



SYLLABUS

Class - B.Com. II Year (Tax Procedure)

Subject- Advanced Study of Goods Service Tax

UNIT - I	Review of various provisions regarding Goods and Service Tax (GST). Provisions relating to Tax invoice proforma and Procedure for Preparing it (Practical Problems). Provisions regarding Debit and Credit Notes.
UNIT - II	Accounts and Records in GST. Payment of Tax. Provisions relating to interest and Refund.
UNIT- III	Returns — Furnishing details of outward supplies and Inward supplies. Furnishing of Returns. Types of various returns and relating Forms — Monthly Return, Quarterly Return (Composition), Annual Return.
UNIT- IV	General study of Integrated Goods and Service Tax Act. (IGST) Special provisions relating to Job Work. Process for Reverse charge mechanism.
UNIT - V	Procedure and types of Assessment. GST administration — appointment and powers of officers. Provisions of Inspection, Search, Seizure and arrests. Offences and penalties Appeals and Revision.



UNIT-I

MEANING OF GOODS AND SERVICES TAX (GST)

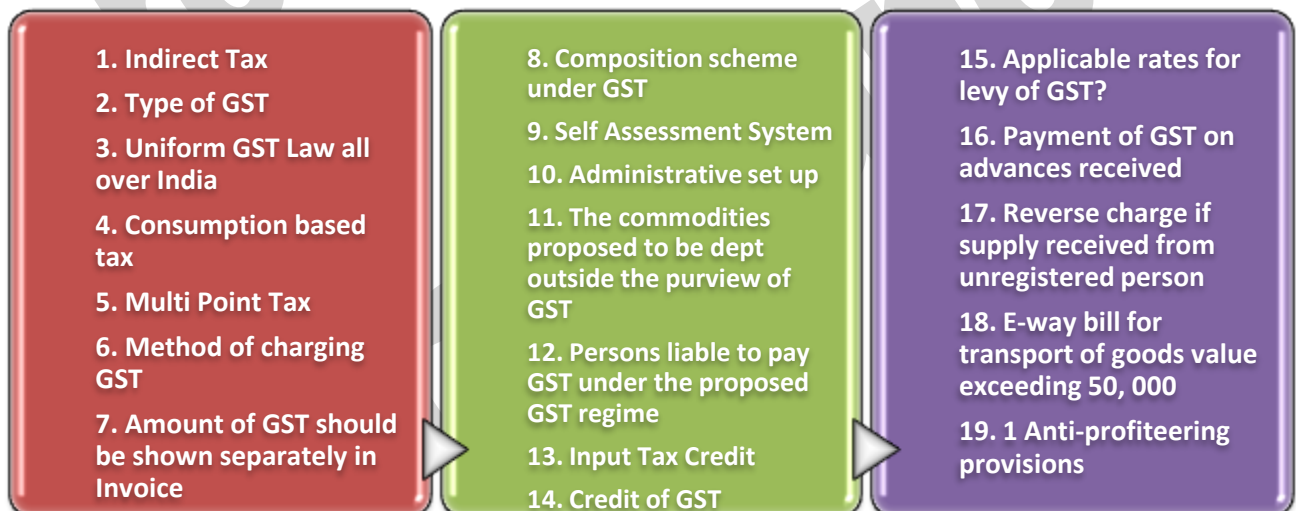
GST is a destination based tax on consumption of goods and services. It is proposed to be levied at all stages right from manufacture up to final consumption with credit of taxes paid at previous stages available as set off. In a nutshell, only value addition will be taxed and burden of tax is to be borne by the final consumer.

The tax would accrue to the taxing authority which has jurisdiction over the place of consumption which is also termed as place of supply.

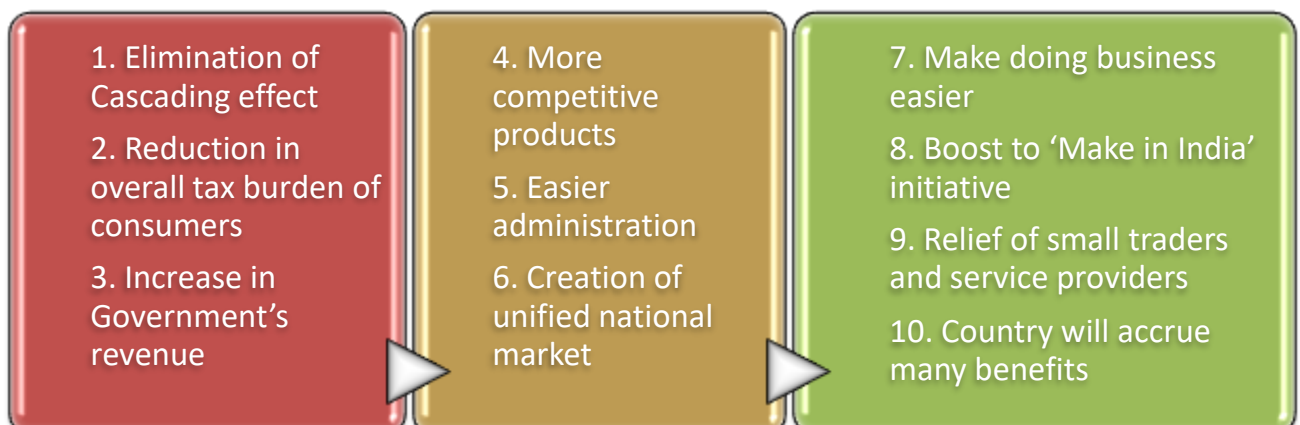
Though GST is multi point tax but it is not levied on total value in every stage. It is levied on only value addition by the supplier. In input credit method the total GST payable on supply Less Input credit shall be net GST payable.

