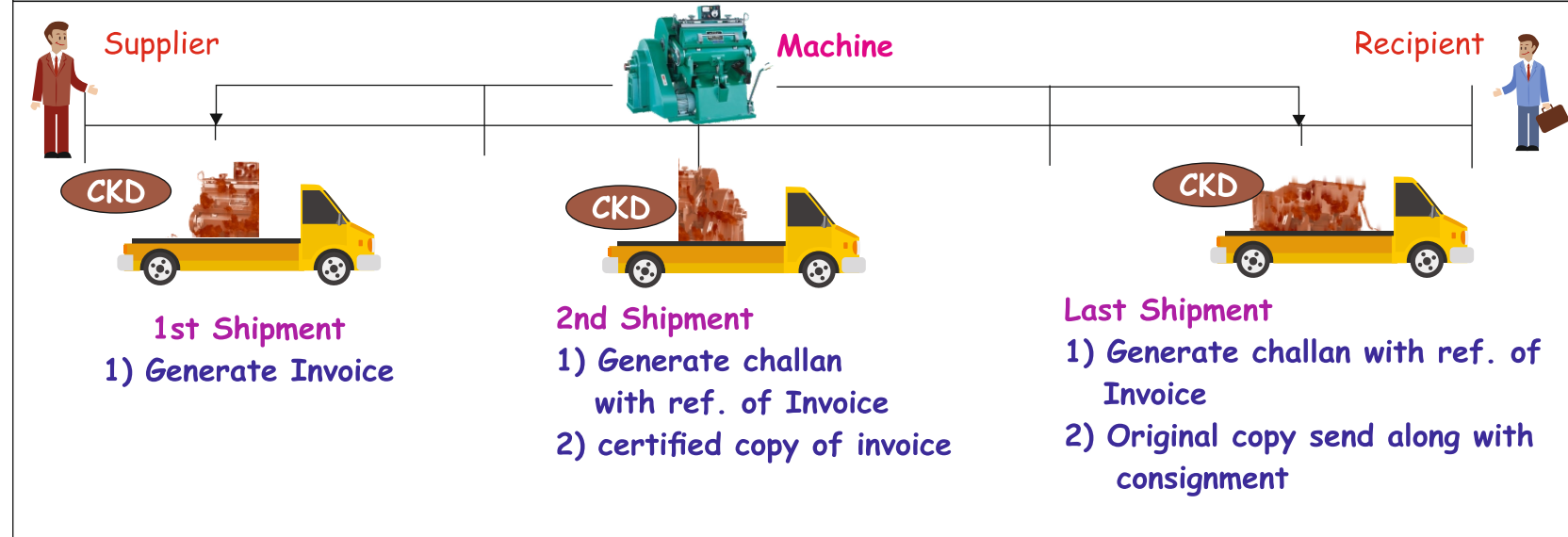
**Payment Voucher & Self Invoice** [Sec 31 (3)(f)/(g)]

- **Payment Voucher:** It is issued by recipient when making payment to supplier under RCM.
- **Self-Invoice:** If goods/services are received from an unregistered supplier (including TDS-only registered), the recipient must issue a self-invoice under RCM.
- **Time Limit:** Recipient must issue self-invoice within 30 days of receiving goods/services (Rule 47A).

```
graph LR
    URP((URP)) --- Supplier[Supplier]
    Supplier -- "Supply G/S under RCM" --> RP((RP))
    RP -- "Payment under RCM = 18,000" --> Supplier
    RP -- "Invoice by Supplier value 1,00,000" --> Supplier
    RP -- "Issue payment voucher by R" --> Supplier
    Supplier -- "Payment to supplier for invoice value = 1,00,000" --> RP
    RP -- "Self tax Invoice by R" --> Supplier
```

Tax invoices in Special Cases (Rule 54)		
Supplier of taxable service	Document in lieu of the tax invoice	
	Optional information	Mandatory information
Insurer/Banking/ FI/ NBFC	<ul style="list-style-type: none"> <li>Serial number</li> <li>Address of the recipient</li> </ul>	Information for a Tax Invoice, u/r 46
		Such document as may be used physically or electronically
	The said supplier may issue a consolidated tax invoice for SOS made during a month at the end month.	
Supplier of passenger transportation service	<ul style="list-style-type: none"> <li>Serial number</li> <li>Address of the recipient</li> </ul>	Information for a tax invoice, u/r 46
		Tax invoice = ticket
Admission to Exhibition of cinematography films in multiplex screens	Tax Invoice = E-Ticket	
	Other information as prescribed for a tax invoice, u/r 46	

Delivery Challan/ Invoice for Transportation of Goods (Rule 55)
<p>Nature of supply</p> <p>(1) Supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known,</p> <p>(2) Transportation of goods for job work,</p> <p>(3) Transportation of goods for reasons other than by way of supply, or</p> <p>(4) Such other supplies as may be notified by the Board</p>
Supply of goods in SKD/CKD/batches/lots:-
<p>Where the goods are being transported in a semi knocked down (SKD) or completely knocked down condition (CKD) or in batches or lots,</p> <p>(a) the supplier shall issue the complete invoice before dispatch of the first consignment;</p> <p>(b) the supplier shall issue a delivery challan for each of the subsequent consignments, giving reference of the invoice;</p> <p>(c) Copies of the corresponding delivery challan shall accompany each consignment along with a duly certified copy of the invoice; and</p> <p>(d) the original copy of the invoice shall be sent along with the last consignment.</p>



Sec 34 - Credit Note & Debit Note	
Credit Note :-	
Circumstances of Issuance of Credit Note	<ul style="list-style-type: none"> <li>the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply,</li> <li>the goods supplied are returned by recipient,</li> <li>the goods &amp;/or services supplied are found to be deficient,</li> <li>the goods or services don't meet the recipient's quality expectations.</li> <li>Any other similar reasons.</li> </ul>
Reducing Tax Liability	<ul style="list-style-type: none"> <li>Issuing a credit note decreases the supplier's tax liability.</li> <li>Correspondingly, the recipient's Input Tax Credit also reduces.</li> </ul>
Restrictions on Credit Notes	<p><b>Exceptions:</b> GST credit note can not be issued</p> <ul style="list-style-type: none"> <li>Not allowed for secondary discounts which is not agreed at the time of supply.</li> <li>Financial/commercial credit notes can be issued but won't affect Tax Liability.</li> </ul>

Debit Note:-	
Circumstances of Issuance of Debit Note	<ul style="list-style-type: none"> <li>the taxable value or tax charged in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply,</li> <li>the quantity received by recipient is more than what is declared in tax invoice, or</li> <li>any other similar reasons.</li> </ul>
Additional Tax Liability	<ul style="list-style-type: none"> <li>A debit note/supplementary invoice creates additional tax liability ( "Debit note" = supplementary invoice).</li> <li>Treatment of a debit note/ supplementary invoice is identical to that of a tax invoice for returns and payment purposes.</li> </ul>

Details of Debit Note/Credit Note to be declared in return	
Time limit to declare details of Credit note issued & other relevant pts.	<ul style="list-style-type: none"> <li><b>Declaration in Returns:</b> Must be declared in the tax return of the month when the credit note is issued.</li> <li><b>Deadline for Declaration:</b> Earlier of two dates: <ul style="list-style-type: none"> <li><b>30th November</b> following the end of F.Y. in which such supply was made or</li> <li><b>Date of furnishing</b> of the relevant <b>annual return</b>.</li> </ul> </li> <li><b>Adjustment of Tax Liability:</b> Tax liability to be reduced in the month in which credit note is issued.</li> <li><b>Restriction:</b> The supplier cannot reduce their output tax liability if: <ul style="list-style-type: none"> <li>a registered recipient has not reversed the ITC related to the credit note or</li> <li>in other cases, the tax burden has been passed on to another person.</li> </ul> </li> <li><b>Flexibility:</b> A single credit can address multiple invoices.</li> </ul>
Time limit to declare details of Debit note issued	<ul style="list-style-type: none"> <li><b>Declaration Timing:</b> In the tax return for the month when the debit note is issued.</li> <li><b>Tax Liability Adjustment:</b> added in tax liability in which debit is issued.</li> <li><b>Flexibility:</b> Single debit note can address multiple invoices</li> </ul> <p><b>Note:-</b> There is no time limit for issue of Debit note.</p>

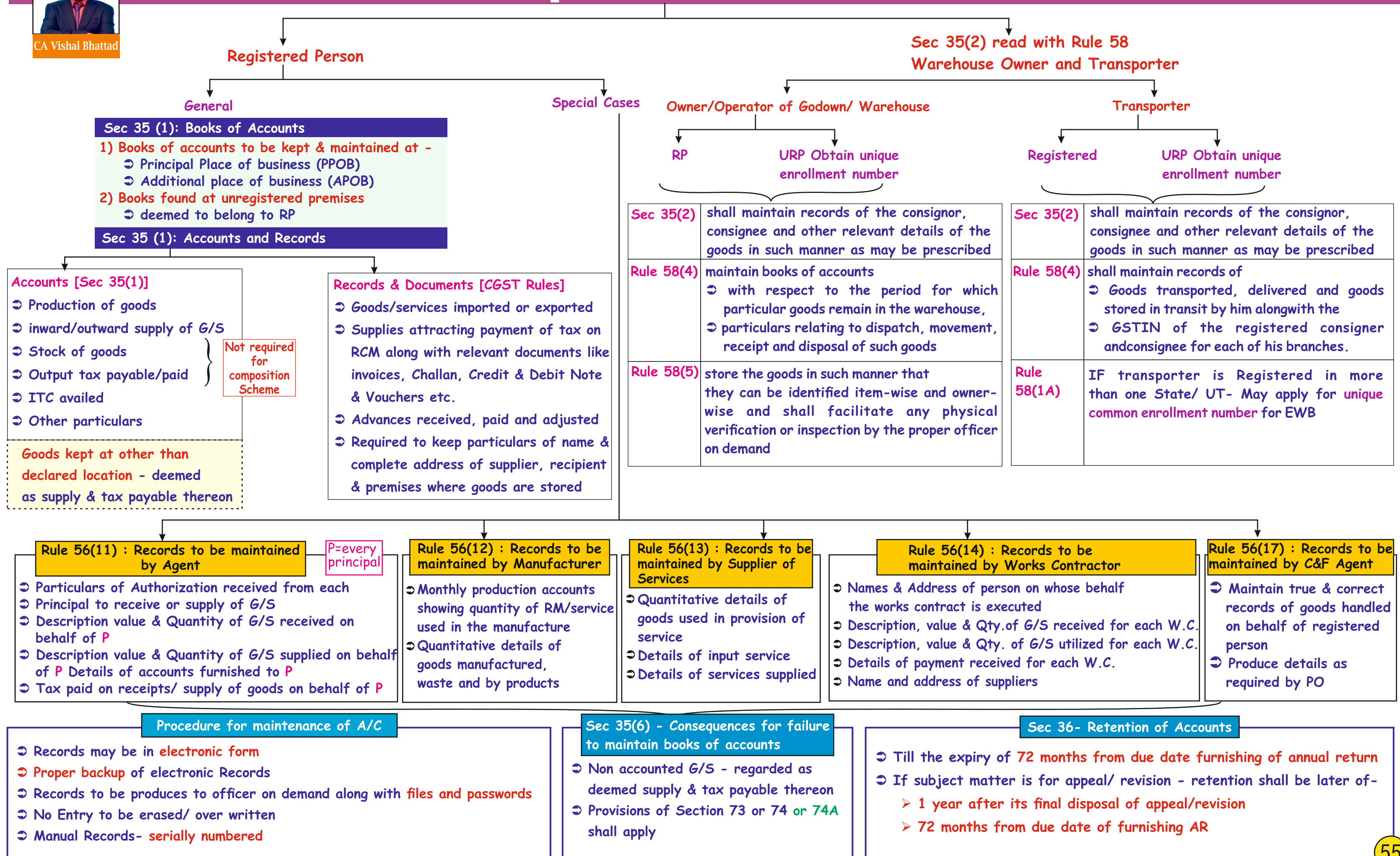


For Your Self Notes:-



CA Vishal Bhattad

# Chapter 12 : ACCOUNTS & RECORDS





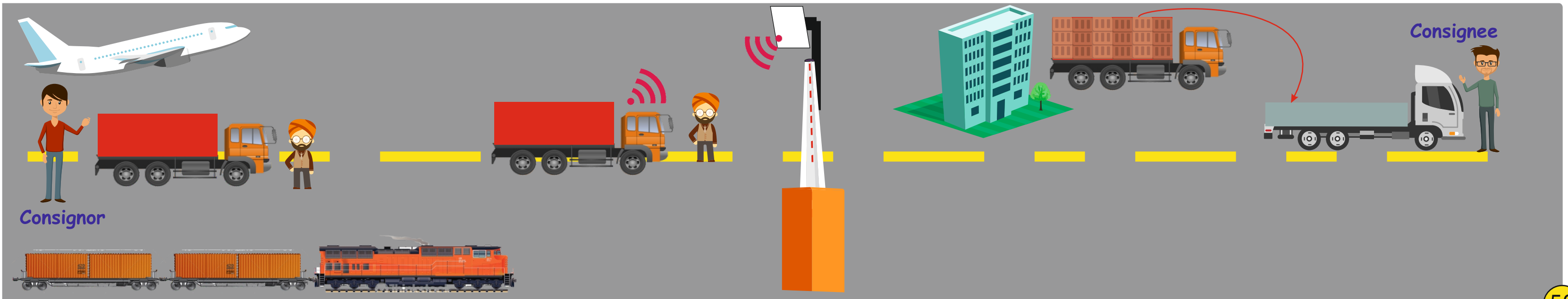
# Chapter 12- Sec 68 & Rule 138 : E-Way Bill



CA Vishal Bhattad

## General Discussion

What is an E-Way bill why is it required?	Who & When E-way Bill is required to be generate?	Details in E-Way Bill	Determination of Value	When E-Way Bill is required to be generated?																																																			
<p>E-Way Bill is a compliance mechanism</p> <p>➡ Where in by way of a digital interface</p> <p>➡ The person causing the movement of goods</p> <p>➡ upload the relevant information prior to commencement of movement of goods</p> <p>➡ Generates E-Way Bill on GST Portal</p> <p><b>Relevance :-</b></p> <ul style="list-style-type: none"><li>➢ Hassle free movement</li><li>➢ Track movement of goods</li><li>➢ Control tax evasion</li><li>➢ Eliminate State boundary check post</li></ul>	<p><b>Who :-</b> Every R.P. (Supplier or recipient) who causes the movement of goods</p> <p>➡ in relation to a supply or</p> <p>➡ Reasons other than supply or</p> <p>➡ Due to inward supply from an URP</p> <p><b>When :-</b> Consignment value exceeds ₹ 50,000</p> <div><div><p><b>Voluntary Generation</b> (even if consignment value is ₹ 50000 or less)</p><p>Consignment value exceeds ₹ 50,000</p><p>➡ Every R.P. causing movement of goods</p><p>➡ Can authorized ECO or Courier Agency or Transporter to furnish details in Part-A</p></div><div><p><b>Mandatory Generation</b></p><p>Job Work</p><p>handicraft goods</p><p>Principal or Job Worker (if Registered)</p><p>Person exempted from obtaining registration U/s 24(i)&amp;(ii)</p><ul style="list-style-type: none"><li>• Inter State movement</li><li>• E-Way Bill is required Irrespective of consignment value</li></ul></div></div> <table><tr><th colspan="2">Part A</th><th>Part B</th></tr><tr><td colspan="2">GSTIN of Supplier,</td><td>Vehicle Number for Road</td></tr><tr><td>Place of Dispatch</td><td rowspan="2">Bill To</td><td rowspan="2">Transporter document no. / Defense vehicle no./Temporary vehicle Registration no./Nepal or Bhutan Vehicle Registration no.)</td></tr><tr><td>Indicate the PIN Code of place of dispatch.</td></tr><tr><td colspan="2">Ship To</td><td></td></tr><tr><td colspan="2">GSTIN of Recipient</td><td></td></tr><tr><td colspan="2">Place of Delivery (PIN Code also), indicate the PIN Code of place of delivery.</td><td></td></tr><tr><td colspan="2">Document Number</td><td></td></tr><tr><td colspan="2">May be of Tax Invoice, Bill of Supply, Delivery Challan or Bill of Entry.</td><td></td></tr><tr><td colspan="2">Document Date</td><td></td></tr><tr><td colspan="2">Value of Goods,</td><td></td></tr><tr><td colspan="2">HSN Code,</td><td></td></tr><tr><td>Annual T/O of preceding F.Y.</td><td>HSN Code Digit</td><td></td></tr><tr><td>Upto 5 Cr</td><td>4 Digit</td><td></td></tr><tr><td>Above 5 Cr</td><td>6 Digit</td><td></td></tr><tr><td colspan="2">Reason for Transportation, etc.</td><td></td></tr><tr><td colspan="3">Information in part B is optional</td></tr><tr><td colspan="3">If Distance up to 50 Km within State or UT in case of transportation from POB to transporter's Place or vice-versa</td></tr></table>	Part A		Part B	GSTIN of Supplier,		Vehicle Number for Road	Place of Dispatch	Bill To	Transporter document no. / Defense vehicle no./Temporary vehicle Registration no./Nepal or Bhutan Vehicle Registration no.)	Indicate the PIN Code of place of dispatch.	Ship To			GSTIN of Recipient			Place of Delivery (PIN Code also), indicate the PIN Code of place of delivery.			Document Number			May be of Tax Invoice, Bill of Supply, Delivery Challan or Bill of Entry.			Document Date			Value of Goods,			HSN Code,			Annual T/O of preceding F.Y.	HSN Code Digit		Upto 5 Cr	4 Digit		Above 5 Cr	6 Digit		Reason for Transportation, etc.			Information in part B is optional			If Distance up to 50 Km within State or UT in case of transportation from POB to transporter's Place or vice-versa			<p><b>Mandatory generation of E-Way bill if Value exceeds ₹50,000</b></p> <p>➡ Determined as per Section 15</p> <p>➡ Declared in invoice/ Bill of Supply/ Delivery Challan Issued in respect of said consignment</p> <div><p><b>Includes</b></p><p>CGST</p><p>SGST/ UTGST</p><p>IGST</p><p>Cess</p></div> <div><p><b>Excludes</b></p><p>Value of Exempt Supply of goods</p></div> <p><b>Note:-</b> Specially for E-Way Bill value includes GST</p>	<div><p>Goods Transported by Road</p><p>Goods Transported by Railways</p><p>Goods transported by Air/Vessel</p></div> <p>E-way bill to be generated before movement of goods</p> <ul style="list-style-type: none"><li>• by R.P.(supplier/recipient)</li><li>• Information in Part B before/After commencement of movement of goods but it shall not be delivered unless EWB is produced at the time of delivery</li></ul> <div><div><p>Self Transportation (own vehicle/hired or public conveyance)</p><p>Part A</p><p>Part B</p><p>Consignment Details</p><p>Vehicle Number</p><p>RP</p></div><div><p>Third party (Transporter)</p><p>Part A</p><p>Part B</p><p>Consignment Details</p><p>Vehicle Number</p><p>Transporter (UEN/GSTIN)</p></div></div> <div><p>GTA Unregistered → Unique Enrollment Number (UEN)</p><p>GTA Registered</p><ul style="list-style-type: none"><li>➡ Single Registration → GSTIN</li><li>➡ Multiple Registration → Common UEN</li></ul></div>
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<p><b>Validity of E-Way Bill</b></p> <div> <div>Other than over dimensional cargo</div> <div>In case of Over Dimensional Cargo</div> </div> <div> <div>upto 200km ↓ 1 day</div> <div>for every additional 200 km or part ↓ 1 additional day</div> <div>upto 20km ↓ 1 day</div> <div>for every additional 20 km or part ↓ 1 additional day</div> </div> <p><b>Note :-</b> Multi modal shipment where one leg in ship the above both options are available</p> <p><b>Other Points:-</b></p> <ul style="list-style-type: none"> <li>➤ Validity period shall be counted from time at which E-Way bill has been generated (after completion of info in part B by transporter)</li> <li>➤ Validity of E-way bill may be extended within 8 hrs from the time of its expiry</li> <li>➤ First day shall be expired on mid night of succeeding day</li> </ul> <div> <div>14th April 10 am EWB</div> <div>15th -16th 12 am Midnight</div> <div>16th-17th 12 am Midnight</div> </div>	<p><b>Non-Requirement of E-Way Bill</b></p> <ul style="list-style-type: none"> <li>➤ Transportation of <ul style="list-style-type: none"> <li>➤ Non Taxable Goods</li> <li>➤ Jewellery/ precious stone <b>excepting Imitation Jewellery</b></li> <li>➤ Currency</li> <li>➤ Postal, Baggage</li> <li>➤ Personal effect</li> <li>➤ Empty cargo container</li> </ul> </li> <li>➤ Transported by non motorised vehicles</li> <li>➤ Movement of goods under -ministry of defense</li> <li>➤ Supply under Schedule-III</li> <li>➤ Supply under Custom supervision</li> <li>➤ Transport of exempt goods (except de-oiled cake) etc.</li> </ul> <p><b>Note- there are more cases of non requirement of EWB for that refer notes.</b></p>	<p><b>Documents to be carried by Person in Charge</b></p> <p>The person in charge of a conveyance shall carry—</p> <p>(a) the invoice or bill of supply or delivery challan, Bill of Entry etc. and</p> <p>(b) a copy of the e-way bill in</p> <ul style="list-style-type: none"> <li>➤ physical form or</li> <li>➤ EWB no. in electronic form or</li> <li>➤ mapped to a RFI Device embedded on to the conveyance</li> </ul> <p><b>Clause (b) Not Applicable :-</b> for movement of goods by rail or by air or vessel.</p> <p><b>Inspection of E-Way Bill</b></p> <div> <div>Rights of Commissioner</div> <div>Rights of person</div> </div> <ul style="list-style-type: none"> <li>➤ Right to intercept any conveyance verify E-way bill</li> <li>➤ Right to install Radio Frequency</li> <li>➤ Identification device</li> <li>➤ Right to physical verification of conveyance</li> </ul> <p>If vehicle detained for more than 30 mins transporter may upload the information in EWB-04 on common portal</p> <p><b>Summary Report &amp; final Report</b> -to be recorded online in EWB-03  <b>Part A(summary)-</b> within 24 hrs of inspection  <b>Part B (Final)-</b> within 3 days of inspection [Extension available for further 3 days]</p>	<p><b>Non Compliance of E-Way Bill</b></p> <div> <div>Sec 122</div> <div>Sec 129</div> </div> <p>Taxable person Transporting the goods liable to penalty of ₹ 10,000 or Tax evaded (whichever is higher)</p> <p>Confiscation of Goods &amp; conveyance</p>	<p><b>Acceptance/Rejection/cancellation of E-Way Bill</b></p> <p>1) <b>Acceptance/Rejection</b></p> <p>by the Recipient (if registered) or supplier within</p> <ul style="list-style-type: none"> <li>➤ 72 hours</li> <li>➤ Before delivery of goods (whichever is earlier) or else Deemed Acceptance</li> </ul> <p>or</p> <p>2) <b>Cancellation of E-Way bill</b></p> <p>a) Goods not transported</p> <p>b) Goods not transported as per details furnished</p> <ul style="list-style-type: none"> <li>➤ Cancellation to be done within 24 hours.</li> <li>➤ Cannot be cancelled if verified in transit</li> </ul>
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Special Discussion