SALIENT FEATURES OF GST SYSTEM

GST is the latest concept in respect of taxation on supply of goods and services in course of business, commerce and services activities and transactions. Most of the countries adopted this system, as well as in India it adopted. The salient features of the system are as under.



BENEFITS OF GST





GST BRINGS BENEFITS FOR ALL SECTIONS

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

Common Man Friendly

1. Huge number of items are either tax exempt or in 5% tax bracket.
2. Maximum benefits to the poor & the common man.
3. Will ensure the poor get their due.
4. Level playing field for small traders in any part of the country.
5. Single tax system for goods and Services both.

1. Reduction in prices of goods and services due to elimination of cascading.
2. Uniform prices throughout the country.
3. Transparency in taxation system.
4. Increase in employment opportunities.

Advantages for Trade & Industry

1. Common procedures for registration, duty payment, return filing and refund of taxes.
2. Seamless flow of tax credit from manufacturer/supplier to user/retailer to eliminate cascading of taxes.
3. More efficient neutralization of taxes to make our exports more competitive internationally.
4. Benefit of exemption/compounding scheme for a large segment of small scale suppliers to make their products cheaper.

5. Reduction in multiplicity of taxes
6. Mitigation of cascading/double taxation
7. More efficient neutralization of taxes especially for exports.
8. Development of common national market
9. Simpler tax regime fewer rates and exemptions.



Benefits to Economy

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| <ol style="list-style-type: none">1. To create a unified common National market.2. To make India a manufacturing hub.3. To boost investments & exports.4. To generate more employment by increased economic activity. | <ol style="list-style-type: none">5. Freedom of movement of goods & services.6. Consumers to benefit by increased competition.7. Level-playing field for producers & consumers across the country.8. Strengthening the sense of nationhood and unity. |
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Central / State Governments

1. A unified common national market to boost Foreign Investment and "Make in India" campaign.
2. Boost to export/manufacturing activity, generation of more employment, leading to reduced poverty and increased GDP growth.
3. Improving the overall investment climate in the country which will benefit the development of states.
4. Uniform SGST and IGST rates to reduce the incentive for tax evasion.
5. Reduction in compliance costs as no requirement of multiple record keeping.

Simplified Tax Structure

1. Reduction in multiplicity of taxes now leviable on goods & services, leading to simplification.
2. Simpler tax regime with some essential exemptions.
3. Harmonization of laws, procedures and rates of tax across the country.
4. Common system of classification of goods & services to ensure certainty in tax administration.

SHORT COMINGS OR LIMITATIONS OF GST

<ol style="list-style-type: none">1. Long term process2. Difficulty in set off3. Problem in refund4. Multiple rates of tax5. Accounting problem6. Conflict between States and Central	<ol style="list-style-type: none">7. Higher prices8. More formalities9. Corruption10. Flip side of GST-No 'ease of doing business' in GST11. Accounting challenger12. System is master-not human being	<ol style="list-style-type: none">13. Conflict of interest between Centre and State14. Post supply discounts and price reductions after supply not eligible for deduction from value15. Artificial disallowances of input tax credit16. Composition Scheme only if all purchases are from registered persons17. Valuation provisions copies from excise and service tax law18. Interest on delayed payment
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IMPORTANT TERMS AND DEFINITIONS - SEC.-2

1. Goods-section 2(52)

“Goods” means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply;

- (1) Goods includes all types of movable property like-cloth, sugar, iron, kirana goods vehicles etc.
- (2) Money and securities are not covered under the definition, so these are not goods.
- (3) Growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply will be treated as goods.
- (4) Actionable claim, other than lottery, betting and gambling will not be treated as supply of goods.
- (5) Intangibles like copyright and carbon credit would continue to be covered under ‘goods’.

2. Services-Section 2(102)

“Services” means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination to another form, currency or denomination for which consideration is charged;

So, In reference of GST “Service” means-

- (1) Any activity carried out by a person for another for consideration
- (2) But shall not include-

(A) (i) A transfer of title in goods or immovable property, by way of sale, gift or in any other manner, or

(ii) Delivery or supply of any goods which is deemed to be a sale.

(iii) A transition in money or actionable claim.

(B) A provision of service by an employee to the employer in the course of or in relation to his employment

(C) Fees taken in any Court or tribunal established under any law for the time being in force. So service meant by an activity which is performed by a person to other person for a value or consideration.

3. Capital goods – Section 2(19)

“Capital Goods” means goods, the value of which is capitalized in the books of account of the person claiming the input tax credit, and which are used or intended to be used in the course or furtherance of business.

Goods will be regarded as capital goods if the following conditions are satisfied:

- (a) The value of such goods is capitalized in the books of account of the person claiming input tax credit;
- (b) Such goods are used or intended to be used in the course or furtherance of business.