<p><b>Transshipment of Goods</b></p> <ul style="list-style-type: none"> <li>➤ Consignor / Recipient (who has furnished Part A) or</li> <li>➤ Transporter</li> </ul> <p>can assign the E-Way Bill to another registered transporter to update Part B of E-Way bill for further movement of goods.</p> <p><b>Note- only 1 EWB is required</b></p>	<p><b>Bill to Ship to Transportation</b></p> <p>Part A of E-Way Bill shall contain :</p> <ul style="list-style-type: none"> <li>➤ Place of Dispatch(address of Place)</li> <li>➤ Bill to (Details of "Bill to" party)</li> <li>➤ Ship to (Address of "Ship to" party)</li> </ul> <p><b>Note- only 1 EWB is required</b></p> <p><b>Invoice Reference Number</b></p> <p>Reduces burden of carrying physical copy of Invoice</p> <p>Auto populates part A of E-way Bill</p>	<p><b>Multiple Consignment</b></p> <p>Transporter will generate the E-Way Bill in following cases</p> <p>1. If consignor &amp; Consignee has not generated E-Way Bill and Value of Goods carried in the conveyance is more than ₹ 50000 -Generation of E-Way bill in EWB-01.</p> <p>2. May also generate a consolidated e-way bill in EWB-02.</p> <p><b>Note -</b> Applicable only for transportation by Road</p>	<p><b>Important Clarification</b></p> <p>1. Transit of goods in a same state through another state - <b>EWB required</b></p> <p>2. Movement of goods from DTA to SEZ for vice-versa in a same state- <b>EWB not required</b></p>	<p><b>Rule 138E:-Restriction of furnishing of information in part A of EWB-01.</b></p> <p><b>in respect of any outward movement of goods of a registered person who -</b></p> <p>(a) composition dealer has not furnished the returns for two consecutive tax periods; or</p> <p>(b) Other Person has not furnished the returns for a consecutive period of <b>Two Tax Periods</b></p> <p>(c) Other person has not furnished the statement of outward supplies for any two months or quarters, as the case may be.</p> <p>(d) being a person, whose registration has been suspended under the provision of rule 21A(1) or 21A(2) or 21A(2A)</p>
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<p><b>Student Notes:-</b></p>
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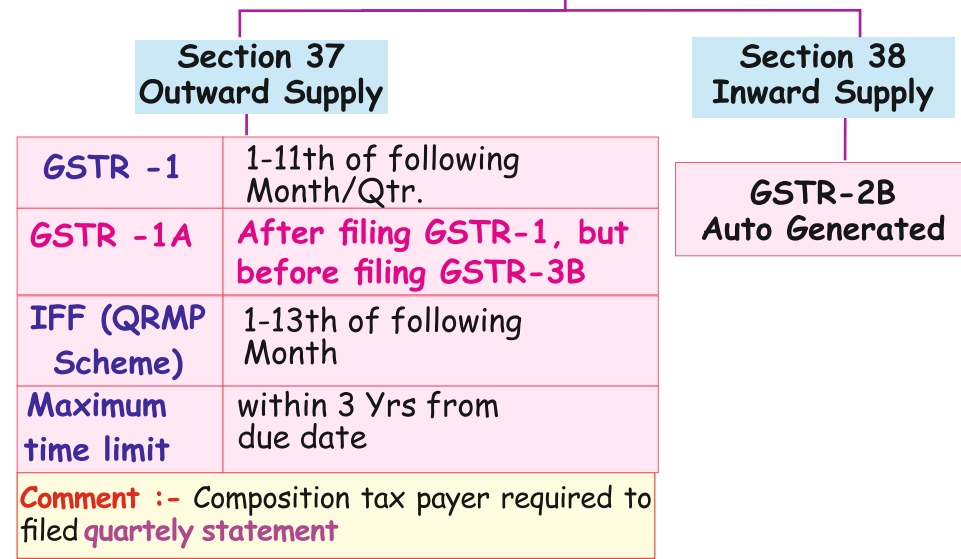


# Chapter 13 - RETURN



## Statement / Return

### Statement

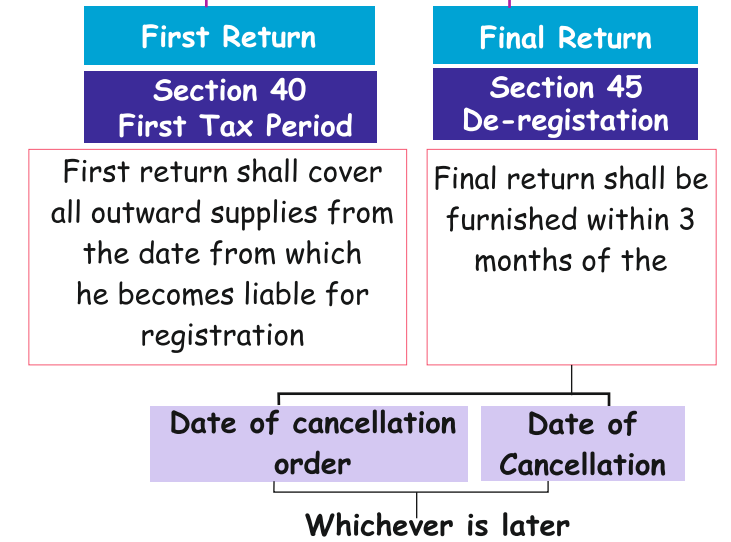


### Normal Return

Regular return		
Section 39		
Person	Form	Due date
Regular TP & CTP	GSTR-3B	20th of next Month
NRTP	GSTR-5	13th of next month
Composition Dealer	GSTR-4	30th Jun of following F.Y.
Max time limit	Return for tax period	within 3 Yrs from due date
TDS Deductor	GSTR-7	on or before 10th of the next month

Annual return		
Section 44		
Person	Regular TP	Composition TP
Form	GSTR-9	GSTR-9A
Due date	31st Dec of the next F.Y.	
Max. Time Limit	within 3 Yrs from due date of Annual return	

### Other Return



### Outward and Inward Supply Statement (Sec 37 & Sec 38)

Type of TP	Form No.	Periodicity	Due date	Not Applicable to
Every registered person (Incl. CTP)	GSTR-1	Monthly (Details of outward supplies)	11th of the next month	(a) Composition taxpayer (b) NRTP (c) ISD
	GSTR-1A	Amended or Additional details of Outward supply	Between 11th to 21st of next month	(d) Person liable to TDS & TCS (e) OIDAR

Details of Outward Supply		Rectification of Error:
Invoice wise details	⇒ Inter-State and Intra-State supplies made to RP, and ⇒ Inter-State supplies with invoice value more than ₹ 1L made to URP	RP can rectify error in GSTR 1 & GSTR 3B (other than scrutiny, Audit & Inspection)& time limit is Earlier of 30th Nov or Date of Annual return
Consolidated details	⇒ Intra-State supplies made to URP for each rate of tax, and ⇒ State wise Inter-State supplies with invoice value upto ₹ 1L made to URP for each rate of tax	

### 3) Annual Return

Type of TP	Form No.	Periodicity	Due date	
Registered Normal taxpayer	GSTR-9	Annual Return	31st Dec of next F.Y.	(a) Supplier of OIDAR services (b) Composition taxpayer (c) NRTP (d) ISD (e) Person deducting TDS&TCS f) CTP (g) those referred to in the proviso to sec 35(5),

⇒ a **self-certified reconciliation statement**, reconciling the value of supplies declared in the return furnished for the F.Y.,  
⇒ with the **audited annual financial statement** for every financial year electronically,

### 4) Final Return

Type of taxable person	Form No.	Periodicity	Due date
RP and whose registration has been cancelled	GSTR-10	Final Return	within 3 months of date of cancellation or date of order of cancellation (whichever is later)

### 5) OIDAR Services & Online money gaming from outside India

Type of taxable person	Form No.	Periodicity	Due date
OIDAR Services to NTOR or other RP & Online money gaming	GSTR-5A	Monthly Return	On or before 20 <sup>th</sup> day of succeeding month

### Furnishing of Returns [Sec 39]

Type of TP	Form No.	Periodicity	Due date	Not Applicable to
Every registered person	GSTR-3B	Monthly (or a part of the month)	20th of the next month	(a) Supplier of OIDAR services (b) Composition taxpayer (c) NRTP (d) ISD (e) Person deducting TDS & TCS
		Note:- In case of QRMP scheme refer next page)		

### 2) Return by Composition taxpayer (Sec. 39(2) and rule 62)

Type of TP	Form No.	Periodicity	Due date
Composition taxpayer	GSTR-4	Yearly (or part thereof) Note: Furnish a statement every quarter or, part thereof containing the details of payment of self-assessed tax in FORM GST CMP -08 till the 18th day of the month succeeding such quarter	30th June following the end of such F.Y

### First Return (Sec 40)

Every RP who has made outward supplies in the period between the date on which he became liable to registration till the date on which registration has been granted shall declare the same in the first return furnished by him after grant of registration.

## Rule 59(6) :- Restriction on furnishing GSTR -1 or IFF

**Restriction on furnishing GSTR -1 or IFF :- Notwithstanding anything contained in this rule,**

- (a) **RP (Monthly Scheme):** Can not furnished if he has not furnished the return in FORM GSTR-3B for preceding month
- (b) **RP (QRMP Scheme):** Can not furnished if he has not furnished the return in FORM GSTR-3B for preceding tax period
- (d) If intimation is issued under Rule 88C(1) :- RP cannot furnish GSTR-1 or using IFF for a subsequent tax period, unless he deposits intimated amount or furnishes a reply to explain it
- (e) If intimation is issued under rule 88D(1):- RP cannot file GSTR-1 or using IFF for subsequent tax period, unless he pays such excess ITC or furnishes a reply to explain it.
- (f) Bank details under rule 10A:- RP cannot file GSTR-1/using IFF, if he has not furnished details of bank account as per rule 10A.

## Late fee u/s 47 for delayed filing of GSTR-1 and/or GSTR-3B

1) RP - GSTR -1 = Nil or GSTR 3B =Nil	₹20 per day(i.e. ₹10 per day each under CGST & SGST) but max.=₹ 500 (i.e. 250 under CGST & SGST each)	
2) RP other than those covered in (1) above (i.e. there is outward supply in GSTR - 1 or tax payable as per GSTR-3B)	Agg. T/o of ≤ ₹1.5 cr. in PFY	⇒ ₹50 per day(i.e. ₹25 per day each under CGST & SGST) ⇒ max.= ₹2000 (i.e. 1000 under CGST & SGST each)
	Agg. T/o more than 1.5 Cr but ≤ 5 Cr. in PFY	⇒ ₹ 50 per day(i.e. ₹25 per day each under CGST & SGST) ⇒ max.=₹ 5000 (i.e. 2500 under CGST & SGST each)
3) RP having Agg. T/o > 5 Cr. in PFY	₹ 50 per day (i.e. ₹25 per day each under CGST & SGST) but max.=₹10,000 (i.e. 5000 under CGST & SGST each)	

## Late fee u/s 47 for delayed filing of GSTR - 4 under Composition scheme

1) If Total tax payable in GSTR-4 is Nil	⇒ ₹20 per day(i.e. ₹ 10 per day each under CGST & SGST/UTGST) but ⇒ maximum=₹ 500 (i.e. 250 under CGST & SGST/UTGST each)
2) If RP other than in (1) above	⇒ ₹ 50 per day(i.e. ₹25 per day each under CGST & SGST/UTGST) but ⇒ maximum=₹2000 (i.e. 1000 under CGST & SGST/UTGST each)

## Late fee u/s 47 for failure to furnish annual return by due date [N/No. 07/2023- CT]

1) RP having an aggregate turnover ≤ ₹5 Cr. in relevant F.Y.	⇒ ₹ 50 per day(i.e. ₹ 25 per day each under CGST & SGST/UTGST) but ⇒ maximum= 0.04% (i.e. 0.02 % under CGST & SGST/UTGST each) of T/o in State or UT
2) RP having an Agg. T/O of > ₹ 5 Cr & and ≤ ₹20 Cr in relevant F.Y.	⇒ ₹100 per day (i.e. ₹50 per day each under CGST & SGST/UTGST) but ⇒ maximum=0.04% (i.e. 0.02 % under CGST & SGST/UTGST each) of T/o in State or UT
3) RP having an Agg T/O of > ₹20 Crores in relevant F.Y.	⇒ ₹200 per day (i.e. ₹100 per day each under CGST & SGST/UTGST) but ⇒ 0.50% of the turnover in State/UT (0.25 % under CGST & SGST/UTGST each)

## Late fee u/s 47 for delayed filing of GSTR - 7 by person liable to deduct tax at source u/s 51

⇒ ₹50 per day(i.e. ₹25 per day each under CGST & SGST/UTGST) but maximum = ₹2000 (i.e. 1000 under CGST & SGST/UTGST each)

**N/n 23/2024:** The govt. has reduced the late fee for filing GSTR-7 (TDS return) late, from June 2021 onwards:

1. Late fee is limited to ₹25 per day of delay.
2. Maximum late fee is ₹1,000 total for each return.
3. No late fee if no TDS (CGST) was deducted for that month.

## Late Fee for Delay in GSTR-9C Filing (Cir no. 246/03/25)

- ⇒ Taxpayers with t/o > ₹5 cr must file GSTR-9 & GSTR-9C.
- ⇒ If GSTR-9C is delayed, the annual return is incomplete, and late fee u/s 47(2) applies until both are filed.
- ⇒ Late fees for FYs up to 2022-23 are waived if GSTR-9C is filed by 31st Mar 2025 (N/N 08/2025).
- ⇒ No refund of already paid late fees.

## Goods and Service Tax Practitioners

### Concept of GSTP

- ⇒ A RP may authorised an approved GSTP to furnish information, on his behalf, to the Government.
- ⇒ GSTN will provide separate user ID and Password to GSTP to enable him to work on behalf of his clients without asking for their user ID and passwords.
- ⇒ They can do all the work on behalf of taxpayers as allowed under GST Law.
- ⇒ A taxpayer may choose a different GSTP by simply unselecting the previous one and then choosing a new GSTP on the GST portal.

### Eligibility Criteria for GSTP

**Basic Conditions:-** 1) Citizen of India 2) Person of Sound Mind 3) Not adjudication as insolvent 4 ) not been convicted by court

**Other Conditions:-** 1) Retired officer of Govt. Not below lower the rank of group B gazetted officer for not less than 2 years

2) enrolled as a sales tax practitioner or tax return preparer under the existing law for a period of not less than five years

3) he has passed, (i) a graduate of postgraduate degree (ii) a degree of any Foreign University recognized by any Indian University or (iii) any other examination notified by the Government, or (iv) He has passed a) ICAI or b) ICAI (CMA); or c) ICSI.

### Activities which can be undertaken by a GSTP

- (a) furnish the details of outward supplies;
- (b) furnish monthly, quarterly, annual or final return;
- (c) make deposit for credit into the electronic cash ledger;
- (d) file a claim for refund;
- (e) file an application for amendment or cancellation of registration;
- (f) furnish information for generation of e-way bill;
- (g) furnish details of challan in FORM GST ITC-04;
- (h) file an application for amendment or cancellation of enrolment under rule 58; and
- (I) file an intimation to pay tax under the composition scheme or withdraw from the said scheme:
- ⇒ Provided that where any application relating to
- ⇒ a claim for refund or
- ⇒ an application for amendment or
- ⇒ cancellation of registration or
- ⇒ where an intimation to pay tax under composition scheme or to withdraw from such scheme has been submitted

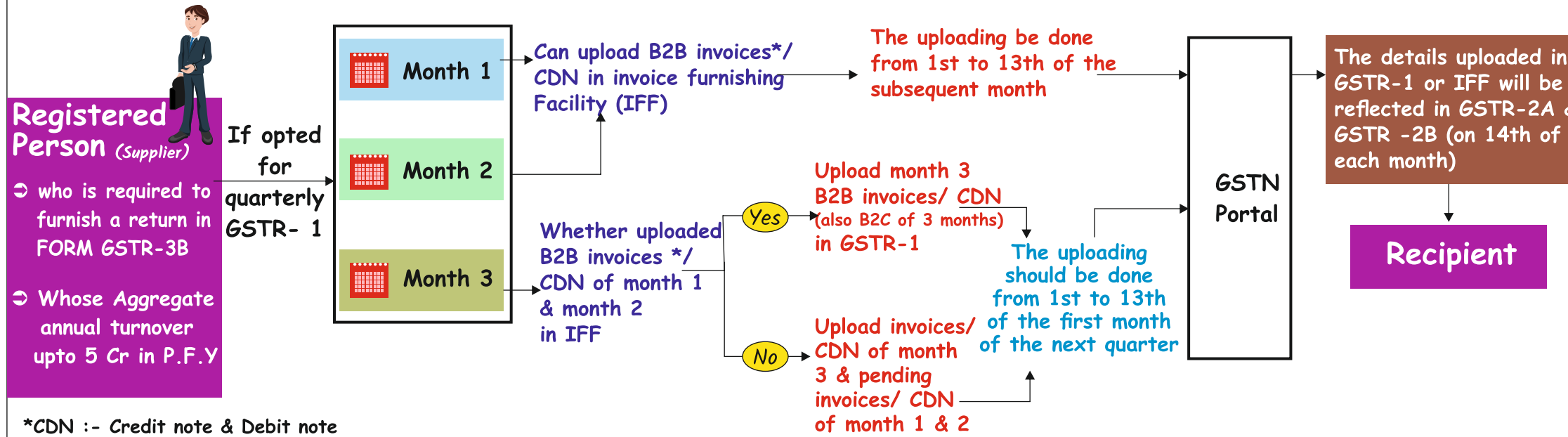


# QRMP SCHEME

(This new Scheme will be effective from 01.01.2021)



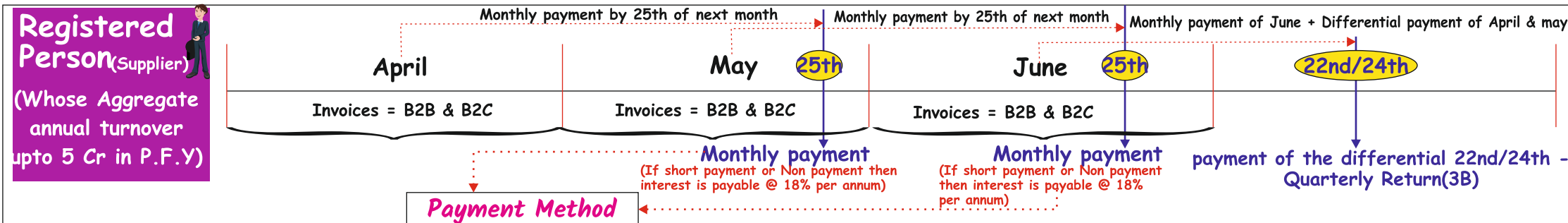
## Registered Person - Opting for QRMP Scheme (Submission of details of Outward supplies )



## Important Points

1. The aggregate annual turnover for the P.F.Y. shall be calculated in the common portal taking into account the details furnished in the returns by the taxpayer for the tax periods in the P.F.Y.
2. Value of supply in IFF shall not exceeds ₹ 50 lakhs for each month
3. After 13th of the month, this facility for furnishing IFF for previous month would not be available.
4. Details given in IFF not required to be given again in GSTR-1
5. Where QRMP option has been exercised once, they shall continue unless RP revise the said option.
6. It is further clarified that the option to avail the QRMP Scheme is GSTIN wise
7. Some GSTINs of same PAN can opt for the QRMP Scheme and remaining GSTINs may not opt for the Scheme.

## QRMP - Monthly Payment & Interest Liability



### 1. Fixed Sum Method (FSM)

Payment of tax in the 1st and the 2nd month of the quarter.

Sr. No.	Type of Taxpayer	Tax to be paid
1.	Who furnished GSTR-3B quarterly for the last quarter	35% of tax paid in cash(E-Cash Ledger) in the preceding quarter
2	Who furnished GSTR-3B monthly during the last quarter	100% of tax paid in cash in the last month of the immediately preceding quarter

The balancing amount of tax is to be paid in the 3rd month.

### 2. Self-Assessment Method (SAM)

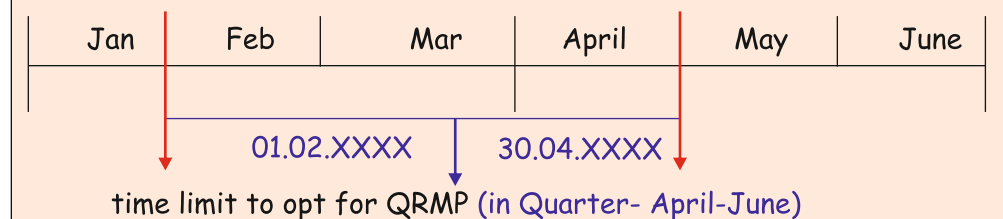
Here the taxpayer can pay the tax liability by considering the tax liabilities on inward and outward supplies and as per the ITC available.

There are certain conditions where no tax needs to be paid:

- > **1st Month of Quarter:** The tax liability is Nil. OR The balance in the electronic cash ledger is adequate for the tax liability for the same month.
- > **2nd Month of Quarter:** The tax liability is Nil. OR The balance in the electronic cash ledger is adequate for the cumulative tax liability for the IThst two months of the quarter.

## Rule 61A: Manner of opting Quarterly return

- Facility to avail the Scheme on the common portal would be available throughout the year.
- A registered person can opt in for any quarter from first day of second month of preceding quarter to the last day of the first month of the quarter.



## Student Notes :-

## Example

In case the last return filed was on quarterly basis for Quarter Ending March, 2021:				In case the last return filed was monthly for tax period March, 2021:			
Tax paid in Cash in Quarter (January -March, 2021)		Tax required to be paid in each of the months - April and May, 21		Tax paid in Cash in March,21		Tax required to be paid in each of the months - April and May, 21	
CGST	100	CGST	35	CGST	50	CGST	50
SGST	100	SGST	35	SGST	50	SGST	50
IGST	500	IGST	175	IGST	80	IGST	80
Cess	50	Cess	17.5	Cess	----	Cess	---





# Chapter 14 : Sec 143 & Sec 19 -JOBWORK

## Summary

Supply to Job worker without Payment of Tax (Sec 143)

A registered person ("Principal") may send any input or capital goods, to a job worker, to any of his place of business for job-work and from there subsequently sent to another job worker without payment of tax. Goods shall be sent under Rule 55 challan.

## Continuity of ITC (Sec 19)

The principal shall, be **allowed ITC** on inputs/ capital goods sent to a job-worker for job-work.

ITC Shall be allowed even if the inputs are directly sent to a job worker for job-work without being first brought to his place of business.

Time limit  
for  
return by  
Jobworker

Item	Time limit for return
Inputs	Within <b>1 year (extension 1 Yr.)</b> of being sent to J.W. or receipt if Direct supply to J.W.
Capital Goods	Within <b>3 year (extension 2 Yr.)</b> of being sent to J.W. or receipt if Direct supply to J.W.