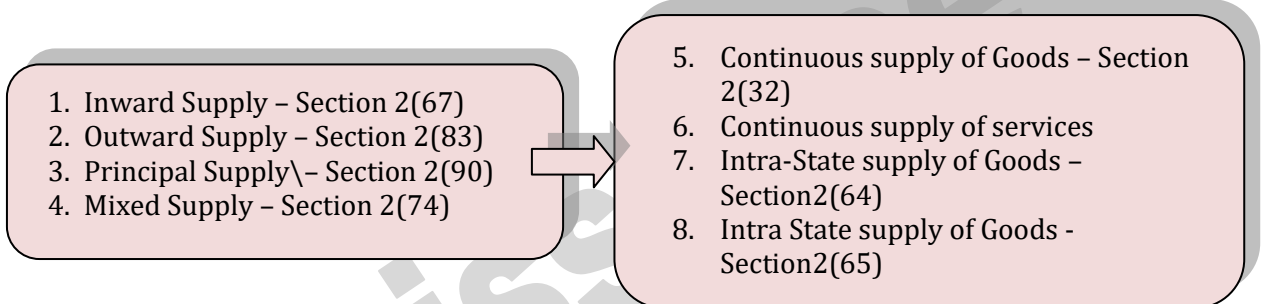
If the value of goods is not capitalized in books of accounts, the person purchasing the capital goods would still be eligible to claim input tax credit or such goods as inputs.



Supply of goods and services or both is basic factor of GST, the word 'Supply' is not clearly defined in the Act, however Sec. 7(1) is concerned in respect of 'Supply'.

TYPES OF SUPPLY

Supply is basic factor of goods services tax. Various types of supplies are defined below –



LAW RELATED TO GST

Dual GST is imposed in India therefore the following Acts and Rules are enforced to implement GST effectively-

1. CGST Act. 2017

Central Goods and Service Tax Act. 2017 is applicable for CGST. It is levied and Collected by Central Govt. - it extends to the whole of India including State of Jammu and Kashmir. All provisions of Act made effective from 1-7-2017

2. SGST Act. 2017

State Goods and service Tax Acts are framed and enforced by various State Government. These Act subject matter and provisions are almost same according the model Act CGST 2017. State Goods and Service Tax - Levied and Collected by State Govt./Union Territory. (with state legislative i.e. Delhi and Pondicherry) SGCT Act. 2017. Provisions made effective by respective State Government. It shall extend to the whole of India.

3. IGST Act. 2017

All provisions of Act. made effective from 1-7-2017, except section 15 which provides for refund of IGST to international tourist leaving India. Integrated Goods and Services Tax (extension to Jammu and Kashmir) Act, 2017 with effect from 8th July 2017.
Integrated Goods and Service Tax shall be levied by Central on all inter-state Supplies.[IGST=CGST+SGST]

4. UTGST Act. 2017

All provisions of Act made effective from 1-7-2017 in Union territories. It extends to the Union territories of the Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, Daman and Diu, Chandigarh and other territory.
Union Territories Goods and Service Tax shall be Levied and Collected Union Territories (Without state legislative on intra-State Supplies).

5. GST (Compensation to State) Act. 2017

Ac Act to provide for compensation to the states for the loss of revenue arising on account of implementation of the goods and service tax in pursuance of the provisions of constitution (101 amendments Act-2016)



6. CGST Rules

CGST Rules, 2017 effective from 1-7-2017, make provisions for various procedures and forms. These rules shall be applicable for CGST and SCGT both.

7. CGST Rules apply to IGST also

CGST Rules shall apply, as far as may be, to IGST

GST COUNCIL

GST Council is the Apex Constitutional Authority to decide policies of GST.

GST Council has been constituted by Notification dated 15-09-2016. Union Finance Minister is Chairman of Council. Following are members of Council – (a) Union Minister of State in-charge of Revenue or Finance and (b) Minister in-charge of Finance or Taxation or any other Minister nominated by each State Government.

The GST Council has started work in right earnest and various meeting of GST Council have already been held. Various issues are being sorted out in the meetings of GST Council.

Members of the GST Council

The GST Council shall consist of the following members, namely:

- (a) The Union Finance Minister Chairperson;
- (b) The Union Minister of State in charge of Revenue of Finance Member;
- (c) The Minister in charge of Finance or Taxation or any other Minister nominated by each State Government.....Members.

Note:- The State Finance Minister's shall choose one amongst themselves as Vice-Chairperson of the Council for such period as they may decide.

Role of GST Council

The GST Council shall make recommendations to the Union and the States on-

- (1) The taxes, cases and surcharges levied by the Union, the States and the local bodies which may be subsumed in the goods and services tax;
- (2) The goods and services that may be subjected to, or exempted from the goods and services tax.
- (3) Model Goods and Services Tax Laws. Principles of levy apportionment of goods and Services Tax levied on supplies in the course of inter-State trade or commerce under Article 269A and the Principles that govern the place of supply;
- (4) The threshold limit of turnover below which goods and services may be exempted from goods and services tax;
- (5) The rates including floor rates with bands of goods and services tax;
- (6) Any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster;
- (7) Special provision with respect to the State of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; And
- (8) Any other matter relating to the goods and services tax, as the Council may decide.

PREPARATION OF TAX INVOICE

Tax invoice is an important document regarding supply of taxable goods or service or both A registered person is required to issue tax invoice regarding supply and tax thereon.