Direct Supply  
by the Principal  
from Job  
workers  
Premises

Within the above time limits, the principal shall effect supply

- Üwithin India (on payment of tax) and
- Üto exports (without payment of taxes)

## Restriction

Principal cannot supply the goods directly from the place of business of a job worker unless the principal declares the place of business of the job-worker as his additional place of business. [Above restriction is not applicable when -

- i) Jobworker is registered u/s 25,
- ii) Principal is engaged in the supply of notified goods]

Failure to return goods within time limit-Deemed supply

Where the Inputs/Capital goods sent for Jobworker are not received back by the principal or not supplied from his place of business within a period of 1 year/3 years (or extended period) of being sent out, it is deemed that goods had supplied by the principal

### Proper Accounts to be kept

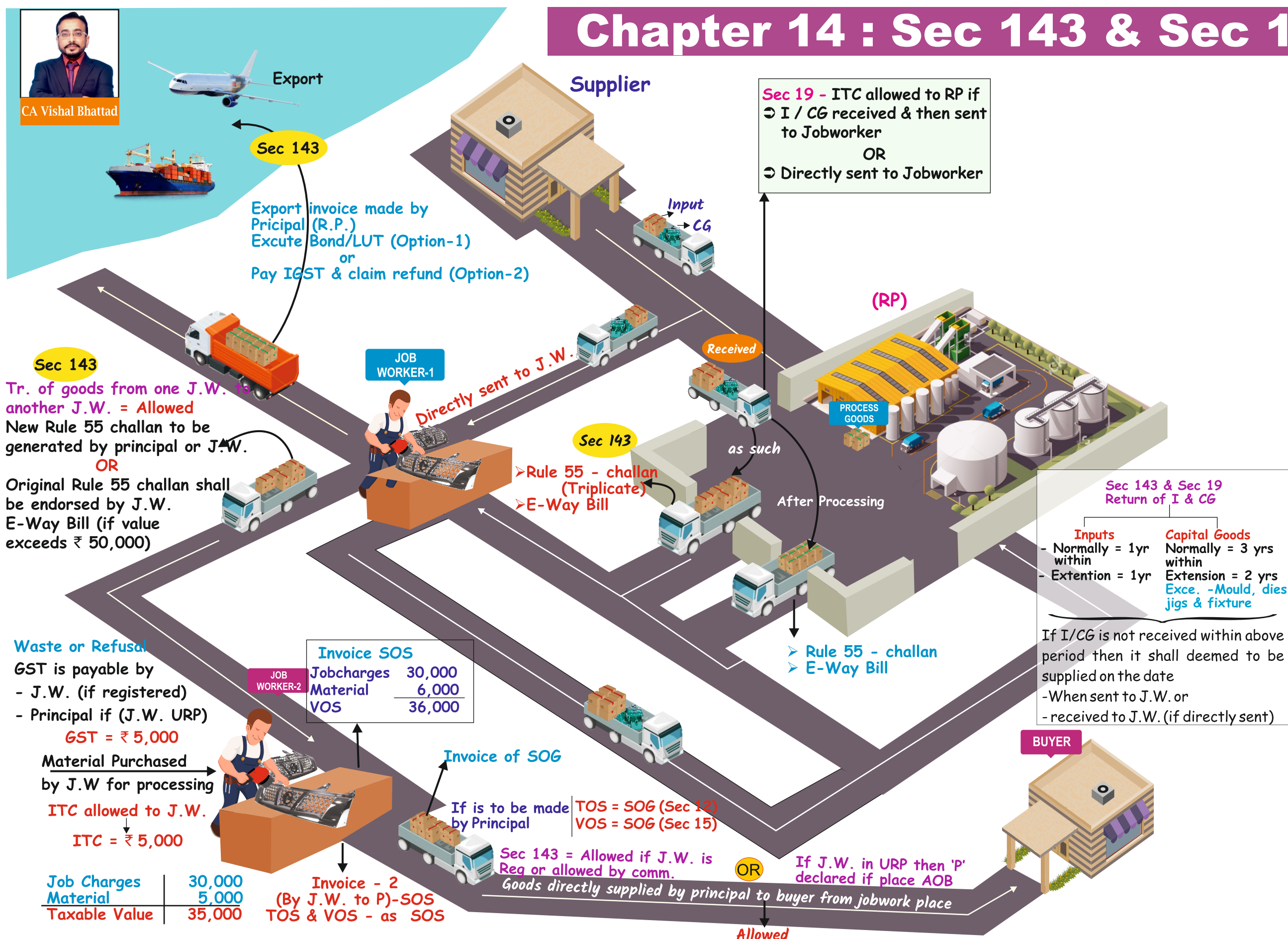
Principal is responsible for keeping proper accounts

Waste/Scrap  
Generated

May be supplied by the jobworker directly from his place of business on payment of tax, or by the principal

## Details of Challan to be included in Returns - ITC 04

T/O	Period	Due Date
If Agg. T/O is exceeds 5Cr	a) April - Sep b) Oct - March	25th of Next Month
Other	Financial Year	



Issue	Clarification
Is it compulsory to take registration for a <b>P</b> involved in <b>J.W.</b> transaction?	<b>No</b> . It is his choice whether or not to register. Sec 143 applicable only to a <b>RP</b> .
Registration <b>J.W.</b> is required ? i) <b>J.W.</b> and <b>P</b> in a same state. or ii) <b>J.W.</b> and <b>P</b> in a different state.	<b>J.W.</b> is required to obtain registration only in cases where his Agg.T/O in a <b>F.Y.</b> exceeds the threshold limit regardless of whether the <b>P</b> and the <b>J.W.</b> in the same or in different States.

Issue	Clarification
If <b>P</b> supplies goods directly from the <b>J.W.</b> 's premises to customer then who will be supplier of goods?	It will be regarded as supply by the <b>P</b> and not by the <b>J.W.</b> (provided it is an additional place to the principal).
Filing ITC-04 will be considered as a submission of intimation under sec 143 of <b>CGST</b> act, 2017?	<b>Yes</b> , It is the responsibility of the <b>P</b> to include the details of all the challans relating to goods sent by him to one or more <b>J.W.</b> from one <b>J.W.</b> to another and its return there from.

Issue	Clarification
Who will avail ITC i) in respect of inputs / capital goods that are directly received by the J.W.	ITC would be available to the P, irrespective of the fact whether the Inputs or Capital goods are received by the principal and then sent to the J.W. for processing or they are directly received at the job.
ii) J.W. in respect of inputs, etc. used by him in supplying J.W. services	Job worker is also eligible to avail ITC on inputs etc. used by him in supplying the J.W. services if he is registered.



# Chapter 15: Assessment, Audit, Search & Seizure



CA Vishal Bhattad

## Department Power

**Administrative Power** (On the basis of Return/Statement/Documents/Records)

**Investigative Power**

### Assessment

**sec 2(11) "Assessment"** means determination of tax liability under this Act and includes ➤ self-assessment ➤ re-assessment, ➤ provisional assessment, ➤ summary assessment and ➤ best judgment assessment.

Registered person

**Sec 63 - Unregistered Person  
Best Judgement Assessment[BJA]**

- **BJA:** ➤ If assessee fails to obtain registration even though he is liable to do so or  
➤ Registration has been cancelled but liable to pay tax.  
PO assess tax liability by BJA.
- **Issue of notice:** PO issues a **notice & give 15 days** time to reply &  
➤ then issue BJA order & summary thereof shall be uploaded electronically. (No assessment order pass without giving an opportunity of being heard)
- **Time limit of order:** Assessment order shall be issued **within 5 years** from due date of filing annual return for the FY to which tax not paid pertains.

Filing the Return

**Sec 59 : Self Assessment**

Every **RP** shall **self assess the liability & tax payable** & then file return u/s 39 for each tax period

**Sec 62 - Assessment of non filers of returns  
(Best Judgement Assessment)**

- **BJA:** ➤ where R.P. fails to furnish returns u/s 39 (Periodical), or u/s 45 (Final returns) &  
➤ even after the service of **notice u/s 46**, taxable person fails to file return within 15 days
- **Time limit of order:** PO shall issue BJA order within 5 years from due date of annual return for the FY to which tax not paid relates.
- **Withdrawal of BJA order:** When assessee furnishes a valid return within **60 days** of service of BJA order, then such BJA order shall be deemed to have been withdrawn. But liability of interest (@18%pa) + late fee(200/-per day max 10,000/-) shall continues.
- **Extended period :** Extended period of upto 60 days is allowed on payment of additional late fee of ₹ 200 per day (CGST: ₹ 100 & SGST: ₹100) from 61st day till date of filing return.

### Audit

**sec 2(13) "Audit"** means the ➤ examination of records, returns and other documents maintained or furnished by the registered person as per law.  
➤ to verify the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed, and to assess his compliance with the provisions of law.

**Sec 65  
Departmental Audit**

1. **Audit Authority:** Commissioner/ Authorised officer undertake audit of RP under this section..
2. **Notice to R.P.** for audit to be given at least **15 working days** prior to the conduct of audit.
3. **Audit Period :** F.Y. or part thereof or multiples thereof.
4. **Place of Audit :** POB of RP or departmental office.
5. **Time Limit for Completion :** Within **3 months** from the date of commencement. (extension for further 6 months)
6. **Commencement of audit** shall be the Date  
➤ on which the records are made available or  
➤ the actual institution of audit at the POB, **whichever is later.**
7. **Conduct of Audit : R.P.** Shall  
➤ facilitate verification of accounts & records  
➤ provides information to authority as required  
➤ render assistance  
PO may inform **RP about** discrepancies notice & **R.P.** may file the reply for that.
8. **Audit Findings & Observations** to be intimated within 30 days from the completion of audit.
9. **Tax Avoidance or wrong ITC is detected,** Action u/s 73/74/74A for determination of Tax amount will be taken up.

**Sec 66  
Special Audit**

1. **Situations :** During scrutiny, inquiry, investigation or any other proceedings, in which PO is of opinion that  
➤ value has not been correctly declared or  
➤ wrong availment of ITC by **R.P.**
2. **Direction for Audit :** shall be made with prior approval of commissioner to get record (including books of account) examined by CA/CMA.  
Note : Special audit shall be conducted, even audit has been conducted under any provisions of the GST Act or any other law.
3. Special Audit u/s 66 shall be conducted by a **CA or a CMA**, who shall be nominated by Commissioner,
4. Auditor shall submit his report to AC, within 90 days. (extendable for further 90 days)
5. Audit expenses to be determined & paid by comm.
6. **Tax Avoidance or wrong ITC is detected,** action u/s 73 or 74/74A for determination of Tax amount will be taken up.

### Access

**Sec 71 Access to Business Premises**

- 1) **Duly empowered officer** can access to any business premises of **Registered Person.**
- 2) During access, PO can Inspect
  - Books of Accounts
  - Documents
  - Computers (including programs & software)
  - other things as required
- 3) Person in charge of premises bound to furnish such documents to officer or to audit party deputed by PO to carry out special audit
- 4) Records covers- records prepared by **R.P.**, Trial balance, audited FS, cost Audit report, Income tax audit report and other relevant records.

# Chapter 18 - Inspection, Search, Seizure & Arrest

## Sec 60 : Provisional Assessment

- **Provisional Assessment** : If **taxable person** is unable to determine-
  - a) **Value of Supply** or
  - b) **Applicable tax rate**
  - He shall request to PO, by furnishing an application stating reasons of provisional assessment.
  - After asking necessary documents, PO shall accept /reject the request, by an order, **within 90 days** from date of receipt of request, if P.A. is accepted then value or rate is specified by P.O.
- **Bond with security** : The Order indicates- rates/ values/ Bond & security (Bank guarantee) & the value of security shall be  $\leq 25\%$  of amount covered under the bond
- **Final Assessment** : PO - within 6m from PA order
 

Extension by Joint Comm./Add. Comm - 6 months  
 Extension by Commissioner - 4 Years

}

Final assessment order passed by respective officer after taking into A/C such information which is required for final assessment.

**If FAT > PAT**

**Tax payment** - Differential tax is payable

**Interest** - 18% (day basis)

**Period of Interest** - 1st day after due date of month in which provisional assessment is done till the date of payment of tax

**If FAT < PAT**

**Tax Refund** - Subject to doctrine of unjust enrichment

**Interest** - @ 6% p.a.

**Period of Interest** - If refund is not paid within 60 day of refund application then interest is payable from 61st day till the date of payment of refund.

- **Release of Security**: After FA order, applicant shall file application for release of security. PO to ensure that applicant has paid amount as per FA or he will release security by an order within 7 working days from date of receipt of such application.

## Sec 61 : Scrutiny of returns

- PO to verify correctness of returns (as selected by him) furnished by RP w.r.t available information.
- If discrepancies found, PO shall issue notice and person shall give a necessary explanation within **30 days** from service of notice.

S a t i s f a c t o r y explanation given by R.P.	Discrepancies accepted by R.P.	Discrepancies not accepted by R.P. or Not corrected after acceptance by R.P.
<ul style="list-style-type: none"> <li>➤ No action by PO</li> <li>➤ Inform to RP</li> </ul>	<ul style="list-style-type: none"> <li>➤ Pay Tax + Interest</li> <li>➤ Inform PO about payment of such Tax &amp; interest</li> </ul>	<ul style="list-style-type: none"> <li>➤ PO may initiated appropriate action</li> </ul>

Sec 65:- GST Audit by tax Authorities OR  
 Sec 66:- Special Audit OR  
 Sec 67 :- Inspection, Search & Seizure

OR

**Tax Determination**  
 Sec 73 - Bonafide  
 Sec 74 - Malafide  
 Sec 74A

## Investigative Actions

### Inspection(u/s 67(1))

- **Meaning**: An act of examining something by the proper officer on reason to believe suppress something recorded in writing
- Softer provision than search

**Circumstances**:- A Joint Comm. as reason to be believe that

- TP

  - Suppressed any transaction of supply of goods or services
  - Suppressed stock in hands
  - Claimed excess Input Tax Credit
  - Contravened any provision to evade tax

Transporter

  - Kept goods which have escaped payment of tax
  - Kept goods/A/c in a manner likely to cause evasion of Tax

Warehouse Keeper
- Power** :- Inspect the place of business of TP/ transporter/warehouse keeper

### Sec 68: Inspection of 'goods in movement'

Inspection can be done of the conveyance, carrying a consignment of value exceeding specified limit (₹ 50,000 for E-Way bill). The person in charge of the conveyance has to produce prescribed documents /devices(E-way Bill) for verification and allow inspection. Inspection during transit can be done even without authorisation of Joint Commissioner.

### Search/Seizure u/s 67(2)

- **Meaning**: An attempt to
  - Find Something
  - Discover Evidence of a crime by a careful examination of place, person, subject, etc.

#### Requirements

- **Search Warrant** :-
  - Issued by Joint Commissioner or above rank officer
  - before start of search
- A Lady Officer
- Two independent witnesses
- Panchnama signed by owner & witness containing list of goods/documents seized

#### Power

- Power of officer**

  - Search & seizure/ Detain goods (liable to confiscation) & documents /books/things (relevant for any proceeding)
  - Break open door, almirah or box if access denied
  - Seal premises if access denied

**Right to safeguard of person**

  - seized goods/doc. not to be retained beyond necessary period. It should be returned within 30 days of :
    - ➔ Issue of SCN
    - ➔ 6 months from seizure (whichever is later) (extension: Further 6 months)
  - Photocopies of doc. can be taken by person
  - Inventory of seized goods to be made by officer

### Arrest u/s 69

- Powers - Commissioner** who has following reason to believe then he can authorise arrest of
  - Taxable person
  - Transporter
  - Warehouse keeper
 only where person accused of offences specified u/s 132 and tax amt. involved is more than ₹ 2 Cr.

**Sec 72** :- officers who are required to assist proper officers  
 Following officers have been empowered and are required to assist CGST officers in the execution of CGST Act. The categories specified are as follows:

- Police;
- Railways
- Customs;
- Officers of State/UT/ CG engaged in collection of GST
- Officers of State/UT/ CG engaged in collection of land revenue;
- All village officers;
- Any other class of officers as may be notified by the CG/SG

## Sec 64 : Summary Assessment

- **Summary Assessment**: When PO has evidences showing tax liability of a person & delay adversely affects revenue, he shall pass a summary assessment order. (prior approval from AC/JC)
- **Withdrawal of order**: If Assessment order is erroneous, then on application of taxable person within **30 days** of such order or on his own motion AC/JC may withdraw such order and may instead follow the procedure of sec73 or 74 or 74A
- **Deemed taxable person**: If taxable person is not ascertainable & such liability pertains to Supply of goods = Person in charge (driver or etc.) shall be liable to be assessed.



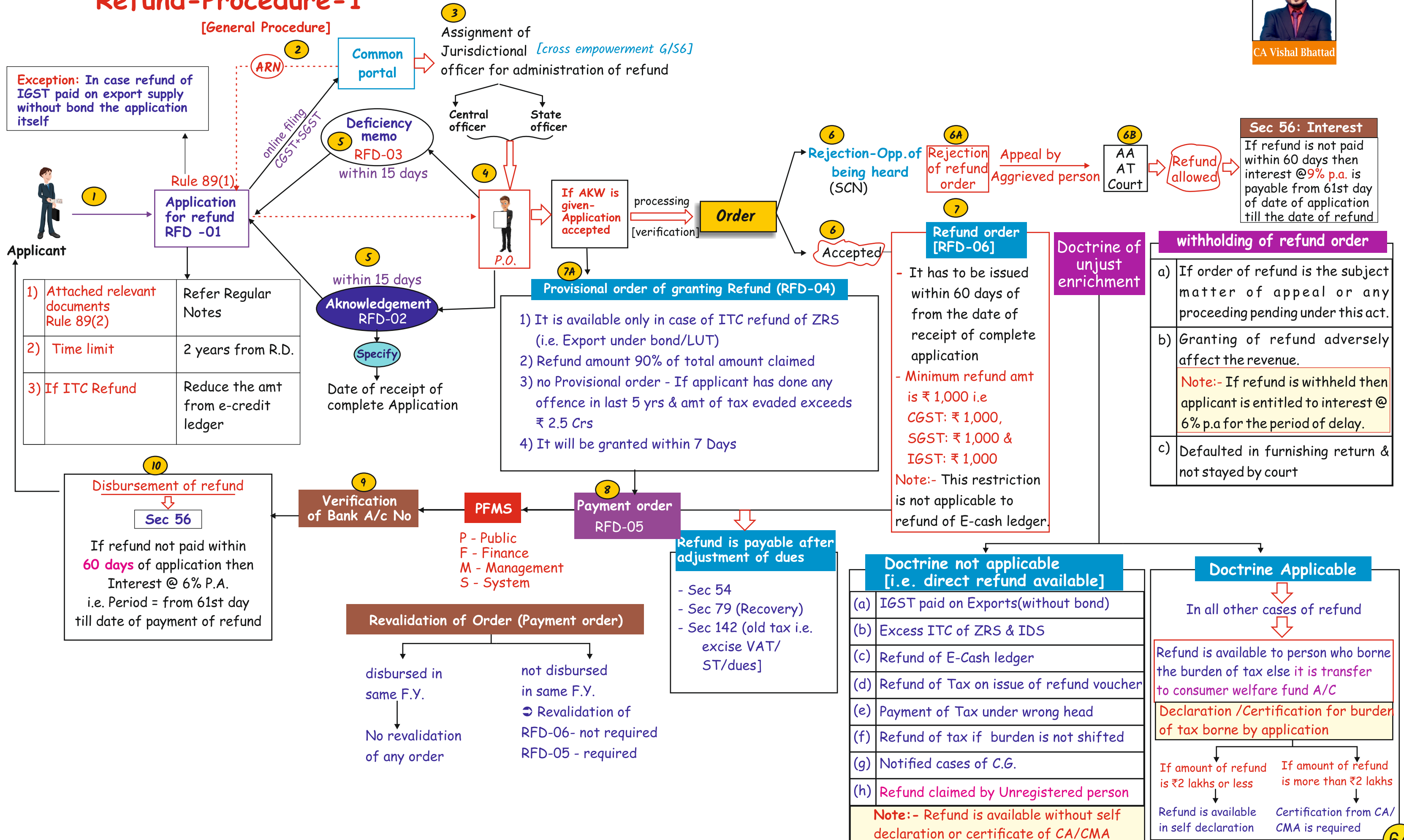
# Chapter 16 - REFUND



CA Vishal Bhattad

## Refund-Procedure-1

[General Procedure]



Refund of ITC

ZRS With bond/LUT [Sec 16(3)(a) & Rule 89(4)]

Max time limit for application	Relevant Date	Doctrine of Unjust Enrichment	Application Form	Amount of Refund	Documents & Conditions										
2 Years from Relevant Date (RP may claim at the end of any tax period)	the due date for furnishing of return under section 39in respect of such supplies	NA	RFD-01	Maximum refund (As per formula refer Below)	Statement containing No. & date of Invoice along with such other notified particulars										
<div><div><div><div>Export</div><div>Without payment of tax under Bond/LUT</div><div>Outward Supply</div><div>ZRS</div><div>Undertake Bond or LUT</div><div>Export of G/S without tax [refer Rule 96A]</div></div><div><div>Supplier</div><div>Goods/Service</div><div>CG</div><div>I</div><div>IS</div></div></div><div>ITC can be claimed if not utilised then C/F</div><div>But refund of ITC u/s 54(3) read with rule 89(4) is not allowed</div><div>Option-1: availed the ITC of I + IS &amp; used it for output tax if any or</div><div>Option-2: Excess ITC of I + IS exclusive used in ZRS (under Bond) - Refund allowed as per rule 89(4)</div></div>			C. Turnover of zero-rated supply of Services (ZRSS)	means the value of zero-rated supply of services made without payment of tax under bond or LUT, calculated in the following manner, namely:- <table><tr><th>Particular</th><th>Amount</th></tr><tr><td>payments received during the relevant period for ZRSS</td><td>XXX</td></tr><tr><td>Add: ZRSS where advance has been received in prior period but supply has beed completed in relevant period</td><td>XXX</td></tr><tr><td>Less: advances received in relevant period for which supply of services has not been completed</td><td>XXX</td></tr><tr><td>T.O of ZRSS</td><td>XXX</td></tr></table>		Particular	Amount	payments received during the relevant period for ZRSS	XXX	Add: ZRSS where advance has been received in prior period but supply has beed completed in relevant period	XXX	Less: advances received in relevant period for which supply of services has not been completed	XXX	T.O of ZRSS	XXX
Particular	Amount														
payments received during the relevant period for ZRSS	XXX														
Add: ZRSS where advance has been received in prior period but supply has beed completed in relevant period	XXX														
Less: advances received in relevant period for which supply of services has not been completed	XXX														
T.O of ZRSS	XXX														
<div>Refund Amount = <math>\frac{\text{Turnover of Zero rated supply of goods} + \text{Zero rated supply of services}}{\text{Adjusted total Turnover}} \times \text{Net ITC}</math></div> <div>Non- eligibility of Refund :- 1) ZRS of goods or IGST paid on ZRS of goods are liable to export duty 2) Drawback claimed for GST Cir.No.160/16/2021:-Export goods are Nil rate or exempt is not treated as subject to export duty &amp; Refund is available</div>			D. Adjusted Total turnover"	<div>SOG: T/o in State includes ➤ All Taxable Supply, Wholly Exempt Supply[WE + Nil+NTS] ➤ Exports supply (with or without bond) ➤ Inter State Supply excludes taxes under GST &amp; Inward supplies under RCM</div> <div>SOS: Zero Rated Supply of services (ZRSS)(As calculated above) Add: Non ZRS of Services (Domestic supply + Export without Bond)</div> <div>Less: 1)Exempt Supplies other than Zero rated Supplies* 2) T/o of supplies for which refund is claimed u/r 89(4A) or (4B) or both</div> <div>Adjusted Total T/o</div> <div>Notes: ➤ Exempt supplies &amp; 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.</div>											
A. Net ITC	<table><tr><th>Particular</th><th>Amount</th></tr><tr><td>Total ITC of (I + IS)in relevant period</td><td>XXX</td></tr><tr><td>Less: ITC of Inputs for which refund is claimed u/r89(4A) &amp; 89(4B)</td><td>xxx</td></tr><tr><td>Net ITC</td><td>XXX</td></tr><tr><td colspan="2">Note:- Only ITC of I &amp; IS shall be considered &amp; no ITC of CG</td></tr></table>		Particular	Amount	Total ITC of (I + IS)in relevant period	XXX	Less: ITC of Inputs for which refund is claimed u/r89(4A) & 89(4B)	xxx	Net ITC	XXX	Note:- Only ITC of I & IS shall be considered & no ITC of CG		E. Relevant period	means the period for which the claim has been filed.	
Particular	Amount														
Total ITC of (I + IS)in relevant period	XXX														
Less: ITC of Inputs for which refund is claimed u/r89(4A) & 89(4B)	xxx														
Net ITC	XXX														
Note:- Only ITC of I & IS shall be considered & no ITC of CG															
B. Turnover of ZRS of goods	<div>Means the actual value of ZRS (lower of FOB value in shipping bill or value in invoice) exported under bond/LUT OR 1.5 times like goods domestically supplied in a relevant period</div> <div>Whichever is Lower</div> <div>Value of ZRSG Less: T/o of supplies for which refund is claimed u/r 89(4A)/(4B) T/O of ZRS of goods</div> <div>XX (XX) XX</div>														