PROVISIONS RELATING TO TAX INVOICE - SEC. 31 TO 34

Provisions relating to tax invoice, Bill of supply Receipt voucher, Refund voucher. Credit note - Debit note Delivery challan are given under Sec. 31 to 34 in GST Act, Besides Rule 46 to 55 are also should be kept in view in this respect.

Detailed discussion regarding above documents are given below accordingly relevant Provisions and Rules —

TAX INVOICE - SEC. 31

Invoice or Tax invoice means the tax invoice which is issued by the supplier on supply of goods or services or both. Taxable Value of supply and tax charged are shown in the tax invoice.

Supplier may be classified in to categories (a) Supplier of Goods (b) Supplier of services. Provisions relating to issue invoice in case of goods and in case of services are as under —

TAX INVOICE IN RESPECT OF GOODS

The provisions relating to tax invoice are as under —

1. Supplier of goods to issue a tax invoice - Section 31(1) A registered person supplying taxable goods shall issue a tax invoice showing —
 - (i) the description,
 - (ii) quantity and value of goods,
 - (iii) the tax charged thereon, and
 - (iv) such other particulars as may be prescribed.
2. Time limit for issuance of invoice in case of supplier of goods-Section 31(1) : A registered person supplying taxable goods shall issue 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.
- (3) Issuance of invoice in case of continuous supply of goods -Section 31(4) : 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.
- (4) Goods sent on approval Section 31(7) : Where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued —
 - (a) Before or at the time of supply, or
 - (b) 6 months from the date of removal, whichever is earlier?

TAX INVOICE IN RESPECT OF SERVICES

The provisions relating to tax invoice in respect of supplier of services are as under -

1. **Supplier of taxable services to issue tax invoice within prescribed time - Section 31(2) :**
 - (i) A registered person supplying taxable services shall, before, or
 - (ii) After the provision of service but within a prescribed period, issue a tax invoice, showing



2. **Time limit for issuing tax invoice [Rule 47]:**



Taxable supply of services — Time limit - 30 days from the date of supply of service :

The invoice in the case of the taxable supply of services, shall be issued within a period of 30 days from the date of the supply of service.

Where the supplier of services is an insurer or a banking company or a financial institution, including a non-banking financial company, the period within which the invoice or any document in lieu thereof is to be issued shall be 45 days from the date of the supply of service.

3. Issuance of invoice in case of continuous supply of services -Section 31(5)

In case of continuous supply of services —

- (a) where the due date of payment is ascertainable from the contract the invoice shall be issued on or before the due date of payment.
- (b) where the due date of payment is not ascertainable from the contract the invoice shall be issued before or at the time when the supplier or service receives the payment.
- (C) Where the payment is linked to the completion of an event the invoice shall be issued on or before the date of completion of that event.

REVISED TAX INVOICE AND CREDIT OR DEBIT NOTES: SEC. 34

The relevant provision regarding credit and debit note are discussed as under-

CREDIT NOTE:

-Provisions regarding credit note are follows -

Issuance of Credit Note - Section 34(1)

Where a tax invoice has been issued for supply of any goods or services-or both and the (a) taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or (b) where the goods supplied are returned by the recipient, or (c) where goods or services or both supplied are found to be deficient.

The registered- person, who has supplied such goods or services or both, may issue to the recipient a credit note containing such particulars as may be prescribed.

(2) Details of credit note to be given in return

Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note —

- (a) in the return for the month during which such credit note has been issued but not later than September following the end of the financial year in which such supply was made, or
- (b) the date of furnishing of the relevant annual return,

Whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed.

(3) Output tax liability of the supplier not to be reduced - if tax incidence passed on:

No reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.

(4) Particulars in revised tax invoice, credit notes and debit notes:

A revised tax invoice and credit or debit notes shall contain the following particulars, namely:

- (a) The word "Revised Invoice", wherever applicable, indicated prominently;
- (b) Name, address and GSTIN of the supplier;
- (c) Nature of the document;
- (d) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters hyphen or dash and slash symbolized as and "/" respectively, and any combination thereof, unique for a financial year;



- (e) Date of issue of the document;
- (f) Name, address and GSTIN or UIN, if registered, of the recipient;
- (g) Name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is unregistered;
- (h) Serial number and date of the corresponding tax invoice or, as the case may be, bill of supply;
- (i) value of taxable supply of goods or services, rate of tax and the amount of the tax credited or, as the case may be, debited to the recipient; and
- (j) Signature or digital signature of the supplier or his authorized representative.

DEBIT NOTE:

(1) Issuance of Debit note [Section 34(3)]

Where a tax invoice has been issued for supply of any goods or services or both and

- (a) 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,
- (b) The registered person, who has supplied such goods or services or both,
- (c) Shall issue to the recipient a debit note containing such particulars as may be prescribed.

(2) Details of debit note to be given in return

Any registered person who issues a debit note in relation to a supply of goods or services or both shall declare the details of such debit note in the return for the month during which such debit note has been issued and the tax liability shall be adjusted in such manner as may be prescribed.

ELECTRONIC WAY BILL

Inspection of goods in movement [Section 68]: The relevant provisions are discussed as under —

(1) Carrying of e-way bill [Section 68(1)]

The Government may require the person in charge of a conveyance carrying any consignment of goods of value exceeding such amount as may be specified to carry with him such documents and such devices as may be prescribed.

(2) Validation of e-way bill [Section 68(2)]

The details of documents required to be carried under section 68(1) shall be validated in such manner as may be prescribed.