Inverted  
Duty  
Structure  
(IDS)  
Rule 89(5)

Max time limit for application	Relevant Date	Doctrine of Unjust Enrichment	Application Form	Amount of Refund	Documents & Conditions
2 Years from Relevant Date (RP may claim at the end of any tax period)	D/D of furnishing return u/s 39, for the period in which such claim for refund arises	NA	RFD-01	Maximum refund by formula (Notes)	Statement containing No. & date of Invoice received / issued during tax period

case -1 Inverted Duty Structure

1) Value 3,00,000  
GST@18% 36,000

2) Value 2,00,000  
GST @ 40% 80,000

Outward Supply

SOG

SOS

①

IDS

Input services

Value 50,000  
GST@18% 9,000

Input

Value 4,00,000  
GST 1,60,000  
@40%

Maximum Refund Amount

=

T/o of inverted rated supply of goods and services

Adjusted Total T/O

x

Net ITC

-

Tax payable on such inverted rated supply of goods and services

x

Net ITC

ITC available on I + IS

Non-eligibility of refund : 1) a) Construction sector. b) woven, knitted or crocheted fabrics c) Rail locomotives d) Oils, coat, lignite, peat etc.  
2) If outward supply is exempt or nil rate (not the case of IDS )

A. Refund amount	means the maximum refund that is admissible	
B. Net ITC	Particular	Amount
	Total ITC of Inputs (only) in relevant period	XXX
	<del>Less: ITC of Inputs for which refund is claimed u/r 89(4A) &amp; 89(4B)</del>	<del>XXX</del>
	Net ITC	XXX
	Note:- Only ITC of Input shall be considered here for refund & no refund of ITC of C.G. & IS	
C. Adjusted Total turnover	<div>SOG: T/o in State includes ➤ All Taxable Supply, Wholly Exempt Supply, Non-Taxable Supply ➤ Exempt Supply (Wholly Exempt + Nil + NTS) ➤ Exports with or without bond ➤ Inter State Supply excludes tax under GST &amp; Inward supplies under RCM</div>	xx
	<div>SOS: Zero Rated Supply of services (As calculated above) Add: Non ZRS of Services (Domestic supply + Export without Bond)</div>	xx
	<div>Less: 1)Exempt Supplies other than Zero rated Supplies* 2) T/o of supplies for which refund is claimed u/r 89(4A) or (4B) or both</div>	(xx) (xx)
	Adjusted Total T/o	xx

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.

D. Relevant period

means the period for which the claim has been filed.

Clarification 125/44/19

Restriction on eligible refund

April - ITC

CGST 2L  
SGST 2L  
IGST 3L  
Net ITC 7L

I + IS

G/S

April

May

June

20th

IGST = 1.2L  
CGST = 0.4L  
SGST = 0.6L  
2.2L

Formula 89(4)  
Max Refund =  $\frac{20L}{50L} \times 7L$   
= 2.8L — ①

T/o of Export supply 20L  
other supply 30L  
Total T/O 50L

20th may GSTR-3B for April

Refund Application filed

ITC balance in E-credit ledger = 2L — ②

ITC balance on the date of application = 2.2L — ③

ITC balance in June

Amt. Debited

ITC CIF

IGST = 1.2L 1st Used

1.2L

Nil

CGST =0.4L equally (50%)

0.4L

Nil

SGST =0.6L equally (50%)

0.4L  
2 L

0.2L

(1), (2) & (3) whichever of Refund for export supply = 2L

Circular No.135/05/2020:

➤ Refunds of accumulated ITC are not allowed if the input & output supplies are the same, even if they have different tax rates.  
➤ If the output tax rate is lower than the input tax rate, the accumulated credit can be refunded, except if the output supply is nil-rated, fully exempt, or specifically excluded by the Govt.

66

Deemed Export	Max time limit for application	Relevant Date	Doctrine of Unjust Enrichment	Application Form	Amount of Refund	Documents & Conditions					
	2 Years from Relevant Date	Date on which return relating to such deemed export is furnished by supplier	Applicable	RFD-01	GST Paid	Statement containing No. & date of Invoice along with such other notified particulars					
	Deemed Export (Sec 2(39)/Sec 147) & N/N 48/2017 & 50/2017										
	<div><div>Person [Exporter] - Notified Person ➤ holding AA ➤ holding EPCG ➤EOU</div><div><div>Domestic Supplier - R.P.</div><div>Goods</div><div>Manufacturer</div></div><div><div>Notified Person</div><div>Goods</div><div>Output</div><div>Input</div></div><div>Deemed Export Invoice Value 1,00,000 GST@18% 18,000</div><div>Export</div><div>Input Tax</div><div>Availing ITC</div><div>If ITC is claimed by recipient then, he is not eligible for refund under 2nd proviso to rule 89(1)</div><div>Note:- Rule 89(4A) is omitted but 2nd proviso to Rule 89(1) is still active</div><div>OR</div><div>Claiming Refund</div><div>Recipient</div><div>Rule 89(4A)- 2nd proviso to Rule 89(1) is Applicable &amp; Refund allowed on Following Conditions</div><div>1) undertaking by Supplier that he has not claimed refund of such supply</div><div>Output Tax</div><div>Supplier Claiming Refund</div><div>Rule 89(4A)- 2nd proviso to Rule 89(1) is Applicable &amp; Refund allowed on Following Conditions</div><div>1) Documentary evidence- Statement Containing No. &amp; date of Invoice</div><div>2) Undertaking by Recipient that he has not claimed ITC &amp; Refund of such supply</div></div>										
<div>Important Analysis:-</div> <table><tr><td>2<sup>nd</sup> Proviso to Rule 89(1)</td><td>Provided 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</td><td>Still Applicable</td></tr><tr><td>Rule 89(4A)</td><td>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.</td><td>Omitted by N/N 20/2024</td></tr></table>						2 <sup>nd</sup> Proviso to Rule 89(1)	Provided 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	Still Applicable	Rule 89(4A)	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.	Omitted by N/N 20/2024
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Merchant Exporter (Penultimate Supply)	Max time limit for application	Relevant Date	Doctrine of Unjust Enrichment	Application Form	Amount of Refund	Documents & Conditions					
	2 Years from Relevant Date	Date of receipt of goods	NA	RFD-01	CGST 0.05% SGST 0.05% IGST 0.1%	Refer Below					
	<div><div>Export outside India</div><div>Export under Bond/LUT</div><div><div>M.E.</div><div>Ⓞ</div><div>Ⓞ</div></div><div>Supplies</div><div>Invoice Value 1,00,000</div><div>CGST@0.05% 50 SGST@0.05% 50</div><div>M.E. (Recipient) can claim ITC &amp; refund of such ITC under Rule 89(4)</div><div>No refund under rule 89(4B) can be claimed</div><div>Supplier</div><div>Ⓞ</div><div>Ⓢ</div><div>Value 50,000 GST 9,000 @18%</div><div>Supplier can claim refund of accumulated ITC under inverted tax structure</div></div> <div>Concept- IGST @ 0.1% (CGST - 0.05% and SGST - 0.05%) on Inter-State/Intra State supply of taxable goods by Reg. supplier to Reg. recipient for export. Excess tax has been exempted by CG. Conditions:- i) Reg. supplier Supply the goods to Reg. recipient (ME) on a tax invoice, ii) ME shall export goods within 90days from date of issue of tax invoice by Reg. supplier, iii) ME shall indicate GSTIN of supplier &amp; tax invoice number on Shipping bill/Bill of export, iv) ME must be registered with Export Promotion Council/ Recognized Commodity Board v) Copy of purchase order to Jurisdictional officer of supplier, vi) Proof of export to be given to supplier &amp; his jurisdictional officer vi) Full Rate applicable if goods not exported within 90days from date of invoice.</div>										



Supply of goods to SEZ Developer/ unit (ZRS)	Max time limit for application	Relevant Date	Doctrine of Unjust Enrichment	Application Form	Amount of Refund	Documents & Conditions	
	2 Years from Relevant Date	the due date for furnishing of return u/s 39 in respect of such supplies	Applicable in certain cases	RFD-01	IGST paid	SOG	➤ Statement containing the number & date of invoice ➤ evidence regarding goods admitted in full for authorized operations as endorsed by the specified officers of SEZ
	<b>Comment :-</b> In case of supplies made to SEZ unit or developer of SEZ (a) supplier of goods after such goods have been admitted in full in the SEZ for authorised operations, as endorsed by the specified officer of the Zone. (b) supplier of services along with such evidence regarding receipt of services for authorised operations as endorsed by the specified officer of SEZ [Second proviso to rule 89(1)].					SOS	➤ Statement containing the number & date of invoice ➤ evidence regarding receipt of services for authorized operations as endorsed by the specified officer of SEZ, ➤ the details of payment, along with proof there of made by the recipient to supplier for authorised operation.
						SOG & SOS	a declaration to the effect that tax has not been collected from the SEZ unit or the SEZ developer”

Person Holding UIN (Rule 95)	Max time limit for application	Relevant Date	Doctrine of Unjust Enrichment	Application Form	Amount of Refund	Documents & Conditions
	Application once in every Qtr, but before expiry of 2 years, from last Qtr of supply received	Date of Payment	NA	GSTR-11	Tax paid on purchases of Goods/service	Details of Purchase Invoice
	<div> <div>Rule 95</div> <div>           ➤ Refunds can be claimed by:           <ul style="list-style-type: none"> <li>➤ Specialized agencies of the UNO</li> <li>➤ Multilateral Financial Institutions under the UN Privileges Act</li> <li>➤ Foreign consulates or embassies</li> <li>➤ Other specified persons or classes.</li> </ul> </div> <div>           ➤ Time Limit for Filing Refund Claims: Once in every quarter, within 2 years from the last day of the quarter when the supply was received. Applications must be in Form GSTR-11.         </div> <div>           ➤ Conditions for Refund Approval: Refunds will be granted if:           <ul style="list-style-type: none"> <li>➤ Inward supplies were received against a tax invoice from a registered person.</li> <li>➤ The applicant's name and GSTIN/UIN are on the invoice. If the UIN is missing, the invoice must be attested by an authorized representative.</li> <li>➤ All other notified conditions are met.</li> </ul> </div> <div>           ➤ Refund of IGST on Imported Goods: Specialized agencies can claim refunds of IGST paid on imported goods, as the IGST rate for imports aligns with that of domestic supplies.         </div> <div>           ➤ Supremacy provision in case of inconsistency: If a treaty/ international agreement, to which the President / Govt. of India is a party, is inconsistent with Rule-95, Such treaty/international agreement shall prevail.         </div> </div>					

Refund In Other Cases							
Balance of E cash Ledger	Procedure	Max.time limit for application	Relevant Date	Doctrine of Unjust Enrichment	Application Form	Amount of Refund	Documents & Conditions
	Direct refund in Return	RP can also claim refund in tax period also in GSTR 3/3B	Date of payment of tax	NA		Excess Bal. in E-cash ledger	-
	<b>Important points clarified by CBIC:-</b> 1) time period, refund application u/s 54(1), is not applicable in cases of refund of excess balance in E-Cash ledger 2) certification/ declaration for not passing the incidence of tax to any other person is not required to be furnished along with the application for refund of excess balance in E-Cash ledger 3) refund of TDS/TCS deposited in electronic cash ledger can be refunded as excess balance in cash ledger						

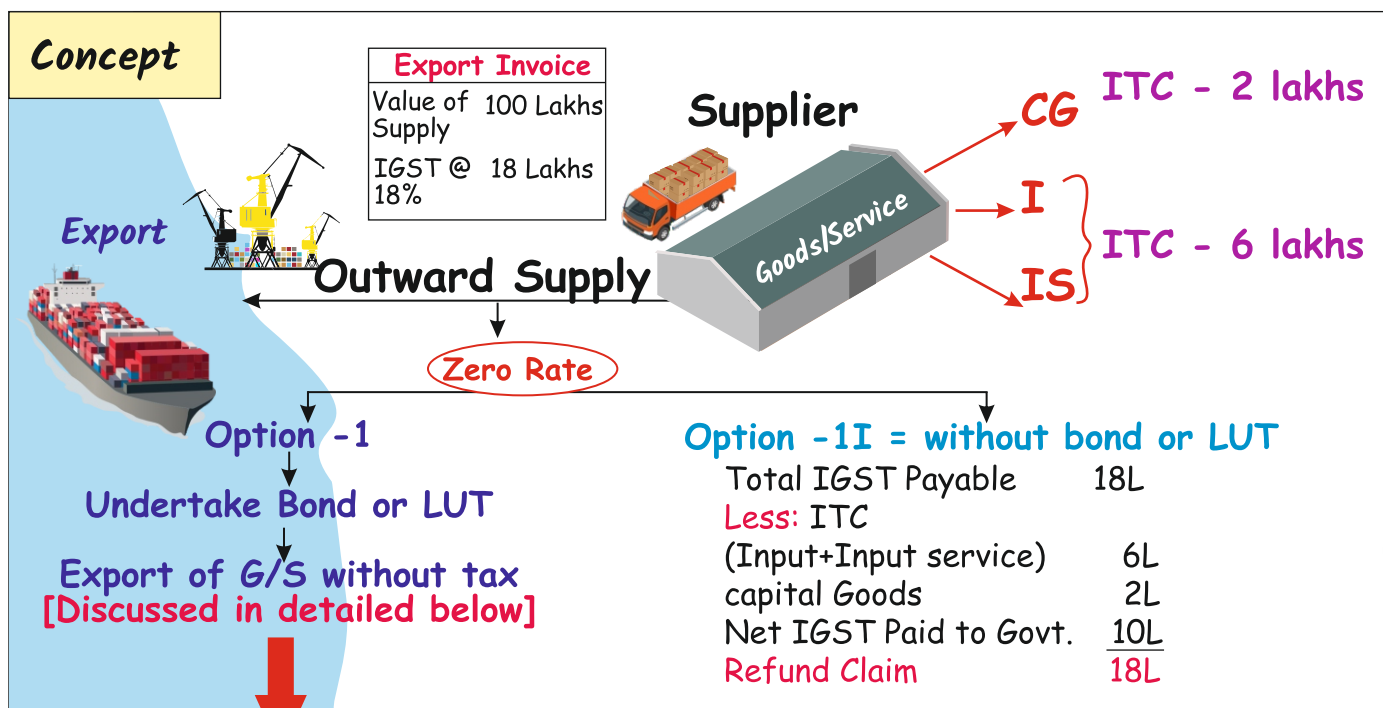
E cash ledger refund to CTP/NRTP	→	Direct refund in Return	2 Years from Relevant Date	Refund, only after filing return of entire period for which registration is held (i.e. only after filing last return of CTP/NRTP)	NA	RFD-01	Amount paid extra in advance after filling return	Final return by CTP/NRTP
Order of Court/ Tribunal	→	R. Procedure-(1)	2 Years from Relevant Date	Date of communication of judgement/ decree/ order/direction	Applicable	RFD-01	Amount specified in order	Reference No. of order, Copy of order
Finalisation of Provisional Assessment	→	R. Procedure-(1)	2 Years from Relevant Date	Date of final assessment	Applicable	RFD-01	Difference of provisional tax and final tax	Reference No. of Final assessment order, Copy of said order
Wrong Payment of tax	→	R. Procedure-(1)	2 Years from Relevant Date	Date of payment	NA	RFD-01	Amount wrongly paid	St. showing details of transactions considered as Intra state supply, but which subsequently held inter state supply or vice versa
Excess payment of tax, Interest or any other amount paid	→	R. Procedure-(1)	2 Years from Relevant Date	Date of payment (But if recipient is eligible for refund, then date of receipt of goods/services)	Applicable	RFD-01	Excess amount paid	Statement showing the details of the amount of such Claim.

For Self Study

Export (Zero rated Supply)/ Deemed Export/Merchant Exporter/SEZ

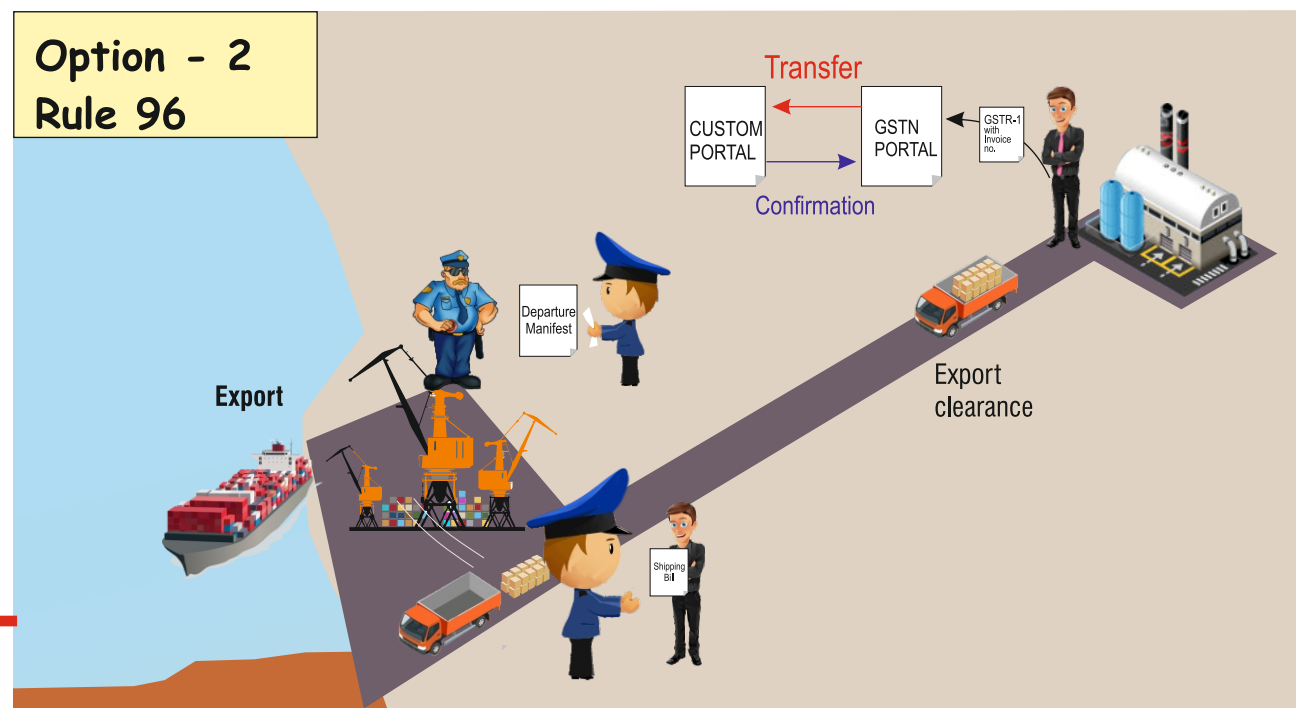
Export without Bond/LUT	Max time limit for application	Relevant Date (i.e. Application of refund shall be filed within 2 years of following date)	Doctrine of Unjust Enrichment	Application Form	Amount of Refund	Documents & Conditions
Supply of Goods (Procedure-2 is applicable)	2 Years from Relevant Date	SOG exported by- (1)Sea/Air - ship/aircraft leaves India, (2) Land - Goods pass the frontier (3)Post - Dispatch of Goods	NA (Direct refund available & amount not credited to consumer welfare fund)	SOG- Shipping Bill	IGST Paid on outward supply (including ITC used for payment of IGST)	1) SOG- other than electricity 1)Statement containing No. & date of Shipping bill/Bill of export, 2) Date of relevant export invoices
Supply of Services (Procedure-1 is applicable)		SOS- (1)Amt received after supply= Date of receipt of CFC/Indian rupees(permitted by RBI), (2)Advance received- Date of invoice		SOS- RFD-01		2) SOS- 1) Statement containing No. & 2)date of invoice, 3) Relevant Bank realization certificate/ foreign inward remittance certificates 3) SOG - Export of electricity ⇒ Statement containing the no. & date of export invoice ⇒ details of energy exported, tariff per unit for export of electricity ⇒ copy of statement of scheduled energy for exported electricity by regional energy account Copy of agreement detailing the tariff per unit
Supply of Goods (On Accounts of Additional IGST Paid on Export)		SOG exported by- (1)Sea/Air - ship/aircraft leaves India, (2) Land - Goods pass the frontier (3)Post - Dispatch of Goods		SOG- RFD-01		⇒ Copies of export invoices and shipping bills/bill of export, with numbers and dates. ⇒ Copies of bank realization or foreign inward remittance certificates, with numbers and dates. ⇒ Details of any refunds previously granted u/r 96. ⇒ Copies and dates of any relevant invoices or debit notes. ⇒ Proof of additional IGST payment and any interest. ⇒ Foreign inward remittance certificate for the additional payment, along with a CA/CMA certificate confirming the remittance is due to the price increase. ⇒ Copies of contracts or documents supporting the price revision.





**Note:-** If supply is made without bond (i.e. after payment of IGST) no refund of ITC is available under rule 89(4)

Let's discussed here indetails



### Rule 96A :-Export of Goods/ services under Bond/LUT

- **Time limit:** An RP shall furnish a bond/LUT in prescribed form, (binding to pay tax + Int @18%p.a)
  - a) SOG (Goods not exported): Pay taxes within 15 days after 3 months or any extended period allowed by the Commissioner.
  - b) SOS (Payment for services not received): Pay taxes within 15 days after 1 year or as allowed under FEMA including extension, from the invoice date.
- **Electronic Transmission:** Export invoices must be sent electronically in GSTR-1/GSTR-1A to the Customs portal for confirmation of export.
- **Recovery:** If goods aren't exported on time and the amount isn't paid, the bond/LUT will be withdrawn, and recovery will follow as per sec 79.
- **Supply to SEZ:** ZRS of goods/services to SEZ developers/units follow the same procedures as Rule 96A(1), without IGST payment.

#### Cir.No.197/09/2023 :

- Exporters can claim a refund of unutilized ITC u/s 54(3) after exports or service payments.
- They can also refund IGST for goods not exported or unpaid services.
- No refund for interest paid is allowed.

### Rule 96: Refund of IGST on goods/services exported out of India

#### SOG:

- **Application:** The shipping bill is a refund application for IGST on exported goods when:
  - The person in charge files a departure manifest covering the shipping bill details.
  - The applicant submits a valid GSTR-3B return. If there's a mismatch between the shipping bill data & GSTR-1, the application is deemed filed when the mismatch is corrected.
  - The applicant has completed Aadhaar authentication as per rule 10B.
- **Refund of Additional IGST on account of Upward Revision of Price subsequent to Exports:** Exporters can apply electronically for a refund of additional IGST paid due to a price increase after export, if they have already received a refund of the initial IGST. The application must be in FORM RFD-01 and will follow rule 89.
- **Transmission of export invoices to customs portal:** Invoices in GSTR-1/ GSTR-1A, will be electronically sent to the Customs portal, which will confirm the export of goods from India.
- **Processing of Refund claim:** After validating the return, the Customs PO will process the refund, & IGST amount for each shipping bill will be electronically credited to the applicant's bank account.
- **Withholding of Refund of IGST: Refund claims will be withheld if:**
  - a) The jurisdictional GST Commissioner requests a hold u/s 54(10)/(11).
  - b) The Customs PO finds the export violated the Customs Act.
  - c) The Commissioner believes verification of the exporter's credentials and ITC usage is needed to protect revenue.

- **Transmission of refund withheld to GST officer:** If a refund is withheld u/r 96(4)(a)/(c), the claim must be submitted electronically in FORM GST RFD-01 to the PO of CGST/SGST/UTGST. The exporter will be notified of the transmission, and the claim is deemed filed on that date.
- **Transmission of refund withheld to Customs officer:** If a refund is withheld u/r 96(4)(b) for violating the Customs Act, the Customs PO will issue an order. The claim is then submitted electronically in FORM GST RFD-01 to the PO for CGST/SGST/UTGST, and the exporter will be notified. The claim is deemed filed on the transmission date.
- **Refund Application Processing:** Refund applications in FORM GST RFD-01 transmitted electronically will be handled according to Rule 89.
- **Refund to the Govt of Bhutan on the exports to Bhutan:** The CG may refund IGST on exports to Bhutan govt for notified goods. If refunded to Bhutan govt, the exporter is **not eligible** for an IGST refund.

#### SOS:

- **Application:** Refund applications for IGST on exported services must be filed in Form GST RFD-01 and dealt as per Rule 89.

**Circular no. 233/27/2024 :-** If inputs were imported without paying IGST and compensation cess by availing benefits, but subsequently these taxes are paid with interest & the Bill of Entry is reassessed, then the IGST refunded on exports **will not violate** Rule 96(10).

### Rule 96 B - Recovery of Refund of Unutilised ITC / IGST on export of goods, where export proceeds not realised

- **Non-realisation of Exports proceeds with FEMA:** If a refund of unutilized ITC/IGST on exports is granted but sale proceeds aren't fully received within the FEMA period, the applicant must repay the refunded amount plus interest within 30 days after the period ends.
- **Recovery of Amount:** If the applicant fails to repay the refunded amount, it will be recovered u/s 73 or 74 or 74A, plus interest. However, if the RBI waives the requirement, the refund won't be recovered.
- **Subsequent realisation of export proceeds within time frame of RBI:** If the applicant realizes the sale proceeds after the refund is recovered, they must provide evidence within 3 months. The recovered amount will be refunded up to the realized proceeds within the RBI's extended period.



Order of Refund

Sec 54(5)(7) with Rule 92	Order of Refund - If PO satisfies that claim is refundable (full/part), he may make an order in Form <b>GST RFD-06</b> , & amount shall be credited to Consumer welfare fund (Paid to applicant in specified circumstances where direct refund is available).		
Rule 92(1)	<b>Sanctioning of refund:</b> The PO will issue an <b>RFD-06</b> order to sanction a refund if it's due. They can credit the amount to the Consumer Welfare Fund, but if unjust enrichment doesn't apply, the refund will go directly to the applicant. <b>Details of Refund order:</b> The refund order will include: <ul style="list-style-type: none"><li>Any amount refunded provisionally</li><li>Amount adjusted against outstanding demands</li><li>Balance amount refundable</li></ul> <b>Refund in cash &amp; credit, based on original mode of payment:</b> Refunds will be given in cash and as ITC, based on the original payment method: <ul style="list-style-type: none"><li><b>Cash Component:</b> The officer will issue a refund after adjusting any outstanding demands.</li><li><b>Credit Component:</b> The officer will recredit the E-credit ledger as ITC.</li></ul> <b>Payment order &amp; deposition in bank a/c of recipient:</b> <ul style="list-style-type: none"><li>The refund will be credited electronically to the applicant's bank account as mentioned in their registration.</li><li>The refund order does not require revalidation.</li><li>If the refund isn't disbursed within the same FY, revalidation is needed.</li><li>The <b>CG</b> disburses refunds based on consolidated payment advice.</li></ul>	<b>Rule 92(2): With-holding of Refund:</b> <ul style="list-style-type: none"><li><b>General Withholding:</b> If the PO believes a refund should be withheld u/s 54(10)/(11), they must inform the applicant of the reasons.</li><li><b>Sec 54(10):</b> If the applicant has not filed a return and there's no stay from a court, the PO may:<ul style="list-style-type: none"><li>Withhold the refund until the return is filed or taxes are paid.</li><li>Deduct any due tax, interest, or penalties from the refund.</li></ul></li><li><b>Sec 54(11):</b> If a refund order is under appeal, and the Commissioner believes granting it may harm revenue due to fraud or malfeasance, they may withhold the refund after hearing the applicant.</li><li><b>Interest on Withheld Refunds:</b> If a refund is withheld u/s 54(11), the applicant is entitled to interest at 6% p.a if the appeal results in a refund.</li><li><b>Release of Withheld Refunds:</b> If the PO or Commissioner finds that withholding is no longer necessary, they can issue an order to release the refund.</li></ul>	
		<b>Rule 93 Credit of the amt. of rejected refund claim:</b> <ul style="list-style-type: none"><li>If any deficiencies are found, the previously debited amount will be <b>re-credited</b> to the E-credit ledger.</li><li>If a refund claim is fully or partially rejected, the rejected amount will also be re-credited by a prescribed order.</li><li>A refund is considered rejected if the appeal is denied or if the claimant agrees in writing not to appeal.</li></ul>	

Rule 95B read with Circular no. 227/21/2024: Refund of tax paid on inward supplies of goods received byCanteen Stores Department (CSD) & its Procedure:	
Introduction	<ul style="list-style-type: none"><li>The <b>CSD</b> can claim <b>50% CGST</b> refund on goods for Unit Run Canteens (URCs).</li><li>Refund applications must be filed quarterly in <b>FORM GST RFD-10A</b>.</li></ul>
Refund Conditions	<ul style="list-style-type: none"><li>Goods must come from registered supplier with valid tax invoice and supplier has filed <b>GSTR-1</b> &amp; <b>GSTR-3B</b>.</li><li>The invoice must include the <b>CSD's</b> name and <b>GSTIN</b>, and goods should be for resale to Canteens or authorized customers.</li></ul>
Procedure	<ul style="list-style-type: none"><li>CSD can file for a <b>50% GST</b> refund on goods for resale in URCs or authorized customers in <b>FORM GST RFD-10A</b>.</li><li>Claims can cover multiple quarters but must be submitted quarterly and include:<ul style="list-style-type: none"><li>An undertaking for resale.</li><li>A declaration of no prior refunds claimed for those invoices.</li></ul></li><li>Claims can be filed within two years of receiving the goods.</li><li>The PO will verify <b>GSTR-1</b> and <b>GSTR-3B</b> filings and invoice accuracy.</li><li>Refunds are capped at <b>50% of CGST, SGST, UTGST, and IGST</b> paid.</li><li>After review, the officer will issue an order (<b>RFD-06</b>).</li><li>Manually submitted applications will follow previous guidelines.</li></ul>

Sec 56 :- Interest on Delayed Refunds

Situations	Refund is not paid	Interest	Interest is Payable
If order passed by P O u / s 54(5)	within <b>60days</b> , from date of receipt of application from applicant	6% p.a.	from 61 th days till the date of payment of refund
order passed in an appeal /further proceedings	Within <b>60 days</b> from date of receipt of application filed consequent to such order till the date of refund	9% p.a.	from 61 th days till the date of payment of refund

Circular79/53/2018

- For above limit of 60days in calculation of interest, All tax authorities are advised to issue final sanction orders (**RFD-06**) within 45days from date of generation of ARN, so that disbursement completed within 60days by both Central/state authorities, to save interest.

Period of delay shall not include [Rule 94(2)]

- a) time taken to furnish reply or additional document **beyond 15 days** of receipt of notice &
- b) time taken by applicant to give correct bank account details for crediting refund or for validating such details.

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

- Exporters must pay additional **IGST** for upward price revisions on exported goods.
- Refunds for this additional **IGST** can now be claimed using **FORM GST RFD-01**, processed by the jurisdictional **GST** officer.
- Exporters must upload relevant documents, including statements 9A and 9B.
- GSTN** will provide shipping bill details to aid in processing.
- Refunds are not available for claims below ₹1000 and must be submitted within 2 years.
- Required documents include shipping bills, invoices, contracts, proof of additional **IGST** payment, and a **CA** or **CMA** certificate.
- The officer will verify details from the exporter's **GSTR-1** and **GSTR-3B**.
- If eligible, a refund sanction order will be issued.
- For downward price revisions, excess **IGST** must be returned with interest, and the officer will confirm proper deposit.



For Your Self Notes:-



CA Vishal Bhattad

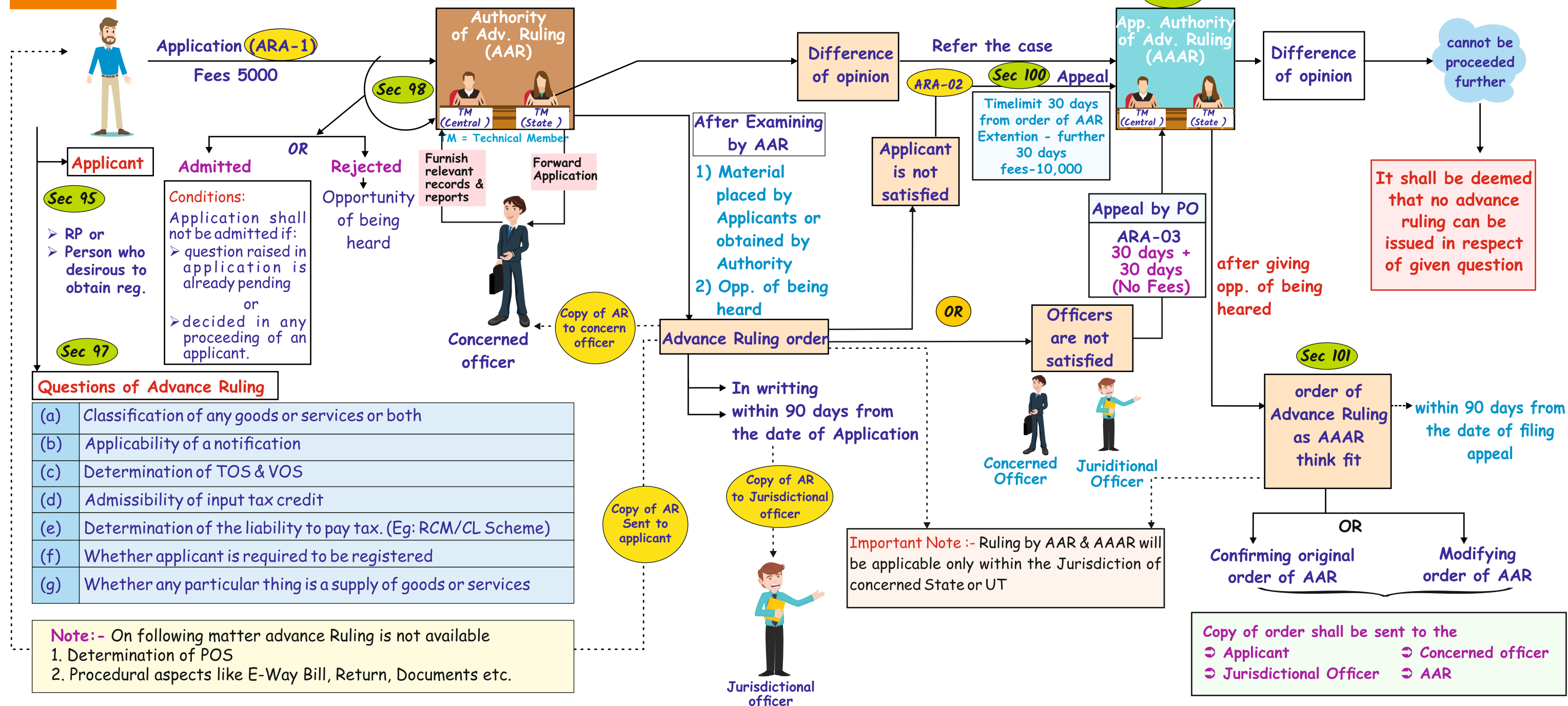
# Chapter 17: Advance Ruling

Sec 95

"advance ruling" means a decision provided by the AAR or the AAAR to an applicant on matters or on questions specified

in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant

Sec 96 State Govt. [Every State]



## 102:-Rectification of advance ruling

- Rectify any error apparent on the face of record
- Error noticed by Own/concerned officers/ Jurisdictional officers /Applicant
- Rectification is allowed within **6 month** from the date of order
- If tax enhanced or ITC reduced on rectification opportunity of being heard given

## 103:- Applicability of advance ruling

- Advance Ruling by AAR/AAAR is binding on
  - a) on the applicant who had sought it
  - b) concerned officers or Jurisdictional Officer
- Order inoperative if law, facts or circumstances supporting the original AR have changed

## 104:- Advance ruling to be void in certain circumstances.

- AR is void- ab-initio if it obtained by fraud or suppression of material facts or misrepresentation of facts
- All provisions of this act/rule are applicable as if such AR had never been given
- Opportunities of being heard required

## 105:- Powers of Authority and Appellate Authority

- AAR/AAAR have all powers of a civil court under code of civil procedure 1908 for
  - Discovery & Inspection enforcing the attendance of any person & examination him on oath, issuing commissions & compelling of books of account & other records
- Every proceeding before AAR / AAAR shall be deemed to be a Judicial proceeding

## 106:- Procedure of Authority and Appellate Authority

The Authority or the Appellate Authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure.





CA Vishal Bhattad

# Chapter 19 - DEMAND & RECOVERY

## Proceeding in case where

**Sec 74A**

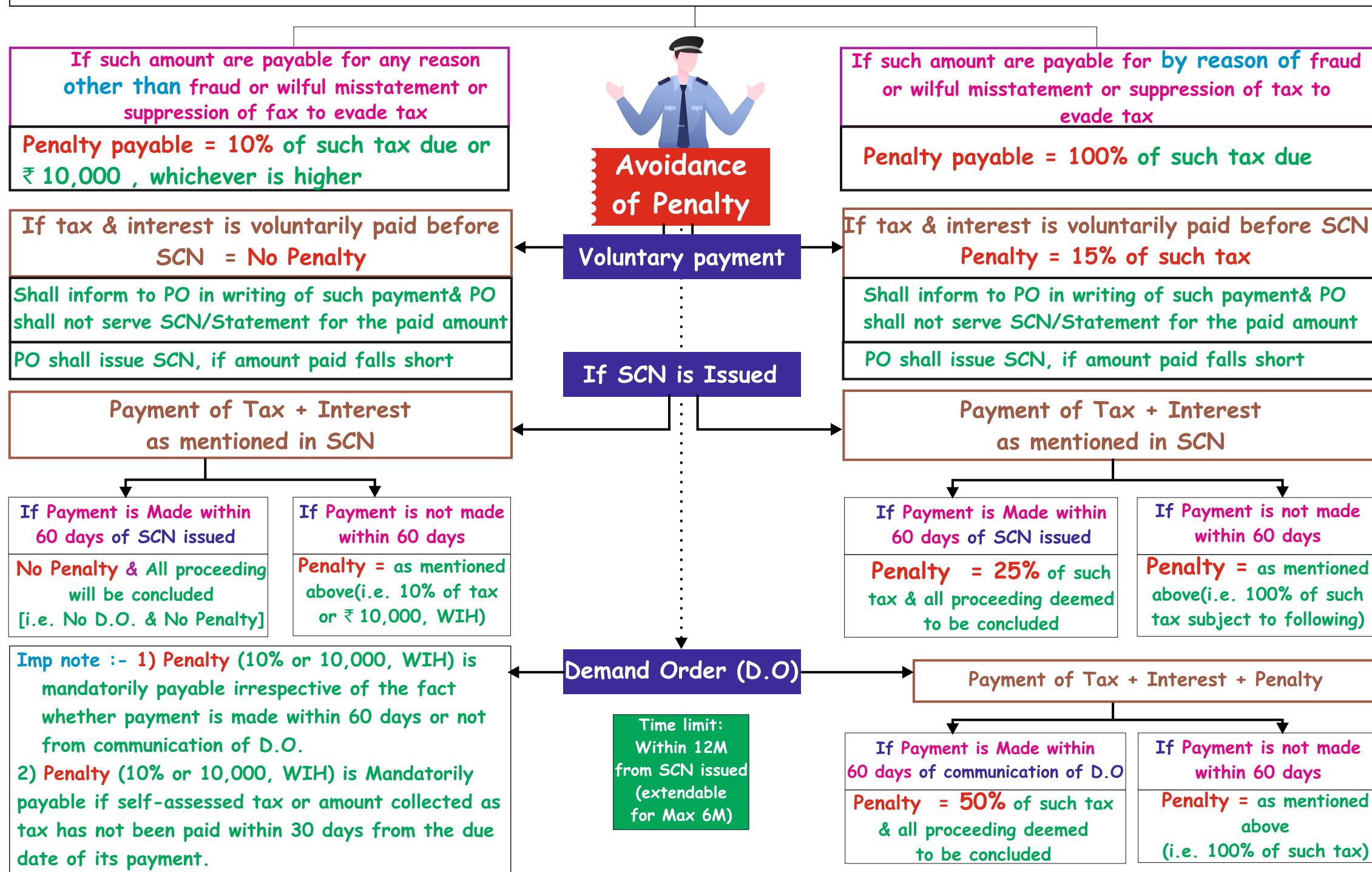
Non-Payment of Tax

Short Payment of Tax

Erroneous Refund

Wrong - availment or utilisation of ITC

- Serving of SCN:** PO shall serve notice on such person required him to show cause as to why he should not pay the amount specified in a notice with interest u/s 50 & penalty leviable under GST law (No notice if, such amount in F.Y. < ₹1000).
- Time limit of SCN :** PO shall issue SCN within 42 months i.e 3 yr. 6 months from the:
  - > Due date of furnishing A.R. for the F.Y. to which amount such relates or
  - > From the date of erroneous refund
- Statement:** If SCN issued for earlier period & same default for other period = Issue statement for other period (grounds are same)
- Demand Order:** After considering the representation made by such person, PO shall issue demand order for tax, interest and penalty within 12M from SCN issued (extendable for Max 6M)



Excess collection of Tax

**Sec 76**

Tax collected but not paid to Government

- Tax collected from any person to be paid to the CG:- Every person collected tax and has not paid it to Govt. = shall immediately pay the said amount to Govt.. (Irrespective of whether relevant supplies are taxable or not).
- Issue of SCN:-** If above amt. 76(1) has not been paid, PO = may serve a SCN = on the person liable to pay such amount Tax & Penalty, Note- There is no time limit for Serving SCN under this section
- Demand Order:-** After considering representation, PO shall determine the amt. due from such person & thereupon, such person shall pay the amount so determined.
- Interest Payment:-** Person shall pay interest @ 18% PA {u/s 50}, from the date of collection - to the date of payment to Govt.
- Opportunity of being heard:-** Opportunity of hearing shall granted if request in written, received from such person)
- Time limit for Issuance of Order:-** Within 1 year- from the date of issue of SCN. {No time limit for issue of SCN}
- Period of stay excluded:-** Where issuance of order- stayed by an order of the Court/Appellate Tribunal stay period-excluded from period of 1 Year.
- Order must be a speaking order:-** PO = set out relevant facts & the basis of his decision.
- Adjustment of amount payable u/s 76(1) & (3):-** Amount paid to Govt. (Sub-sec.1/3)=adjusted against tax payable by person, i.r.t. supplies (sub-sec.1)
- Surplus after adjustment:-** Amount of surplus (after adj. above)= \*Credited to the Welfare Fund, (or) \*Refunded to the person, borne the incidence of such amount.
- Refund :-** Person- borne incidence of the amount= may apply for refund



**Important Notes :-** i) All proceedings in respect of the said notice" shall not include proceedings u/s 132

ii) Proceedings against the main person have been concluded u/s 74A, the proceedings against all the persons liable to pay penalty u/s 122, 125 are deemed to be concluded

iv) For the purposes of this Act, the expression "suppression" shall mean

- ➔ **non-declaration** of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under this Act or the rules made thereunder, or
- ➔ **failure to furnish any information** on being asked for, in writing, by the proper officer.

### Sec 77: Tax wrongfully collected & paid to CG/SG

- ➔ If a RP pays CGST/SGST/UTGST thinking it's an intra-State supply, but it's later confirmed as inter-State, they can **get a refund**.
- ➔ If an RP pays IGST thinking it's inter-State but it's actually intra-State, they won't **owe interest** on CGST and SGST/UTGST.

**Note:** Similar rules are in Section 19 of the IGST Act.

### Sec 78: Initiation of recovery proceedings

- ➔ A taxable person must pay any amount due **within 3 months** of receiving the order. If not, recovery proceedings will begin.
- ➔ The authority may require payment in **< 3 months, with written reasons**.

### Sec 79: Mode of Recovery of Tax

- ➔ Tax authorities can **deduct outstanding dues** from amounts owed to a TP.
- ➔ The authority can **detain and sell** a taxable person's goods to recover dues.
- ➔ Money owed to a taxable person can be recovered from a **third party**.
- ➔ The authority can **seize movable or immovable property** until dues are paid.
- ➔ Recovery can start through the **District Collector** where the TP has property or business, treating it as land revenue arrears.
- ➔ An application can be made to the **Magistrate** for recovery as a fine.
- ➔ Recovery can be pursued through a **civil court** decree against the surety for the defaulter's dues.
- ➔ For companies in liquidation, dues can be notified to the **liquidator** for recovery.
- ➔ Dues can be recovered through **bonds executed** under GST law.
- ➔ CGST **arrears** can be recovered as SGST arrears and vice versa.

### Sec 80: Payment of tax and other amount in instalments

- ➔ The Act allows instalment payments (excluding self-assessed tax) upon request to the Commissioner. Up to **24 monthly instalments** may be approved, but missing one makes the full balance due immediately.
- ➔ A taxable person can apply for **extension**. The Commissioner will review the person's financial ability and may grant extensions up to 24 monthly instalments with interest.
- ➔ Instalment payments are **denied** if there are current defaults on CGST/IGST/UTGST/SGST or if instalments were denied last year, or if the amount is under ₹25,000.

### Sec 81: Transfer of property to be void in certain cases

- ➔ If a person transfers property (Sale, mortgage) to defraud the government after an amount is due, the transfer is **void** against tax claims.
- ➔ **Exceptions** include valid transfers made for adequate consideration, in good faith, without knowledge of pending claims, or with prior permission from the PO.

### Sec 82: Tax to be first charge on property

Any tax, interest, or penalty owed is a **first charge** on a taxable person's property, overriding other laws, **except** under the Insolvency and Bankruptcy Code.