(3) Transit check of e-way bill [Section 68(3)]

Where any conveyance referred to in Section 68(1) is intercepted by the proper officer at any place, he may require the person in charge of the said conveyance to produce the documents prescribed under the said sub-section and devices for verification, and the said person shall be liable to produce the documents and devices and also allow the inspection of goods.

Till such time as an E-way bill system is developed and approved by the Council, the Government may, by notification, specify the documents that the person in charge of a conveyance carrying any consignment of goods shall carry while the goods are in movement or in transit storage.



UNIT-II

Transaction Value

The value of taxable supply of goods and services shall ordinarily be 'the transaction value' which is the price paid or payable, when the parties are not related and price is the sole consideration.

According to Sec. 15 – The value of supply of goods or services or both shall be the transaction value, that is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.

Thus, following are main requirements or transaction value'.

- (1) Price actually paid or payable.
- (2) Price is for the goods
- (3) It includes, in addition to the price charged, any amount the buyer is liable to pay to assesses in respect of the supply
- (4) It includes packing charges weighment, loading freight, insurance, incidental expenses Supplies incurred before supply or any other amount payable by buyer to the manufacture.
- (5) It does not include GST but includes other taxes.
- (6) The transaction value will not be applicable for the purpose of payment of duty if the recipient and supplier are related.
- (7) If the goods are supplier to related person or valuation will be done on the basis of rules as may be prescribed.

Example of Transaction Value — Suppose a T.V. manufacturing company supply a specific model of T.V.. to dealers at the invoice price Rs. 8,000. –Apart from this the manufacturer also charged Rs. 400 for packing' and Rs. 600 for after sales service of the product. In this case the transaction value shall be Rs. 8,000 + 400 + 600 = 9,000 for determination of Taxable Value.

INCLUSIONS OF TRANSACTION VALUE

The following items will be included in transaction value for finding out taxable value, if the items are not included in transaction value or invoice price separately charged.

(1) Packing charges

Cost of normal packing will be covered, as in most cases; it is in connection with or in respect of supply. Packing supplied by recipient should be included, just like cost of any other material supplied.

Sometimes goods are packed in durable and returnable containers e.g. cooking gas packed in cylinders, cold drinks packed in bottles etc. As we know the gas cylinder or bottle of cold drink is returned to the manufacturer for refilling 'Returnable' means it should be normally returnable as per agreement or understanding between buyer and seller. Mere physical capability of returning is not enough. Manufacturer often takes security deposit from buyer to ensure return of the container. However, these are not sold to the buyer. deposit is forfeited if the container is not returned.

Cost of such durable and returnable packing will not be included. Supply of such container may be in 'relation' to supply. However, the relation is only Remote and indirect. There is no supply of container. It is transaction of bailment.' There is no direct 'connection' between supply of durable and returnable containers and the sale. So, in some cases, goods are packed in returnable packing, like gas cylinder, drums etc. In such case, tax is payable only on consideration received for the supply.

Thus, it is not required to add amortised cost of durable and returnable packing.

(2) Taxes Other than GST

Any taxes duties, fees and charges levied under any statute other than the GST Act.



Act. are includible in value, if charged separately.
but CGST, SGST, IGST and UTGST are not included.
Thus, SCS and CGST will be payable on net value only.

'Value' for GST will not include ISGT, CGST, SGST and GST Compensation Cess. However, other taxes (like entertainment tax or some other cess) will be includable if charged separately in invoice.

(3) Amount paid by recipient on behalf of supplier

Any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both is included in value.

(4) Incidental expenses

Incidental expenses, such as commission and packing, charged by the supplier to the recipient of a supply, including any amount charged for anything done by the supplier in respect of the supply of goods and/or services at the time of or before delivery of the goods or as the case may be supply of services.

Expenses like weighing, loading in factory, inspection, testing before supply will be includible in 'value'. Design charges incurred before supply will also

(5) Interest, late fee or penalty for delayed payment.

Interest or late fee or penalty for delayed payment of any consideration for any supply is includible in value.

(6) Outward freight, packing and other charges in tax invoice

In case of FOB basis contracts, the supplier arranges transport. In that case, he pays GST under reverse charge on outward freight. He then charges outward freight in the tax invoice. In such case, the outward freight charged is part of value of goods and GST is payable on value including outward freight. Similarly, packing charge, weighing charges and other charges are includible in value for levy GST. The GST rate is same as applicable to goods, as this is a composite supply.

(7) Subsidies directly linked in supply

Subsidies directly linked to the price excluding subsidies provided by the Central and State Governments are includible in 'Value' for charge of GST. Explanation. The amount of subsidy shall be included in the value of supply of the supplier who receives subsidy.

(8) Installation charges

If supplier takes responsibility for installation erection of machinery or plant/at site of recipient and charged for it, such amount shall be part of value if such installation fees charged separately it will be added to transaction value.

(9) Design and Engineering charges

Design and Engineering Charges are essential for purpose of manufacture and hence have to be included in value.

(10) Compulsory after Sales Service/service in warranty period is included

The heads 'servicing' and 'warranty' have been specifically included in definition of payments included in 'transaction value'

Manufacturers often give free after sale service during warranty period. Though these are called 'free services', cost of such services is already included in the price of product, promise for provision of after sale service certainly increases its marketability, it is in connection with sale and its cost is included.