### Sec 75: Determination of Tax (General prov.)

- ➔ Period of stay- If issuance of SCN/DO is stayed by Court/AT= excluded from period of SCN/DO for fraud/other than fraud/**Sec 74A**.
- ➔ If AA/AT concludes that charges of fraud are not sustainable- SCN u/s 74(1)= SCN u/s 73(1).
- ➔ **If fraud isn't proven, only the lower penalty u/s 74A(5)(i) applies.**
- ➔ Order on direction of Court= such order shall be issued within 2 yr from the date of communication of direction.
- ➔ Opportunity of being heard to aggrieved person.
- ➔ Adjournment (for reasons in written)=Upto 3 times to a person
- ➔ Order=Speaking (set out relevant facts & basis for his decisions)
- ➔ **Amount demanded in order shall not exceed amount in SCN**
- ➔ If AA/AT/court modifies amount of tax- modify Interest/penalty accordingly.
- ➔ **Interest= mandatory (even if not specified in SCN)**
- ➔ If no DO is issued within the time limits u/s 73(10), 74(10), or **74A(7)** then proceeding deemed to be concluded.
- ➔ If appeal filed by dept., against decision of AT/AA/court= Period b/w date of decision of higher authority & lower authority= excluded from period of SCN/DO
- ➔ **If any amount of self assessed tax(in return)/amount of interest =remains unpaid=recovered u/s79.**
- ➔ **If penalty u/s 73/74/74A imposed = no other penalty applies.**

### Sec 83: Provisional attachment to protect revenue in certain cases

- ➔ The Comm. can **provisionally attach** a TP's property (including bank accounts) after proceedings of Assessment, Inspection, search, seizure, arrest, Demand & recovery for 1yr.
- ➔ Perishable/hazardous property will be released if the TP pays the market price or the owed amt., **whichever is lower** upon proof of payment. If not paid, comm. may dispose such property.
- ➔ A person can object to the attachment, and the Commissioner **may release** it if justified.
- ➔ If property is with Court/Public Officer, An attachment order will **hold it until** the debt is recovered.
- ➔ To attach **partner's interest**, the authority can charge the partner's share, Appoint a receiver for profits & Order the sale of the interest. Other partners may redeem or buy it.

### Sec 84: Continuation and validation of certain recovery proceedings

- ➔ If government dues are **increased**, the Commissioner will issue a new notice, and recovery can continue from where it left off before the appeal.
- ➔ If dues are **reduced**, no new notice is needed. The Commissioner will inform the taxable person and authority & recovery will continue based on the reduced amount.

#### Rule 88C: Manner of dealing with difference in liability in GSTR 1 & GSTR 3B:

- ➔ If tax payable in GSTR 1/**GSTR-1A** exceeds in GSTR 3B, RP shall pay differential tax amount along with interest in prescribed form & also explain the difference within 7 days.
- ➔ If he failed to do so, the amount shall be recoverable as per Sec 79.

#### Rule 88D: Manner of dealing with difference in ITC available in autogenerated statement containing the details of ITC and that availed in return

- Intimation for difference in GSTR-3B & 2B:-** If ITC availed by RP in GSTR-3B exceeds ITC available in GSTR-2B for a tax period(s) by prescribed % or amount, difference shall be intimated to him.
- Time limit to pay excess ITC availed:-** RP has to pay excess ITC availed + interest u/s 50 or explain reasons (reply) for such difference within 7 days.
- Consequences for failure :-** If intimated amount is not paid partly or wholly within time limit & reply is also not furnished or furnished reply is not acceptable, it will be demanded u/s 73 or 74 or **74A**.

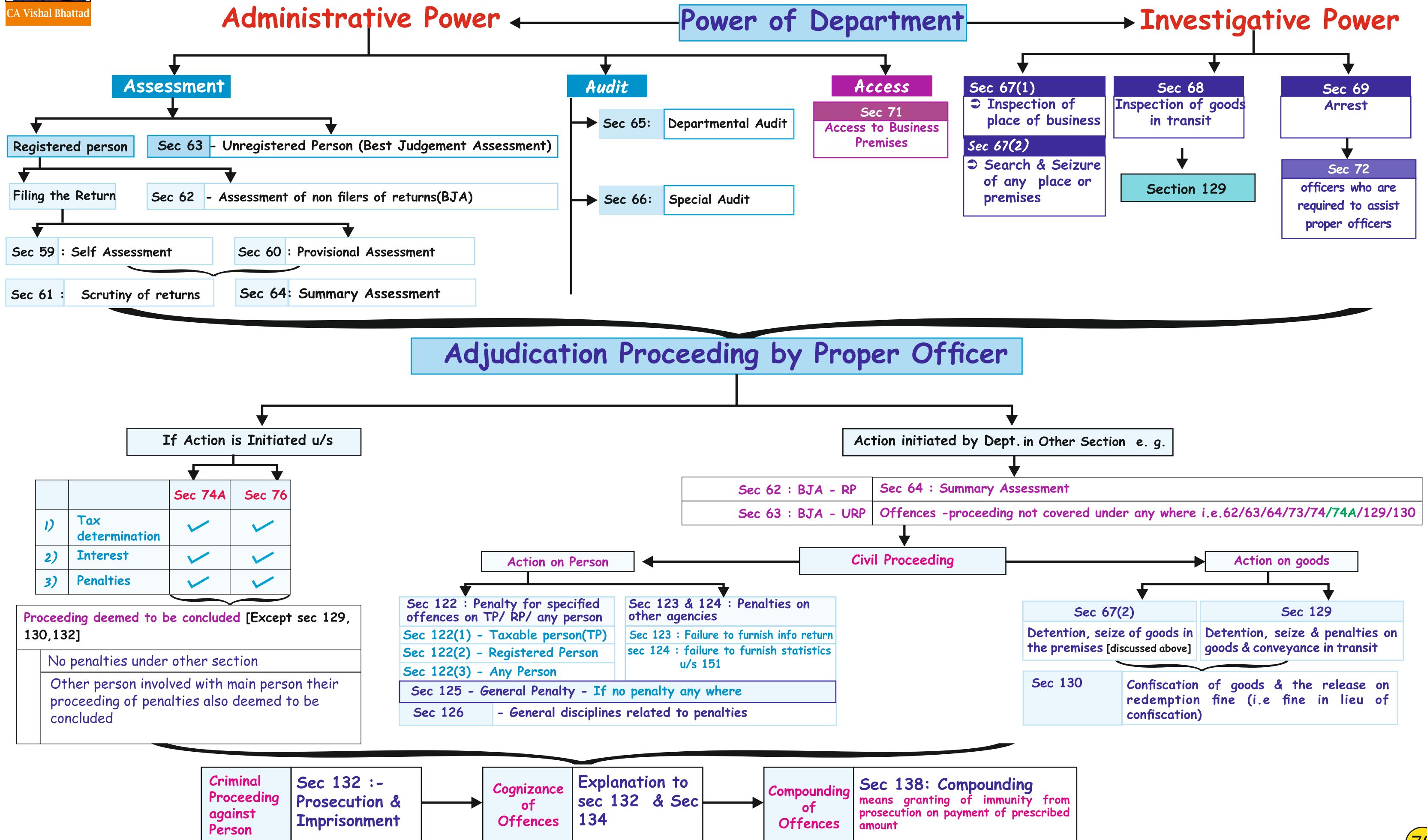




CA Vishal Bhattad

# Chapter 21: Offences, Penalties and Punishment

(Sec 122 to Sec 138)



SEC 122 PENALTIES FOR OFFENCES ON TAXABLE PERSON/ REGISTERED PERSON/ ANY PERSON

SEC 122(1) TAXABLE PERSON

(A) INVOICE / BILL OF SUPPLY			(C) ITC			(F) TURNOVER			
(i)	Supply of Goods & Services		(i)	Takes or utilises ITC without actual receipt of goods & services (fully/ partially) in contravention of provisions of this act.		(i)	Suppresses turnover leading to evasion of tax.		
	(a)	without issue of invoice		(ii)	Takes or distributes ITC in contravention of Sec 20 (ISD).		(G) TRANSPORT/ STORES		
	(b)	issue of incorrect or false invoice			(ii)		Supplies/ transports/ stores any goods which he has reason to believe are liable to confiscation.		
(ii) Issue of invoice or bill without supply of goods & services in violation of provisions of this act.									
(iii) Issue of invoice using registration no. of another registered person.									
(B) COLLECTION & PAYMENT			(D) REGISTRATION			(H) REFUND			
(i)	Collects any amt as tax but fails to pay to Govt. beyond a period of 3 months from the due date of payment.		(i)	Liable to get registered but fails to obtain registration.		(i)	Fraudulently obtains refund.		
	(ii) Collects any tax in contravention of the provision of the Act but fails to pay to Govt. beyond a period of 3 months from the due date of payment.			(ii) Furnish false info with regard to registration.			(I) PROPER OFFICER		
(iii)	(a)	Fails to deduct tax u/s 51	(E) DOCUMENTS, RECORDS & INFORMATION			(i)	Obstructs/ Prevents any officer of his duties .		
	(b)	Deducts an amt less than the amount required to be deducted.	(i)	(a)	Falsifies financial records		(ii)	Fails to furnish info., documents called for by an officer.	
	(c)	Fails to pay to Govt amt deducted as tax.		(b)	Produce fake accounts/documents				
(iv)	(a)	Fails to collect tax u/s 52	(ii)	Fails to keep, maintain or retain books of accounts.		(J) SEIZED GOODS			
	(b)	Collects an amt less than the amt require to be collected.		(iii)	Tampers with or destroys any material evidence/ document.		(i)	Dispose off/ Tampers with any goods- detained, seized or attached.	
	(c)	Fails to pay to Govt amt collected as tax.							

SEC 122(1A)

Any person who retains the benefit of a transaction covered under above clauses [A(i) & (ii)], [C(i)&(ii)] of Sec 122 (1) and at whose instance such transaction is conducted.

**Penalty = tax evaded or input tax credit availed of or passed on**

SEC 122(1B) Penalty for ECO

(i) ECO allows a supply through it by URP other than a person exempted from registration, **Penalty is Higher of:-**  
- ₹10,000 (IGST: 20,000), or  
(ii) ECO allows an inter-State supply through it by person who is not so eligible or  
-tax involved if such supply was made by RP other than composition dealer  
(iii) ECO fails to furnish correct details in GSTR-8 u/s 52(4) of outward supply of goods effected through it by person exempted from obtaining registration.

**SEC 122A:-**Penalty on manufacturer of goods for failure to register certain machines used in manufacture of goods as per special procedure u/s 148

₹1 lakh (CGST & SGST/UTGST each) or ₹2 lakh (IGST) per machine plus any other penalty under demand & recovery & GST law.

Such machine is liable for seizure & confiscation unless penalties are paid & registration is done within 3 days of receipt of communication of order of penalty.

**SEC 122B:** Penalty for failure to comply with track and trace mechanism:

If a person violates Sec 148A(1)(b), they must pay a penalty of ₹ 1 lakh or 10% of the tax on the goods, whichever is higher, in addition to any other applicable penalties.

**Sec 148A:** Track and Trace for Specified Goods

Section 148A allows the Government to track notified goods from manufacture to sale using digital markings, to stop tax evasion and improve GST compliance.

SEC 122(2) REGISTERED PERSON

(i) Supplies SOG or SOS on which		(ii) where ITC has been wrongly availed or utilised.	
(a) tax not /short been paid			
(b) erroneously refunded or			

(i) For reason other than fraud, wilful misstatement or suppression of facts to evade tax, Higher of the following		(ii) For reason of fraud, wilful misstatement or suppression of facts to evade tax, Higher of the following	
(a) 10,000/- or IGST = 20,000	(b) 10% of the tax due	(a) 10,000/- or IGST= 20,000	(b) 100% of the tax due

SEC 122(3) OTHER PERSON (for which no penalty covered above)

Any person who-		<b>Penalty extending to ₹25,000/- (IGST= 50,000)</b>
(i)	aids or abets any of above 21 offences (Sec 122(1)).	
(ii)	deals in goods liable to confiscation (whether receiving, supplying, storing or transporting).	
(iii)	receives or deals with SOS in contravention of this act.	
(iv)	fails to appear before authority who has issued summon.	
(v)	fails to issue/Accountd any invoice for supply in his bank of A/c.	

PENALTY ON OTHER AGENCIES

<b>Sec 123 :</b> failure to furnish info Return u/s 150 within 90 days of service of SCN	<b>Sec 124</b> failure to furnish Statistics u/s 151
Penalty = ₹ 100 (IGST: ₹ 200) for each day of failure (Maximum ₹ 5,000 (IGST : 10,000)	Penalty=(a)Fine upto ₹ 10,000 (IGST: ₹ 20,000) & (b) for continuing offence further fine upto ₹ 100 (IGST: ₹ 200) per day but maximum ₹ 25,000 (IGST: ₹ 50,000)



SEC 125 GENERAL PENALTY		SEC 126 GENERAL DISCIPLINES PENALTIES		SEC 127 CIRCUMSTANCES UNDER WHICH OFFICER MAY ISSUE ORDER OF PENALTY	
Any person who contravenes any of the provisions of this Act for which no penalty is separately provided,	Penalty = which may extend to ₹ 25,000 (IGST: ₹ 50,000)	1.	No penalty for:- (a) Minor breaches(tax <₹5000) (b) Procedural requirements. (c) Any omission or mistake in document which is easily rectifiable. (Apparent on record & Made without fraudulent intent or gross negligence.)	Penalty is not covered by following proceedings:-	
		2.	Penalty imposed depends on facts & circumstances & shall be commensurate with the degree & severity of the breach.	(a)	BJA of non- filers of returns. (Sec 62)
		3.	Opportunity of being heard after issuing SCN.	(b)	BJA of unregistered person. (Sec 63)
		4.	Officer shall specify the nature of breach & applicable law.	(c)	Summary Assessment. (Sec 64)
		5.	Person voluntarily discloses to an officer, P.O. may consider this as a mitigating factor when quantifying penalty.	(d)	Determination u/s 73.
		6.	Provisions not applicable if:- Penalty specified either a fixed sum or fixed percentage.	(e)	Determination u/s 74.
				(f)	Determination u/s 74A
				(g)	Detention, seizure & release of goods & conveyances in transit. (Sec 129)
				(h)	Confiscation of goods/conveyances & levy of penalty u/s 130.

SEC 129 DETENTION , SEIZURE & RELEASE OF GOODS & CONVEYANCE IN TRANSIT	
1. Notwithstanding anything contained in this Act, where person:- <ul style="list-style-type: none"> <li>a. Transport any goods</li> <li>b. Stores goods while in transit.</li> </ul> in contravention of provision of this Act then:- <ul style="list-style-type: none"> <li>(i) all such goods; (ii) conveyance;</li> <li>(iii) documents related to goods &amp; conveyance "shall be liable to be detention or seizure".</li> </ul>	
RELEASE OF GOODS DETAINED OR SEIZED	
WHERE OWNER OF GOODS COME FORWARD FOR PAYMENT OF TAX & PENALTY	
<div>In case of Taxable goods :</div> <div>On payment of penalty equal to 200% of the tax payable on such goods</div>	<div>In case of exempted goods :</div> <div>An amount equal to 2% (IGST:4%) of the value of goods; or ₹ 25,000 (IGST: ₹ 50,000) whichever is less</div>
WHERE OWNER OF GOODS DOES NOT COME FORWARD FOR PAYMENT OF TAX & PENALTY	
<div>In case of Taxable goods</div> <div>Penalty equal to higher of the following <ul style="list-style-type: none"> <li>➤ 50% of value of goods or</li> <li>➤ 200% of the tax payable on such goods</li> </ul> </div>	<div>In case of exempted goods :</div> <div>An amount equal to 5% (IGST:10%) of the value of goods; or ₹ 25,000 (IGST: ₹ 50,000) whichever is less</div>
<p>"No such goods &amp; conveyance shall be detained or seized without serving an order of detention or seizure on the person transporting the goods."</p> <p>2. Omitted</p> <p>3. Notice to transporter within 7 days specifying the penalty &amp; order with 7 days of notice. .</p> <p>4. Opportunity of being heard.</p> <p>5. On payment of amount , all proceedings shall be deemed to be concluded.</p> <p>6.Transporter/ Owner fails to pay the amt within 15 days so detained/seized shall be liable to be sold or disposed of to recover penalty payable as per order.</p> <p>7. Transporter can get conveyance released on payment of penalty which is lower of: Penalty in the order or ₹ 1,00,000 (IGST: ₹ 2,00,000 ).</p>	
<p>"Where detained/ seized goods are perishable/ hazardous/ likely to depreciate the period of 15 days may be reduced by P.O.."</p>	

SEC 130 CONFISCATION OF GOODS OR CONVEYANCES & LEVY OF PENALTY	
1. Where Not withstanding to anything contained in this Act, if any person:-	
a.	Supplies or receives goods in contravention of provisions of this Act with intent to evade payment of tax; or
b.	Doesn't account for goods on which he is liable to pay tax.
c.	Supplies any taxable goods without applying for registration.
d.	Contravenes any of provisions of this Act with intent to evade payment of tax;
e.	uses any conveyance for transporting goods in contravention of provisions of this Act unless owner of conveyance proves that it was used without his knowledge/ connivance. then, all such goods/ conveyance are liable to confiscation and penalty u/s 122 be levied.
2. REDEMPTION FINE (OPTION TO PAY FINE IN LIEU OF CONFISCATION):-(in addition to tax, penalty and charges payable) If goods are confiscated by Govt. If goods are confiscated by Dept.	
A.	FOR GOODS
a.	Fine shall not exceed Market value of goods confiscated less tax chargeable;
b.	Fine + Penalty shall not be less than Penalty equals to 100% of tax payable on such goods (Lower restriction)
B.	CONVEYANCE USED FOR CARRIAGE OF GOODS OR PASSENGERS:-
a.	Fine equal to tax payable on goods being transported.
3. No order without opportunity of being heard.	
4."Confiscation= title to govt."	
5. P.O. shall take & hold possession of things confiscated with assistance of officer of police if needed.	
6. If redemption fine not paid within 3 months, P.O. dispose of goods/ conveyance & deposits sale proceeds with Govt.	
<p>"As per Sec 131, no confiscation made or penalty imposed above shall prevent the infliction of any other punishment to which the person affected is liable under provisions of this act or under any other law."</p>	

## PUNISHMENT FOR ABOVE OFFENCES

**Sec 132: Prosecution and imprisonment** - Whoever commits, or causes to commit and retain the benefits arising out of, any of the following offences

<b>(A) INVOICE / BILL OF SUPPLY</b>		<b>(C) ITC</b>		<b>(E) DOCUMENTS, RECORDS &amp; INFORMATION</b>		<b>(G) DEAL IN GOODS LIABLE TO CONFISCATION</b>	
(i) Supply of Goods & Services without issue of invoice	In violation of law if the intention to evade the payment of Tax	(i) Avails ITC using invoice or bill referred in (ii) above fraudulently avails input tax credit without any invoice or bill		(a) Falsifies/substitutes financial records		(i) Deals in supply of goods which he knows or has reasons to believe are liable to confiscation (whether by acquiring possession, transporting, removing, depositing, keeping, concealing, supplying or purchasing).	
(ii) Issue of invoice or bill without supply of goods & services (fake invoices)	In violation of law leading to wrongful availment or utilisation of ITC or refund.			(b) Produce fake accounts/ documents			
<b>(B) COLLECTION &amp; PAYMENT</b>		<b>(D) FRAUDULENT ACTIVITIES</b>		(c) Furnishes any false info/ return with an intention to evade payment of tax.			
				<b>(F) ATTEMPT TO COMMIT OFFENCE (related to above(A)to (E))</b>		(ii) Deals in supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act (whether by receiving or concerned in any way)	
(i) Collects any amt as tax but fails to pay to Govt. beyond a period of 3 months from the due date of payment.		(i) a) Evades Tax b) Fraudulently obtains refund [not covered above]		(i) attempts to commit, or abets the commission of any of the offences mentioned above.		<b>(H) ATTEMPT TO COMMIT OFFENCE (related to above(G))</b>	
						(i) attempts to commit, or abets the commission of any of the offences mentioned above.	

### PUNISHMENT FOR ABOVE OFFENCES (WITH PREVIOUS SANCTION OF COMMISSIONER)

Offence Involving	Amount Involved (in ₹)	Punishment
➤ Tax evaded or ➤ ITC wrongly availed or utilised or ➤ Refund wrongly taken	> 5 crores	upto 5 Years and with fine
	Exceeds 2 crores but ≤ 5 crores	upto 3 Years and with fine
	Exceeds 1 Cr but ≤ 2 Cr in offence specified in A00(ii) above	upto 1 Years and with fine
Commits or abets the commission of an offence specified E (above)	No limit	6 months or fine or both
For second and every subsequent offence under section 132	No limit (even offence of ₹ 1)	upto 5 Years and with fine
(Imprisonment minimum 6 months in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court)		

#### COGNIZABLE & BAILABLE OFFENCE

<b>COGNIZABLE &amp; NON-BAILABLE</b>	➤ means serious category of offences where arrest can be done without a warrant and investigation with or without the permission of a court. ➤ accused person shall not be automatically entitled for bail. However, court may order him to be released on a suitable bail
<b>NON-COGNIZABLE &amp; BAILABLE</b>	➤ means relatively less serious offences where accused not be arrested without a warrant and an investigation cannot be initiated without a court order. ➤ accused shall be offered to be released on bail upon his arrest by the police officer or the court informing about his right to be so released

#### COGNIZANCE OF OFFENCES

##### COGNIZABLE & NON BAILABLE

Offences related to above (A) to (C) (of sec 132) where:-

(i) amount of tax evaded or  
 (ii) amt of ITC wrongly availed or  
 (iii) amt of refund wrongly taken

Exceeds ₹ 5 Cr

**"BAIL CAN BE CONSIDERED BY A JUDICIAL MAGISTRATE ONLY"**

##### NON COGNIZABLE & BAILABLE

##### Other Offences

- Offences related to above (A) to (C) of Sec 132 above, where tax or ITC or refund evaded is ₹ 5 crores or less
- Offences related to above (D) to (H) of Sec 132 above [irrespective of amount involved]

**"ARRESTED PERSONS SHALL BE RELEASED ON BAIL BY PO"**

#### Sec 133: Liability of Officers & Others

Persons liable	Punishment	Prosecution Requirement
1. Person handling statistics u/s 151	Up to 6m imprisonment or ₹ 25,000 fine, or both	Govt. servant:
2. CGST officer with access to information u/s		Sanction of Govt.
3. Person providing services on common portal		Non-govt. servant:
4. Agent of common portal		Sanction of Commissioner

#### Sec 134: Cognizance of offences

- can only take action on GST offences with prior approval from the Commissioner.
- Such offences must be tried by a Magistrate of First Class or higher.

#### Sec 135: Presumption of Culpable mental state

- The court will assume the accused had a guilty mind, but the accused can prove otherwise.
- "Culpable mental state" includes intention, motive, knowledge, or belief in a fact.
- A fact is considered proved only if the court is convinced beyond reasonable doubt, not just by probability.



### Sec 136: Relevance of Statements in Certain Cases

A statement made and signed by a person in response to a summons can be used as evidence in a prosecution if:

- The person is dead, missing, unable to testify, kept away by the opposing party, or their presence is difficult or costly to obtain, or
- The person has testified in court, and the court decides the statement is necessary for justice.

### Sec 137: Offences by Companies and Other Entities

<b>Who is Guilty &amp; Punished</b>	➤ Company & the person in charge responsible for business at the time of offence ➤ Partner, karta, managing trustee of firm/LLP/HUF/trust
<b>Other Persons Liable to Be Punished</b>	Director, manager, officer of the company or partner/ member/ trustee/ manager of other entities
<b>Persons Not Liable to Punishment</b>	If the offence was committed without their knowledge or they exercised due diligence to prevent it.