Exclusion from Transaction Value

The following items shall be excluded from transaction value while find out taxable value of supply –

(1) Discount or incentive given after supply

The value of the supply shall not include any discount that is given:

(a) Before or at the time of the supply provided such discount has been duly recorded in the invoice issued in respect of such supply; and

(b) After the supply has been effected, provided that (i) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and (ii) input tax credit as is attributable to the discount has been reversed by the recipient of the supply.

Thus, discount after supply is permissible as deduction only if it was known before or at the time of supply

(2) When value is inclusive of GST

Legally, GST is to be indicated separately in tax invoice. However, provision has been made for situations where GST is not shown separately in tax invoice.

If value of supply is inclusive IGST, CGST SGST or UTGST, the tax payable will be calculated by back calculations as follows –

$$\text{Tax amount} = [\text{Value inclusive of tax} + \text{Tax rate in \%}] / 100 + \text{sum of applicable tax rates in \%}$$

Note that the provision applies only the value of supply included GST. The rule does not say that the value is deemed to be inclusive of GST.

For example, when GST is payable under reverse charge, the amount charged by supplier goods or services cannot be taken as inclusive of GST.

**Computation of Taxable Value of Supply
by Manufacturer : Chart**

Transaction value or invoice price of Goods		
Add: Following items if these are not included in transaction Value		
(1) Taxes other than GST Except GST any tax duty cess, charge which are paid by recipient to supplier are incurred on behalf of supplier		
(2) Packing Charge Any type of packing e.g. primary packing. Secondary packing, transport packing. Returnable packing shall not be included.		
(3) Other cost and expenses related to supply Design and Engineering Charges, Consultancy fees, Testing fees, Inspection fees etc.		
(4) Loading Wieghment charges etc. Loading charges, weighment charges, handling charges etc.		
(5) Freight and transit insurance Outward freight and insurance		
(6) After sales service Value of free after sales service in warranty period		
(7) Installation charges Machine plant or any structure installation charges at the site of recipient		



(8) Expenses by recipient on behalf of supplier Expenditure by recipient on behalf of supplier (9) Interest, penalty for delayed payment Interest, late fees or penalty for delayed payment (10) Subsidy or incentive Subsidy directly linked to supply other than Government subsidy Less : : The following Discount before or at the time or after supply shown in invoice (Trade Discount, Cash Discount or Quantity Discount) Taxable value of supply		
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Calculation of GST Payable on Taxable Supply

	Value of Taxable		
	(as per calculation)		
	(GST Payable) effective rate 5%, 12%, 18% or 28%		
a)	In case of Intra-State Supply		
(i)	CGST 50% of rate applicable i.e. In case of 5%		
	(2.5%). 12% (6%), 18% (9%), 28% (14%)		
(ii)	SCST 50% of rate applicable		
	i.e. 2.5%. 6%, 9%, 14%.		
	Or		
b)	Inter State supply		
	Full rate 5%. 12%, 18%. 28%		
	Total GST Payable		
Less	: Input Tax Credit		
	on Inward Supply		
	Tax paid on purchase i.e.		
	Total GST Payable		

Note : If transaction value included GST then the following formula shall be applied

$$\frac{\text{Taxable value} * \text{Rate of GST}}{\text{Rate of GST} + 100}$$

PROVISIONS REGARDING VALUATION OF TAXABLE SERVICES - SECTION 15



For the purposes of levy of GST on supply of any taxable service is considered at the gross amount charged by the service provider.

The value of any taxable service shall be the gross amount charged by the service provider for such services rendered by him". In other words, 'gross amount' here indicate that no deduction shall be allowed in respect of any expenditure incurred by the service provider which has proximate connection in rendering the services by him.

In almost all cases of taxable services, GST is payable on 'gross amount of value of service' and there is no abatement i.e., reduction for any expenses of the service provider.

However under GST if the value of taxable services is not exceeding 20 Lakh, the GST liability will not be arise in the year 2019-20. Apart from this if service is provided free of cost, GST is not payable.

Items included in Value of Taxable Services

The following items are included in the value of taxable services–

- (1) The aggregate of commission or brokerage charged by a broker on the sale or purchase of security securities, including the commission or brokerage paid b the stock broker to any sub-broker;
- (2) The adjustments made by the telegraph authority, from any deposits made by the subscriber at the time of application for telephone connection or mobile or fascimile or telegraph or telex or for leased circuit,
- (3) The amount of premium charged by insurer from the policy holder,
- (4) The commission received by the air travel agent from the air line,
- (5) The commission, fee or any other sum received by an actuary or intermediary or insurance intermediary or insurance agent from the insurer,
- (6) The reimbursement received b the authorised service station from the insurer, manufacturer for carrying out t. .-iy service of 'any motorcar, or two wheeled motor vehicle manufactured by such manufacturer,
- (7) The commission or any amount received by the rail travel agent from the Railways or the customer
- (8) The service tax is to be paid on the value of taxable services, which is charged by an assessee. Any income tax deducted at source is included in the charged amount. Therefore, the service tax ls to be paid on the amount of income tax deducte time also.

PROCEDURE TO SOLVING PRACTICAL PROBLEMS

- (1) Firstly prepare a statement of various services provided by the assessee.
- (2) If service is taxable then value charged for service put in the amount column.
- (3) If service is not taxable then write Nil in the amount column.



(4) If the service provider supplies any goods to its client, it is not treated as it is supply of goods. Under GST Goods and Services both are taxable. Therefore GST tax calculated on both on prescribed rates.

(5) There is no rebate for expenses incurred or material consumed for service providing. If in the them. problem such items are given, avoid them.

Valuation Rules:

The value of the supply of goods or services or both which cannot be valued on the basis of Invoice price or Transaction value of CGST and SGST Act, shall be determined as per rules 27 to 31

Such valuation may be required in following situations-

- (i) The consideration, whether paid or payable, is not money, wholly or partly.
- (ii) The supplier and the recipient of the supply are related
- (iii) Transaction value declared is not reliable.

DETERMINATION OF VALUE WHEN VALUE NOT ASCERTAINABLE

1. Value of supply of goods or services where the consideration is not wholly is money : Rule- 27
2. Value of supply of goods between distinct or related persons: Rule-28
3. Value of supply of goods made or received through an agent: Rule- 29
4. Value of supply based on cost: Rule 30
5. Residual method for determination of value of supply:Rule 31
6. Value of supply of services in relation to, purchase or sale of foreign currency, including money changing: Rule 32 (2) (a)
7. Value of supply of services in relation to booking of tickets for travel by air provided by an air travel agent: Rule 32 (3)
8. Value of supply of services in relation to life insurance business: Rule 32 (4)
9. Value of supply of second hand goods- Rule 32 (5)
10. Value of a token, or a voucher, or a coupon, or a stamp (other than postage stamp) Rule 32
11. Value of supply of services between distinct persons – Rule 32 (7)
12. Value of supply of services in case of pure agent- Rule 33
13. Rate of exchange of currency, other than Indian rupees, for determination of value- Rule 34
14. Value of supply inclusive of integrated tax, central tax, state tax Union te



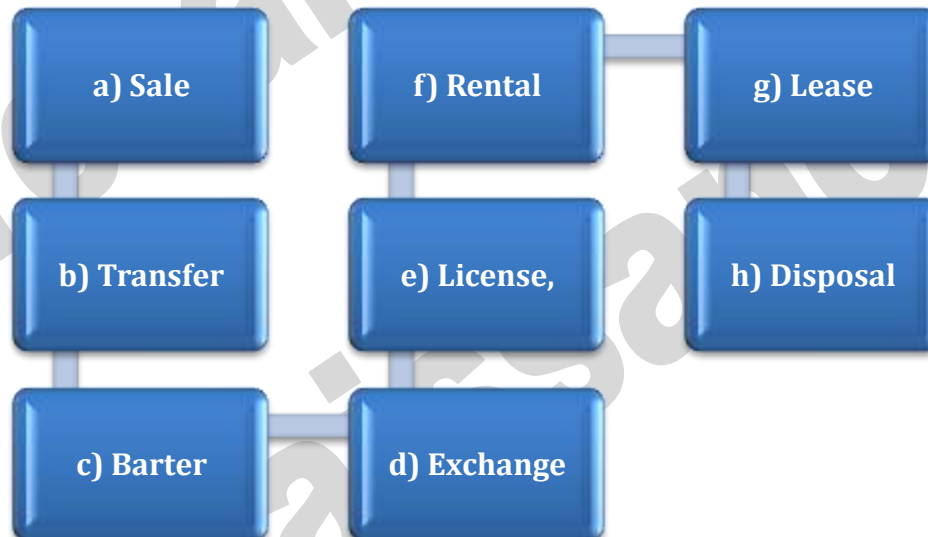
UNIT- III

SUPPLY : MEANING, LEVY AND COLLECTION OF TAX

Supply of goods and services or both is basic factor of GST, the word 'Supply' is not clearly defined in the Act, however se. 7(1) is concerned irrespective of 'Supply'.

Meaning of Supply

Supply includes all forms of supply of goods or services or both and includes agreeing to supply when they are for a consideration and in the course or furtherance of business. It specifically includes the following activities –

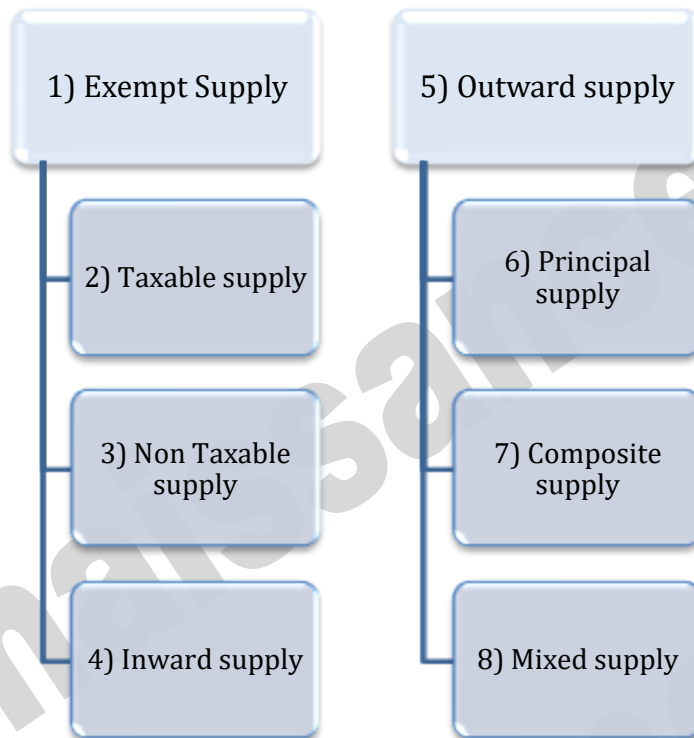


The definition of 'Supply' in section 7(1) of CGST Act is 'inclusive' definition. Section 7(1) of CGST Act, states that for the purpose of CGST Act, the expression 'supply' includes –

- All forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business.
- Importation of services, for a consideration whether or not in the course or furtherance of business.
- The activities specified in Schedule I, made or agreed to be made without a consideration and
- The activities to be treated as supply of goods or supply of services as referred to in Schedule II.