## COMPOUNDING OF OFFENCES (SEC 138)

compounding means granting of immunity from prosecution on payment of prescribed amount

- Any Offence may be compounded by Commissioner
- Either before or after the institution of prosecution
- Upon payment of compounding amount.

#### NON COMPOUNDING

a)	Person who has been allowed to compound once earlier for offence under A to E
b)	Person who has been accused of Issuing invoice/bill without supply leading to wrongful availment/utilisation of ITC or tax refund
c)	Person convicted for an offence by a court.
d)	Any other class of persons or offences as may be prescribed

#### COMPOUNDING

##### Other Offences

**MONETARY LIMIT FOR COMPOUNDING AMOUNT:-**

(Allowed Only After Payment of Tax, Interest & penalty)

- MINIMUM LIMIT = 25% of tax involved**
- MAXIMUM LIMIT = 100% of tax involved**

**Compounding Amt by 38/2023.(Commissioner shall determine the compounding amount below:-**

Offence	if offence is punishable u/s 132(1)(i) (1st time)	if offence is punishable u/s 132(1)(i) (Repeat)
SOG or SOS without invoice to evade tax,	Up to 75% of tax /ITC / refund wrongly taken, <b>Minimum = 50%</b>	Up to 60% of tax /ITC / refund wrongly taken, <b>Minimum = 40 %</b> (Note: If compounding not allowed: its not relevant)
ITC on fake invoice or without invoice		
fails to pay to Govt. after collection within 3 months		
Evades tax or fraudulently obtains refund not covered above & also where invoice without SOS /SOG leading to wrong ITC or refund.		
Falsifies financial records or produces fake accounts/documents	Amount equivalent to 25% of tax evaded.	Amount equivalent to 25% of tax evaded.
Deals with goods liable to confiscation	25% of tax evaded / ITC wrongly availed/ utilised / refund wrongly taken.	25% of tax evaded / ITC wrongly availed/ utilised / refund wrongly taken.
Receives or deals with supply of services in contravention of GST law		
Attempt to commit or abetsany of the above offences		

**Proviso:-** If 2 or more offence are committed, compounding amount shall be higher of those prescribed.

### Circular No 171/03/2022: Clarification on Demand & Penalty for Fake Invoices under CGST

1. If A issues a tax invoice to B without actual supply.

Cases	Clarification
Is it a supply u/s 7 of the CGST Act?	No, because no goods or services were actually supplied.
Can demand/recovery be made from A u/s 73 or 74 or 74A of CGST Act?	No tax liability arises, so no demand or recovery can be made u/s 73 or 74 or 74A.
Can penal action be taken against A?	No penalty u/s 73 or 74 or 74A. However, penalty u/s 122(1)(ii) may apply for issuing invoices without actual supply.

2. A issues a tax invoice to B without supply. B claims ITC on it and uses it to pay tax on his own supplies to buyers.

Cases	Clarification
Liability for ITC Demand & Penalty	➤ B wrongly availed & utilized ITC on fake invoices. ➤ Liable for demand, recovery, penalty u/s 74 & interest u/s 50.
Penal Action u/s 122	No additional penalty u/s 122 if penalty is imposed u/s 74.

3. A issues a tax invoice to B without supply. B claims ITC and passes it to C through similar invoices.

Cases	Clarification
Is it a supply u/s 7?	➤ No actual supply of goods or services. ➤ B availed ineligible ITC on fake invoices from A. ➤ No tax payable on B's supply to C due to lack of actual supply.
Penal Action u/s 122	➤ B is liable for penalty u/s 122(1)(ii) for issuing fake invoices without supply. ➤ B is also liable u/s 122(1)(vii) for utilizing ITC without actual receipt of goods or services.

### Sec 128A: Waiver of Interest and Penalty for Section 73 Demands

- If a person owes tax for the period from 01.07.2017 to 31.03.2020 and pays the full tax as per notice, statement, or order u/s 73 or its appeal/revision stages (before the date notified by the government), then no interest or penalty will apply, and the case will be treated as closed, subject to conditions.
- If a Sec 74 notice results in an order based on appellate or court directions, it will be treated the same.
- If any further appeal or review is made and extra tax is demanded, the benefit will still apply if the

person pays that extra tax within 3 months.

➤ No refund will be given for any interest or penalty already paid.

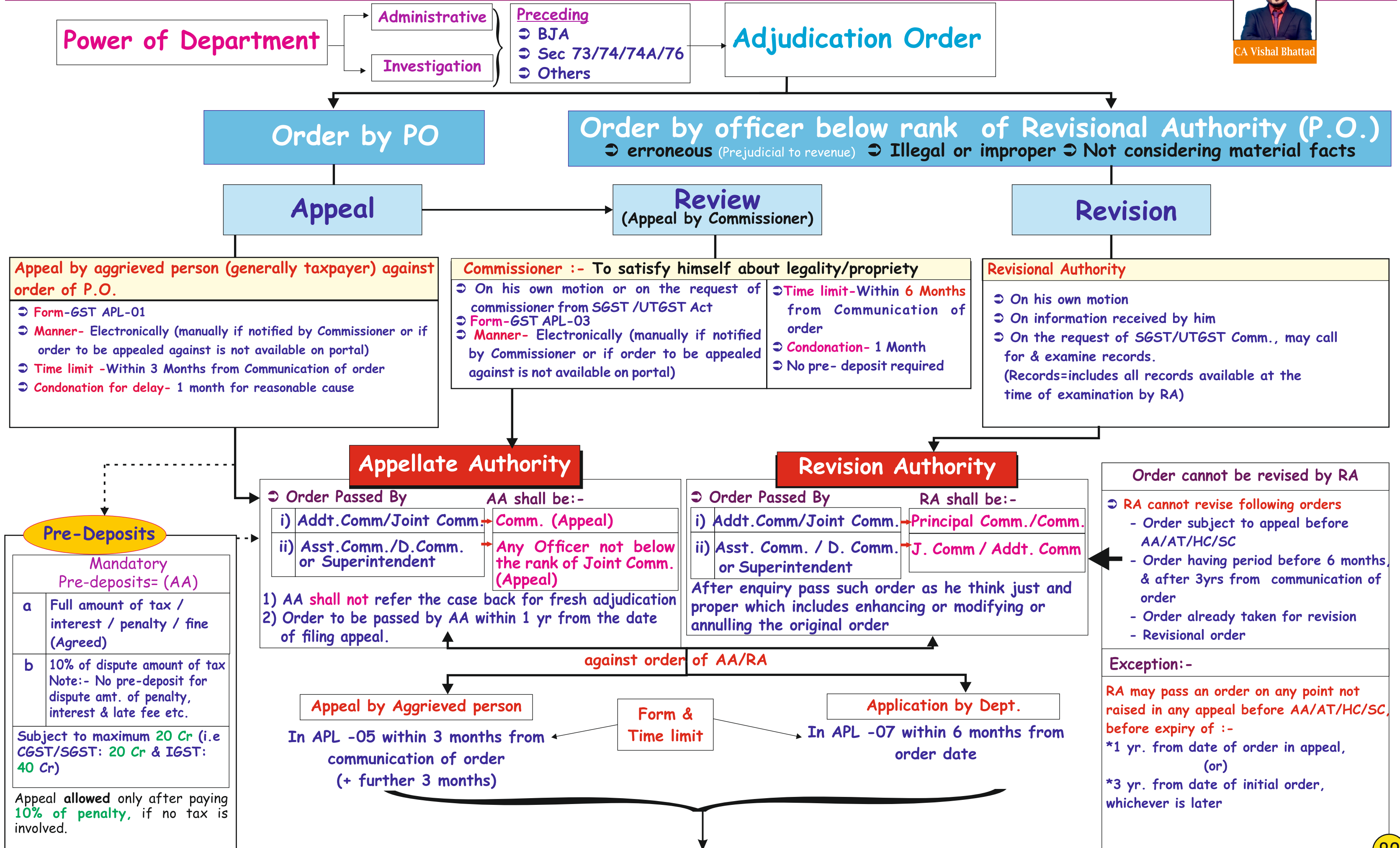
➤ This benefit won't apply if the tax is due due to a wrongful refund, or if the taxpayer's appeal or writ is still pending and not withdrawn by the notified date.

➤ Once the case is closed under this provision, no further appeal can be filed against the related orders.

For your self notes:-



# Chapter 22 - Appeal and Revision



## Pre-Deposits

### Mandatory Pre-deposits=(AT)

a	Full amount of tax / interest / penalty / fine (Agreed) <b>Note:</b> It is addition to Pre-deposit with AA
b	10% of dispute amount of tax Subject to maximum 20 Cr, IGST = 40Cr)

To appeal a penalty without tax, pay 10% of the penalty plus the amount u/s 107(6).

## Appellate Tribunal (AT) [GSTAT]

Centre				State		
Principal Bench (at New Delhi)				State benches		
P	JM	TM(C)	TM(S)	2JM	TM(C)	TM(S)
<b>Jurisdiction :-</b> to hear appeals against orders passed by AA/RA ➔ in the cases where one of the issues involved relates to POS, ➔ adjudicate matters referred in Sec 171 (2) (i.e Anti-profiteering) & hear cases that may be notified by Govt.				<b>Jurisdiction :-</b> to hear appeals against the orders passed by AA/RA other than those discussed for Principal bench besides.		
				<b>P: President, JM: Judicial Member, TM: Technical Member</b>		

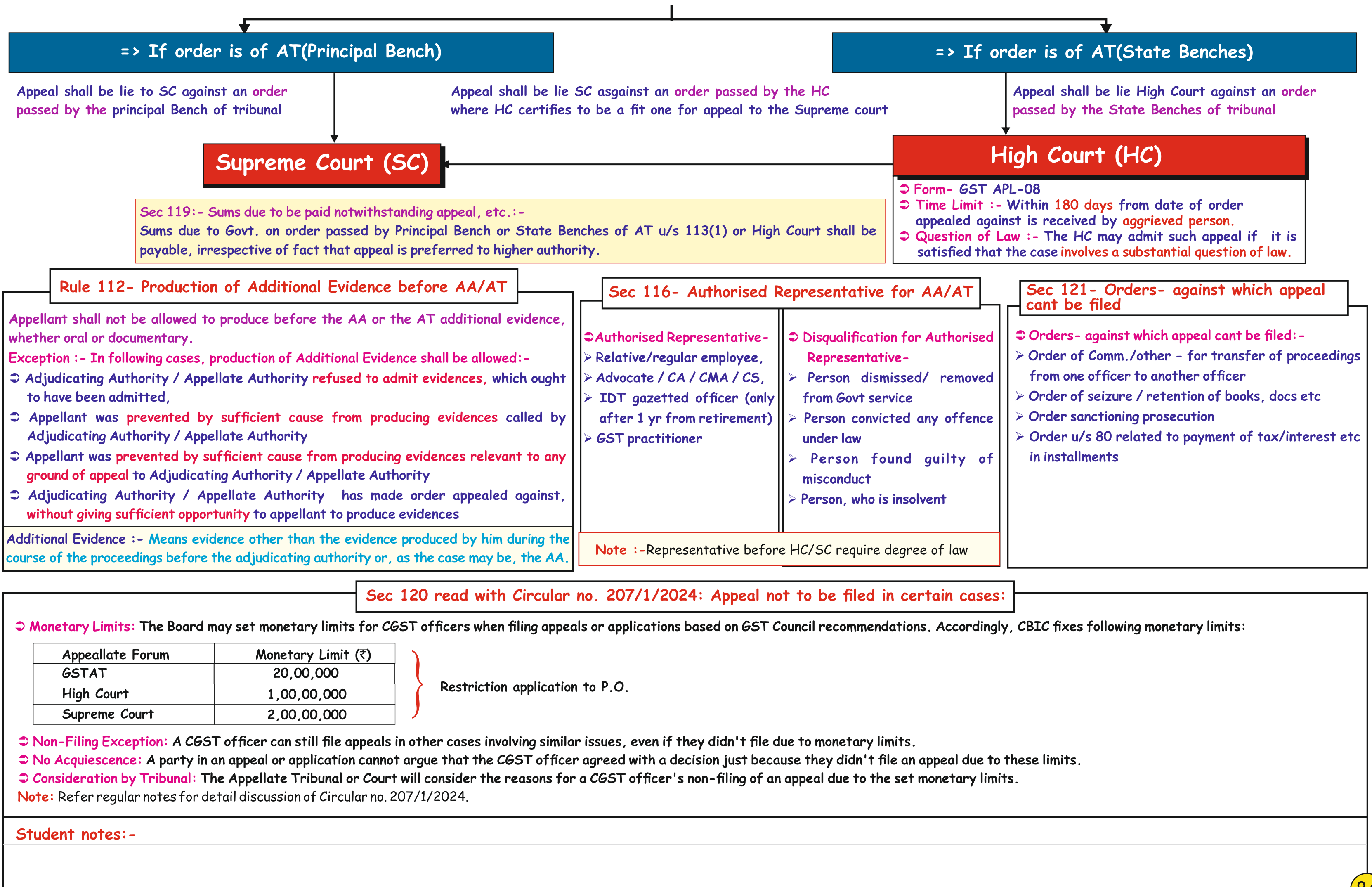
**No. of members required to hear appeal:-** If tax/ ITC/ fine/ fee/ penalty in any order appealed against <= ₹50 lakhs & does not involve any question of law, then appeal may be heard by **single Member** with approval of President.  
In all other cases, it shall be heard **together by 1 JM & 1 TM.**

<b>Manner of filing Appeal, Application &amp; Memorandum</b>	It is filed <b>electronically</b> except where Registrar allows manually by general/special order.
<b>AT can refuse an appeal</b>	Where- Amount of tax/ ITC/ Difference in tax or ITC/ fine/ fees/ penalty determined by such order = upto 50000/-
<b>Memorandum of cross objection</b>	Can be filed (within <b>45days</b> from receipt of notice) in <b>FORM GST APL-06</b> (Condonation= + 45days).
<b>Fees</b>	1,000/- for every ₹1,00,000/-of tax etc., Max. ₹25,000/- & Min. 5,000, fee = ₹5,000 if appeal is for order not having demand of tax, int, fine, fee or penalty.
<b>Distribution/Transfer</b>	Subject to jurisdiction discussed above, <b>President</b> shall distribute business of AT & transfer cases among benches.
<b>Validity of Act</b>	Act or proceedings of AT shall be not be questioned or invalid merely due to vacancy or defect in its constitution.
<b>Date for filing appeal/application</b>	1. If order is uploaded on portal, appeal is filed on date of provisional acknowledgment (ack). 2. If not uploaded, appellant must submit/upload a self-certified copy within 7 days of filing APL-05/07 & date of provisional acknowledgment becomes the filing date. If submitted after 7 days, the filing date is the date of uploading of self <b>certified (or self attested)</b> copy. 3. Final ack in <b>Part B of FORM GST APL-02A</b> is issued after defect removal in all above cases. 4. The appeal is treated as filed only when the final ack. is issued.

## Order of AT

Difference in opinion on any pt. of appeal:-			Order of AT	pass such orders thereon as it thinks fit, confirming, modifying or annulling the decision or order appealed against or	Rectification Order by AT	Withdrawal of appeal/application
	Situations	President shall refer case to				
(a)	appeal was originally heard by Members of a State Bench,	to another Member of a State Bench within State or,	Refer the case back	to the AA or to the RA, or to the original adjudicating authority, for a fresh adjudication.	AT may amend any order passed by it so as to rectify any error apparent on the face of the record if such error is <ul style="list-style-type: none"><li>noticed in the order by its own accord, or</li><li>is brought to its notice by the<ul style="list-style-type: none"><li>CGST/SGST/UTGST Commissioner or</li><li>the other party to the appeal</li></ul></li></ul> within a period of 3 months from the date of the order. <ul style="list-style-type: none"><li>If amendment has the effect of enhancing an assessment or reducing a refund or ITC or otherwise increasing the liability then party has been given an opportunity of being heard.</li></ul>	Apply in APL-05/07W before issue of order by AT <ul style="list-style-type: none"><li>file it fresh in original time limit- if final ack. in APL-02 is issued</li><li>withdrawal need approval of AT in 15 days of filing application</li></ul>
		no such other State Bench is available within State	to a Member of a State Bench in another State	Time Limit of Order		
			Copy of Order	The Tribunal shall send a copy of its order to AA/RA/Original adjudicating authority/ Appellant/ Jurisdictional Commissioner or commissioner of CGST/SGST/UTGST		
(b)	appeal was originally heard by Members of Principal Bench,	to another Member from Principal Bench or,	Binding Effect	Every order passed by the AT shall be final and binding on the parties unless the dispute is taken to a higher appellate forum.		
	where no such other Member is available,	to a Member of any State Bench	Important Note:- 1) Any order made by the Appellate Tribunal may be enforced by it in the same manner as if it were a decree made by a court in a suit pending therein 2) All proceedings before the AT shall be deemed to be judicial proceedings under Indian Penal Code, and the AT shall be deemed to be civil court.			
& point(s) shall be decided as per majority including members who first heard it.						



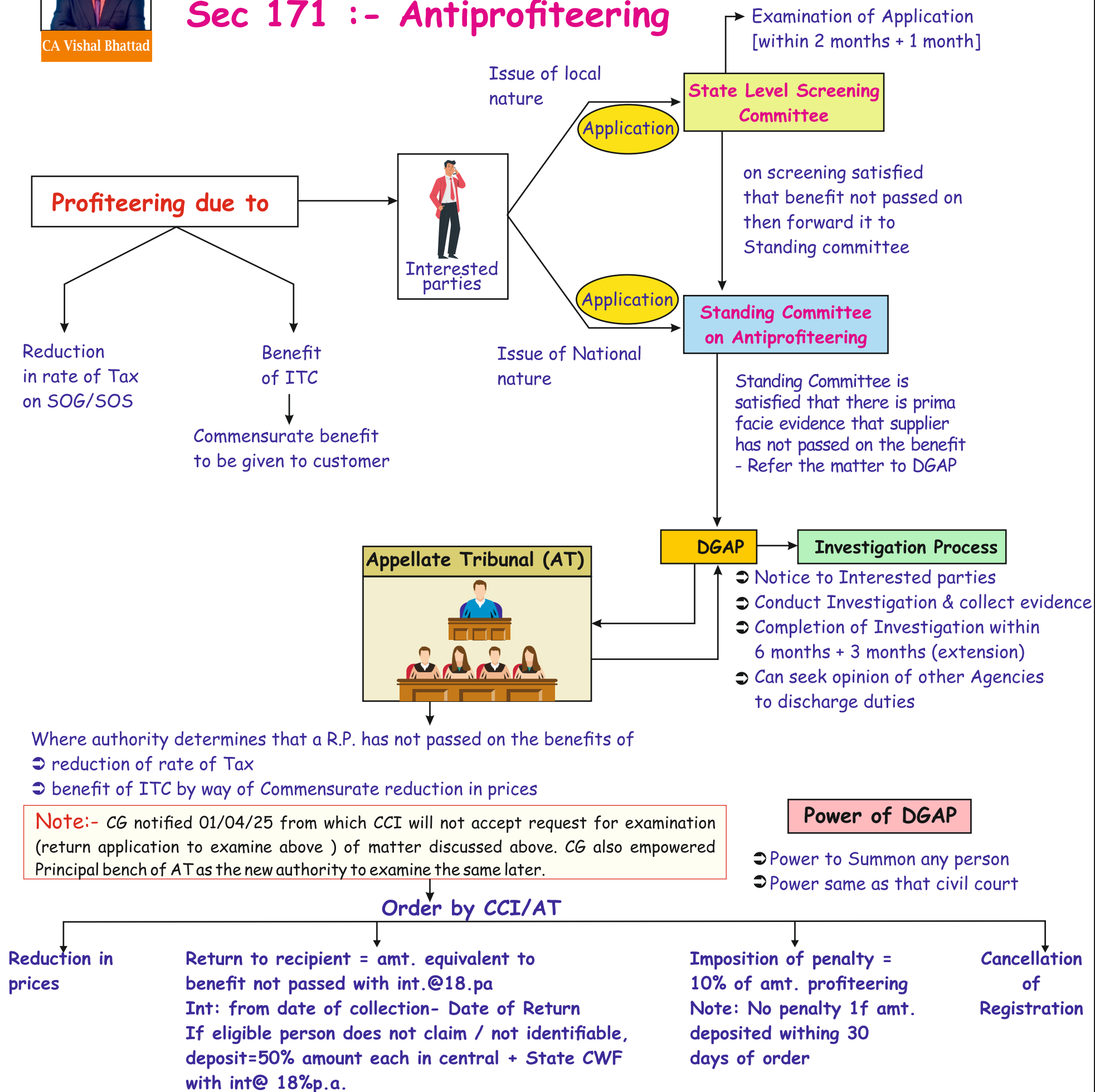




CA Vishal Bhattad

# Chapter 23 - Miscellaneous Provisions

## Sec 171 :- Antiprofitteering



**Sec-151 Power to call for information:-** The Commissioner or an officer authorised by him may, by an order, direct any person to furnish information relating to any matter dealt with in connection with this Act, within such time, in such form, and in such manner, as may be specified therein

**Sec-169 Service of Notice in certain circumstances:-**

- Any notice, decision, order, summons, etc under the Act / rules, are served on assessee with sec. 169.
- Sec. 169(1)- Modes of Service-** (any method can be followed)
  - Giving/ tendering directly:-** directly, or by messenger / courier, to addressee/ taxable person/ his manager/ authorised representative/ advocate/ tax practitioner/ to regular employee/ adult member of family.
  - By Registered post/Speed post/courier:-** with acknowledgement due, to person for whom it is intended / authorised representative, at his last known place of business / residence.
  - By E-mail:-** to his e-mail address provided at registration, or amended id.
  - By making it available at Common portal
  - By Publication in news paper:-** circulating in locality, in which taxable person is last known to have resided, carried on business or personally worked for gain.
  - By affixing at place of business etc.:-** at some conspicuous place at his last known POB/residence, if above methods are not practicable. If such method is not practicable, affix a copy thereof on notice board of office of concerned officer, who passed it.
- Sec. 169(2)- Deemed date of serving-** On the date on which it is tendered / published, or copy there of is affixed in above manner.
- Sec. 169(3)- Deemed date of receipt** If sent by registered post/speed post- deemed to have been received at expiry of the period normally taken by such post in transit, unless contrary is proved.

**Sec 158A read with Rule 163 Consent based sharing of information furnished by taxable person**

**(1) Sharing of information by portal:-** Following details furnished by RP may be shared by common portal with Account Aggregator, if RP opts for the same—

- (a) particulars furnished in FORM GST REG-01 or GSTR-3B or Annual return;
- (b) particulars uploaded for preparation of invoice, for generation of documents u/s 68 & in GSTR-1, as amended in GSTR-1A.
- (c) other details prescribed.

**(2) Consent required:-** For this, consent shall be obtained of following & communicated to portal—

- (a) Supplier (in all cases) & Note:- RP shall give consent only after obtaining consent of all recipients to whom he has issued invoice, credit notes & debit notes during said tax periods.
- (b) recipient (for clause (b) & (c) above only) if it includes identity information of recipient.

**(3) Effects:-** No action shall lie against Govt. or common portal for any liability due to information shared. There shall be no impact on liability to pay tax on relevant supply or as per relevant return.



## Interest Rate

Sections	Description	Rate of Interest (p.a.)	From	To
<b>GST ACT (CGST) 2017</b>				
Sec 16(4) read with Rule 37	Interest on non-payment of consideration within 180 days	18%	Date of availment	Date of reversal
Sec 17 read with Rule 42	ITC to be reversed on Inputs, Inputs services & Capital Goods	18%	1st April of succeeding FY	Date of payment
Sec 50(1) read with Rule 88B	Delayed payment of Self-assessment tax	18%	Succeeding day on which tax becomes due ie 20th of next month	Actual date of payment
Sec 50(3) read with Rule 88B	ITC wrongly availed & Utilised	18%	Date of utilisation of such wrongly availed ITC	Actual date of payment
Sec 56	Interest on Delayed refunds (If not refunded within 60 days)	6%	After expiry of 60 days from date of receipt of application	Date of refund of such tax
Sec 56	Interest on Delayed refunds as consequence of order of Adjudicating/ AA/AT/Court (If not refunded within 60 days)	9%	After expiry of 60 days from date of receipt of application	Date of refund of such tax
Sec 60(4)	Interest on Amount payable on provisional assessment	18%	Succeeding day after due date of payment of tax	Actual date of payment
Sec 60(5)	Interest on Amount refundable on provisional assessment	6%	After expiry of 60 days from date of receipt of application	Date of refund of such tax
Sec 76	Tax collected but not paid to Govt	18%	Date on which amount was collected	Date on which amount paid to Govt
Sec 115	Interest on Refund of pre-deposit	6%	Date of payment of pre-deposit	Date of refund of pre-deposit

### CUSTOMS ACT 1962

Sec 18	Interest on Amount payable on provisional assessment	15%	1st day of month in which duty is provisionally assessed	Actual date of payment of duty
Sec 18	Interest on Amount refundable on provisional assessment	6%	After expiry of 3 months from finalisation of assessment	Date of refund of such duty
Sec 47	Interest on late payment of import duty in case of Immediate payment	15%	Next day after presentation of BOE for home consumption	Actual date of payment of duty
Sec 61	Indirect clearance of Custom warehouse	15%	Next date after 90 days of warehousing order by PO	Actual date of payment of duty

## Monetary Limits under GST

Sec/Rules	Explanation
Schedule III	Gifts by employer to employee <= ₹50,000 per employee in a FY would not qualify as supply
Sec 9(5)	Notified services: Specified premises means premises providing hotel accommodation service having declared tariff of any unit of accommodation >= ₹ 7500 p.u per day
Sec 10(1)	Turnover limit for composition scheme ₹75L (8 Special states) & ₹ 150L (Rest of India) in PFY
Sec 10(2A)	Turnover limit for composition scheme ₹ 50L & who are ineligible u/s 10(1) & (2) in PFY

### Rule 32(2)(b)

At the option of supplier, value of supply/change of foreign currency shall be deemed to be:

S.No.	Currency Exchanged	Value of supply
1.	Upto 1L	Higher of: 1% of Gross amount of currency exchanged or ₹ 250
2.	Above 1L & upto 10L	₹ 1,000 + 0.05% of (Exchanged value - 1L)
3.	Above 10L	Higher of: 5,500 + 0.1% of (Exchanged value - 1L) or ₹ 60,000

### Sec 12 & 13

TOS for Excess amount upto ₹ 1,000 is Date of issue of invoice at the option of supplier

### Sec 51

TDS shall apply only if Value of taxabler Supply > ₹ 2,50,000

### Rule 40(1)

If the value of the claim > Rs 2 lakhs for availing ITC of inputs held in stock, then declaration shall be duly certified by a practicing CA or CMA

### Sec 52

Every ECO, not being an agent shall collect TCS @0.25% (IGST: 0.5%) of Net value of Taxable supplies

### Rule 87

Deposits can be made online (No limit) & offline (with limit) ie upto ₹ 10,000 over the counter payment is valid.

### Rule 86A

Ineligible availed ITC	Officer to disallow debit of amount from E-credit ledger
<= ₹ 1 Crore	Deputy Commissioner/Assistant Commissioner
> ₹ 1 Crore but <= ₹ 5 Crore	Additional Commissioner/Joint Commissioner
> ₹ 5 Crore	Principal Commissioner/Commissioner

### Rule 86B

If value of taxable supply > ₹ 50 Lakhs in a month, then registered person can use 99% of output tax from ITC balance to discharge the tax liabilities

### Sec 11

1	Services by clinical establishment by providing room charges > ₹ 5,000 per day are taxable other than ICU, CCU, NICU, ICCU
2	Services by Resident welfare association to its members upto ₹7,500 for sourcing of goods or services for common use are exempt.
3	Services by Govt. to business entity are exempt if consideration < ₹ 5,000.
4	Services by acquiring bank to any person for settlement of an amount upto ₹ 2,000 in a single transaction are exempt transacted through Credit card, Debit card.
5	Services of Life micro-insurance product as approved by IRDA, Maximum cover of ₹ 2L are exempt
6	Services by incubatee are exempt upto total turnover of ₹ 50L in FY provided its turnover <= ₹50L in PY & 3 yrs has not elapsed from the date of agreement.
7	Service performed by an artist in folk/classical art in the form of Music/dance/ theatre is exempt if the consideration charged < ₹ 1,50,000, except brand ambassador
8	Services of religious ceremony, renting of religious place are exempt, but if Rooms >= ₹ 1,000 per day, Premises, halls, or open area >= ₹ 10,000 per day & shops >= ₹ 10,000 per month are taxable
9	Admission to Entertainment Event is <b>exempt</b> if the consideration is not more than ₹ 500.
10	Services by an old age home run by CG, SG or Charitable entity to its residents (aged >= 60 years) upto ₹ 25,000 per month per member is <b>exempt</b> .
11	Services by an unincorporated body or Non-profit entity to its own member is <b>exempt</b> , if the consideration is upto ₹ 1,000 per member per year.
12	Accommodation services costing ₹ 20,000 or less per person per month, provided for at least 90 continuous days.

### Sec 22

Person is liable to get registered if his Agg t/o for goods > ₹ 40L, For goods and/or services > ₹ 20L & For special category states > ₹ 10L

### Sec 37

IFF is an optional facility available to RP to furnish details of outward supplies for 1st & 2nd months of a quarter upto a cumulative value of ₹50L in each of the first 2 months of quarter electronically on common portal.

### Sec 44

Commissioner exempts the registered person whose aggregate turnover in any Financial year from FY 2024-25 onwards is up to ₹ 2 Cr from filing annual return for that said F.Y.

### Sec 31(3)(b)

If the amount of tax invoice is < ₹ 200, it is not mandatory to issue tax invoice except in case of entry ticket in Multiplex & B2B transactions



E-invoicing	All registered businesses whose Agg t/o in any P.F.Y. from 2017-18 onwards > ₹5 Crore will be required to issue e-invoices subject to exempted entities.		
Rule 53	The supplier can issue consolidated invoice to unregistered recipient:		
	In case of Inter State supplies	Value of Total supplies <= ₹ 2,50,000	
	In case of Local supplies	For all the supplies	
Rule 46	No. of digits of HSN codes: a) Annual T/o <= ₹ 5 cr = 4 digits for B2B b) Annual T/o > ₹ 5 cr = 6 digits for B2B & B2C		
Rule 59(4)/(4A):	Details of outward details/additional details or amendment details in GSTR-1 /IA requires: 1. Invoice-wise details of supplies to RP & inter-State supplies to URPs over ₹1 lakh. 2. Consolidated details of supplies to URPs & inter-state supplies to URPs over ₹ 1 lakh. 3. Debit and credit notes for previous invoices.		
Rule 138	Every Registered person who causes movement of goods having consignment value > ₹ 50,000 need to generate E-way bill, However for interstate Job work & movement of Handicraft goods, E-way bill is mandatory irrespective of consignment value		
Sec 54(6) read with Rule 91	Provisional refund shall be granted if person claiming Refund has not been prosecuted for an offence where amount of tax evaded > ₹ 2.5 Cr during any period of 5 years immediately preceding the tax period to which the claim for refund relates. <b>Exception:</b> Person not Aadhaar-authenticated u/r 10B & Person supplying areca nuts, pan masala, tobacco, tobacco substitutes, or essential oils.		
Sec 54(14)	Refund can be credited to account only if amount > ₹ 1,000		

### Time Limits under GST

Sec/Rules	Explanation
Rule 3 & 4	Intimation for <b>entering</b> into Composition scheme by Registered Person is to be filed in Form CMP-02 Prior to commencement of FY & also furnish statement in Form GST ITC – 03 within 60 Days
Rule 6	Intimation for <b>withdrawal</b> from the composition scheme is to be given within 7 days
Sec 16(2)	Registered person must pay value of goods/services plus tax within <b>180 days</b> from the date of Invoice issued by supplier other than RCM supplies. If failed to do so, corresponding credits shall be added with output tax liability along with interest
Sec 16(4)	Registered Person can claim ITC in <b>Earlier</b> of 30th Nov of next FY or Date of furnishing annual return
Sec 18(1)	RP is entitled to take ITC held in stock on the day immediately preceding the date of grant of registration <b>within 30 days</b>
Sec 25(1)	Person has to apply for registration <b>within 30 days</b> u/s 22 or 24 from the day he becomes liable & CTP/NRTP has to apply <b>at least 5 days prior</b> to the commencement of business
Rule 9	If PO is satisfied with the application, he may grant the RC <b>within 7 days</b> , but if not then he may grant RC within 30 days after Physical verification of Place of Business.
Rule 10A	Registered person shall furnish details of Bank account on common portal by the <b>earlier of within 30 days from the date of grant of registration or Furnishing details of outward supplies in GSTR 1/IFF.</b>
Rule 25	<b>After Grant of RC:</b> PO may conduct physical verification of POB <b>after grant of RC</b> & he is required to submit the report within 15 days from the date of verification. <b>Before Grant of RC:</b> PO may conduct physical verification of POB <b>before grant of RC</b> & he is required to submit the report within 25 days from the date of grant of RC.
Sec 27	Validity of Registration certification of CTP/NRTP is <b>Earlier</b> of Period specified in registration certificate or 90 days from effective date of registration, Further extension of 90 days is also allowed.
Sec 28	Registered person shall intimate <b>within 15 days</b> of such amendment by applying electronically
Rule 20 & 22	Registered person shall apply for cancellation of registration <b>within 30 days</b> of occurrence of the event warranting cancellation.
Sec 30 read with Rule 23	<b>Revocation of cancellation of Registration:-</b> RP whose registration is cancelled by PO may apply for revocation of cancellation within 90 days from the date of service of order of cancellation, & it can be further extended upto 180 days by Comm. or Authorised officer.
Rule 138C	PO shall record online Final report in Part B of FORM GST EWB-03 within 3 days of inspection with extension of 3 days
Sec 46	Notice requires the registered person to furnish the return <b>within 15 days</b> .
Sec 54	Any person claiming Refund may make an application <b>within 2 years</b>
Sec 60	➡ PO shall pass <b>Provisional Assessment order</b> within 90 days from the date of receipt of such request. ➡ PO shall pass <b>Final Assessment order</b> for finalizing the provisional assessment within 6 months, However it can be extended by Joint/Additional Commissioner for 6 months & by Commissioner for 4 years.

Sec 62	➡ PO shall pass the <b>best judgement assessment order</b> for Non-filers of returns within 5 years from date specified u/s 44 for the FY related to tax not paid. ➡ If RP furnishes valid return <b>within 60 days</b> of services of assessment order, it shall be deemed to have been withdrawn, but liability of interest and late fees shall continue.
Sec 65	Audit shall be completed <b>within 3 months</b> & further extended <b>upto 6 months</b> by Commissioner)
Sec 66	CA or CMA nominated by Commissioner for conducting <b>Special audit</b> shall submit a report of such audit <b>within 90 days</b> with further extension of 90 days
Sec 67	Books shall be returned <b>within 30 days</b> & Goods shall be returned with 6 months (Further extension of 6 months) after inspection
Sec 73	If Tax not paid/short paid /erroneously refunded/ITC wrongly utilised other than fraud, PO shall issue <b>SCN</b> at least 3 months prior to the issuance of order & issues <b>Order</b> within 3 yrs. from the due date of furnishing Annual return of FY
Sec 74	If Tax not paid/short paid /erroneously refunded/ITC wrongly utilised for reason of fraud, PO shall issue <b>SCN</b> at least 6 months prior to the issuance of <b>order</b> & issues Order within 5 yrs. from the due date of furnishing Annual return of FY
Sec 76	If the <b>tax collected but not paid to Govt</b> then PO shall issue an order within 1 yr from the date of issue of the notice
Sec 78	If the TP fails to pay amt. in pursuance of an order, then <b>Recovery proceeding</b> can be initiated within 3 months from date of such order.
Sec 98	Authority shall <b>pronounce advance ruling</b> within 90 days from date of receipt of application.
Sec 100	The aggrieved applicant can file an appeal to Appellate Authority against the Advance Ruling <b>within 30 days</b> (further extension of 30 days) from the date on which the ruling sought to be appealed.
Sec 101	Order of Appellate Authority shall be passed <b>within 90 days</b> from the date of filing of appeal
Sec 102	Rectification of Advance ruling can be done <b>within 6 months</b> from the date of order
Sec 107	➡ Aggrieved person may appeal to AA <b>within 3 months</b> (Extension of 1 month)from the date of communication of such order ➡ Comm. may appeal to AA <b>within 6 months</b> (Extension of 1 month) from the date of communication of such order
Sec 108	RA can revise an order <b>after expiry of 6 months</b> from the communication of said order <b>but not later than expiry of 3 years</b> from the passing of said order
Sec 112	➡ Aggrieved person may appeal to Appellate Tribunal <b>within 3 months</b> from the date of communication of such order ➡ Commissioner may appeal to Appellate authority <b>within 6 months</b> from the date of communication of such order
Sec 117	Appeals to High court are to be filed <b>within 180 days</b> from date on which order appealed against is received by aggrieved person
Sec 132	Person who collects any amt. as tax but fails to pay the same <b>within 3 months</b> from the due date of such payment is liable to penalty
Sec 161	➡ Any authority can rectify its order <b>within 3 months</b> from the date of issue of such decision, no such rectification shall be done for a period of 6 months ➡ However, 6 months shall not apply in rectification of <b>clerical or arithmetical error</b>
Sec 16 of 16GST Act	If RP does not realise sale proceeds of ZRS of goods, he is <b>liable to deposit</b> refund received along with interest u/s 50, <b>within 30 days</b> after expiry of time limit given under FEMA 1999.

### Fees & Penalties under GST

Section	Explanation		
Sec 47 read with Notifi.	<b>Maximum late fees payable under section 47</b>		
	<b>Normal Tax Payer</b>	<b>Late Fee</b>	
	1) RP - GSTR -I = Nil, GSTR 3B =Nil	Lower of ₹ 20 (₹ 10 each for CGST & SGST/ UTGST) for every day during which such failure continues or ₹ 500 (₹ 250 each under CGST & SGST /UTGST)	
	2) RP other than those covered in (1) above (i.e. there is outward supply in GSTR - I or tax payable as per GSTR- 3B	Agg. T/o of ≤ ₹ 1.5 cr. in the PFY	Lower of ₹ 50 (₹ 25 each for CGST & SGST/ UTGST) for every day during which such failure continues or ₹ 2000 (₹ 1000 each under CGST & SGST /UTGST)
		Agg. T/o more than 1.5 Cr but ≤ 5 Cr. in the PFY	Lower of ₹ 50 (₹ 25 each for CGST & SGST/ UTGST) for every day during which such failure continues or ₹ 5000 (₹ 2500 each under CGST & SGST /UTGST)
	3) RP other than (1) and (2)	Agg. T/o > 5 Cr. in the PFY	Lower of ₹ 50 (₹ 25 each for CGST & SGST/ UTGST) for every day during which such failure continues or ₹ 10000 (₹ 5000 each under CGST & SGST /UTGST)



Composition scheme GSTR - 4		Late Fee
1)	Where Total tax payable in GSTR-4 is Nil	Lower of ₹ 20 (₹ 10 each for CGST & SGST/ UTGST) for every day during which such failure continues or ₹ 500 (₹ 250 each under CGST & SGST /UTGST)
2)	Where RP other than those covered in (1) above	Lower of ₹ 50 (₹ 25 each for CGST & SGST/ UTGST) for every day during which such failure continues or ₹ 2000 (₹ 1000 each under CGST & SGST /UTGST)
Annual Return		Late Fee
	RP having Agg T/o ≤ ₹ 5 crores in the relevant FY	₹ 50 per day (₹ 25 CGST + ₹ 25 SGST / UTGST) 0.04 % of turnover in the State or UT (0.02% CGST + 0.02% SGST / UTGST)
	RP having following agg. T/o: ₹ 5 Cr < Agg. T/o ≤ ₹ 20 Cr in the relevant FY	₹ 100 per day (₹ 50 CGST + ₹ 50 SGST / UTGST) 0.04 % of turnover in the State or UT (0.02% CGST + 0.02% SGST / UTGST)
	RP having agg. T/o > ₹ 20 crores in the relevant FY	₹ 200 for every day during which such failure continues (₹ 100 CGST + ₹ 100 SGST/UTGST) 0.50% of the turnover of the registered person in the State/UT (0.25 % CGST + 0.25% SGST/UTGST)
74A	☞ If amount are payable other than fraud: <b>Higher</b> of 10% of tax due or ₹ 10,000 ☞ If amount are payable for Fraud: <b>Tax due</b>	
80	The Facility of payment of tax dues in instalments shall not be allowed if amount < ₹ 25,000	
97	Fees for <b>application</b> to the authority for Advance Ruling on the common portal is ₹ 5,000	
100	Fees for <b>appeal</b> to Appellate authority for Advance Ruling on the common portal is ₹ 10,000	
109	☞ In the absence of a Member, any appeal with the approval of the President to be heard by <b>bench of 2 members</b> ☞ If Tax, ITC, Fine, fee, Penalty determined in any order appealed does not exceed ₹ 50 lakhs & does not involve question of law, then appeal may be heard by <b>bench of single member with approval of President</b>	
112	Fees for appeal/restoration of appeal shall be <b>₹ 1,000 for every ₹ 1,00,000</b> of tax determined in order appealed against. However, It shall be maximum of ₹ 25,000 & a minimum of ₹ 5000.	
122	21 Categories of offences u/s 122(1), Person shall be liable to pay penalty of <b>Higher</b> of ₹ 10,000 or Actual amt. of tax involved	
122(2)	Any registered person supplying goods or services on which any tax has not been paid-	
	a	for any reason other than fraud, Penalty shall be <b>Higher</b> of ₹ 10,000 or 10% of tax due from such person.
	b	for reason of fraud, Penalty shall be <b>Higher</b> of ₹ 10,000 or 100% of tax due from such person.
122(1B)	ECO shall be liable to pay Penalty if it does not fulfilled specified conditions. Thus Penalty will be <b>Higher</b> of ₹ 10,000 or tax involved on supply made by RP other than composition dealer.	
122A	Penalty on manufacturer of goods for failure to register certain machines used in manufacture of goods as per special procedure u/s 148 is ₹ 1 L (IGST: ₹ 2L)	
122B	Penalty for failure to comply with track and trace mechanism shall be higher of ₹ 1,00,000 or 10% tax payable	
123	If a person fails to furnish information u/s 150 within 90 days from date of SCN, he shall be liable to pay penalty which is <b>Lower</b> of ₹ 100 for each day of period during which such failure continues or ₹ 5,000.	
124	Any person fails to furnish any information u/s 151, he shall be liable to pay following <b>penalty</b> : ☞ In case of Non continuing offence: upto ₹ 10,000 ☞ In case of Continuing offence: ₹ 100 per day subject to maximum of ₹ 25,000	
125	General penalty for Contravention of GST law is maximum of <b>₹ 25,000</b>	
126	If the amount of tax involved < ₹ 5,000, it will be considered as <b>Minor breach</b> which means Breach without fraudulent intention or gross negligence.	
129	The Penalty to release the detained or seized goods are as follows:	
	<b>For Taxable goods</b>	<b>For Exempted goods</b>
a	If owner of goods comes forward to pay penalty, Penalty = <b>200% of tax</b> payable on such goods.	a If owner of goods comes forward to pay penalty, penalty is Lower of:- <b>2%</b> of value of goods or <b>₹ 25,000</b> .
b	If owner of goods doesn't come forward to pay penalty, penalty is Higher of:- - <b>50% of value</b> of goods or - <b>200% of tax</b> payable on such goods.	b If owner of goods doesn't come forward to pay penalty, penalty is <b>Lower of</b> :- - <b>5%</b> of value of goods or <b>₹ 25,000</b> .

132	Punishment for 9 categories of offences stated u/s 132(1):	
	Cases where tax Evaded	Punishments
	Amount > ₹ 5 Crores	Imprisonment upto 5 years plus Fine
	Amount is between ₹ 2 Crores to ₹ 5 Crores	Imprisonment upto 3 years plus Fine
	Amount is between ₹ 1 Crores to ₹ 2 Crores in an offence specified in clause (b), Person commits or abets commission of an offence specified in clause (f):	Imprisonment upto 1 years plus Fine Imprisonment upto 6 months plus fine or both.
133	If a person engaged in collection of statistics u/s 151, having access to information specified u/s 150(1), or wilfully discloses any information of any return furnished, then he shall be punishable with imprisonment <b>upto 6 months or Fine upto ₹ 25,000 or both</b>	
138	Person who are not compounded under Compounding of offences: ☞ Already compounded once ☞ Other than offences specified in Sec 138(1)(a),(c),(d),(f) ☞ Convicted for an offence under GST Act by a court a) The minimum limit for compounding amount is <b>25%</b> of tax involved. b) The maximum limit for compounding amount is <b>100%</b> of tax involved	
Rule 162 (3A)	Compounding amount if offence is punishable	
	Offence	<div>u/s 132(1)(i)</div> <div>u/s 132(1)(ii)</div>
	Sec 132(1)(a), (c), (d) & (e)	<div>Up to 75% of tax evaded / ITC wrongly availed or utilised/ refund wrongly taken, subject to <b>minimum of 50%</b> of wrongly tax evaded/ ITC/ refund taken .</div> <div>Up to 60% of tax evaded / ITC wrongly availed or utilised/ refund wrongly taken, subject to <b>minimum of 40%</b> of wrongly tax evaded/ ITC/ refund taken.</div>
	Sec 132(1)(f), (h), (i)	<div>Amount equivalent to <b>25%</b> of tax evaded.</div> <div>Amount equivalent to <b>25%</b> of tax evaded.</div>
	Attempt to commit the offences/ abets the commission of offences u/s 132(1) (a), (c), (d), (e), (f), (g), (h) & (i)	<div>Amount equivalent to <b>25%</b> of such tax evaded or ITC wrongly availed or utilised or refund wrongly taken.</div> <div>Amount equivalent to <b>25%</b> of such tax evaded or ITC wrongly availed or utilised or refund wrongly taken.</div>
<b>Note:</b> If offence committed by person falls under more than one category specified in Table, then the compounding amount, shall be <b>higher compounding amount</b> .		

Due Date Chart

Sec	Provision	Due Date
52(6)	Omission or incorrect particulars in monthly statement	Earlier of 30th Nov of next FY or Date of furnishing annual return
16(4)	Time limit for availing ITC	
34(2)	Time limit to declare the details of credit note	
37(3)	Time limit for rectification of error in GSTR 1	
39(9)	Time limit for rectification of error in GSTR 3B	

For your self notes:-



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