Different types of Supply

The different types of supplies under GST law is discussed as under –



COMPOSITE SUPPLY AND MIXED SUPPLY

For taxability point of view it is necessary to decide whether it is composite supply or mixed supply-

- I. **Composite supply** is a supply consisting of two or more taxable supplies of goods or service or both or any combination thereof, which are bundle in natural course and are supplied in conjunction with each other in the ordinary course of business and where one of which is principal supply. For example, when a consumer buys a television set and he also gets warranty and a maintenance contract with the TV, this supply is a composite supply. In this example, supply of TV is the principal, supply, warranty and maintenance service are ancillary.
- II. **Mixed supply** is combination of more than one individual supplies of goods or service or any combination thereof made in conjunction with each other for a single price, which can ordinarily be supplied separately. For example, a shopkeeper selling storage water bottles along with refrigerator. Bottles and the refrigerator can easily be priced and sold separately.

Distinction between 'composite supply' and 'mixed supply'

A composite supply is 'naturally bundled' while 'mixed supply' is not naturally bundle in ordinary course of business.

A supply can be 'mixed supply' only if it is for a single price, while a supply can be 'composite supply' even if separate prices are charged.

Trade practice is also relevant. A vehicle repair shop also supplies spare parts. However, the long trade practice is to treat these two supplies separately. Hence, such activity is not 'composite supply'. It is also not 'mixed supply' as single price is not charged.

Tax liability in case of composite and mixed supply [Section 8]

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

- (a) 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



(b) 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

REGISTRATION UNDER GST: AT A GLANCE

Provisions, Roles, Procedure and Forms

No.	Subject	Particulars	Form Number	Time limit
1.	Threshold limit for registration Sec. 22 & 24	(a) Normal category states if aggregate turnover exceeding Rs. 20 lakh (b) Special category states if aggregate turnover exceeding Rs. 10 lakh. (c) no threshold limit for (i) interstate supplies. (ii) Casual taxable persons, (iii) Input service distributors (iv) E-commerce operator (v) Persons liable for TDS/TCS (vi) Persons liable for reverse charge.		
2.	Persons not liable to be registered Sec. 23	(i) Exclusively supplier of extended goods or services. (ii) Agriculturist (iii) Notified persons.		
3.	Meaning of Aggregate turnover	Total supply of- (i) Taxable goods and services. (ii) Exempted goods and services. (iii) Interstate supply (iv) Exports		
4.	Place of Registration	(i) State of Main place of business (ii) Each state if business places are situated in different states.		
5.	Application for registration in normal category Sec. 25	Information- (i) Permanent Account Number (PAN) (ii) Mobile Number (iii) E-mail address.	GST REG-01 Part-A	Within 30 days when the person becomes liable for registration.
6.	Verification of information	Allotment of temporary reference number.	E-mail by department	
7.	Submission of documents		GST-REG-02 Part-B	
8.	Acknowledgement	E-acknowledgement for registration application.	GST REG-02	Within 3 working days from the date of submission of application.
9.	E-Notice for clarification	E-notice for Seeking Additional Information/	GST REG-03	



No.	Subject	Particulars	Form Number	Time limit
		Clarification/Documents relating to Application for Registration i Amendment / Cancellation.		
10.	Clarification by applicant.	E-clarification/additional information/document for Registration/ Amendment/ Cancellation	GST REG-04	Within 7 working days from the date of receipt of notice.
11	Order	Order of Rejection of Application for Registration/Amendment/ Revocation of Cancellation.	GST REG-05	Within 7 working days from the date of clarification.
12.	Registration Certificate GSTIN	Issue of Registration Certificate. Issue of permanent Registration certificate. GSTIN-consists Two character for the state code Tin for PAN Two for entity code one checsum characters.	GST REG-25 provisional certificate in Form GST REG-25 permanent certificate GST - REG-06	Within 3 working days.
13.	Registration procedure in special cases Sec. 27	Application for Registration as tax deductor at source or tax collector at source.	GST REG-07	Within 30 days when the person becomes liable for registration
		Order of Cancellation of Application for Registration as TDS/TCS	GST REG-08	Within 30 days from date of application.
		Application for Regis- Nation for Non-Resident Taxable Person.	GST REG-09	At least 5 days prior to the commencement of business.
		Application by supplier of OIDAR services.	GST REG-10	Within 30 days when the person becomes liable for registration.
		6Application by NR / Casual taxable person seeking extension in period of operation.	GST REG-11	Before the end of the validity of registration.
		Order of Allotment of Temporary Registration/ Suo Moto Registration.	GST REG-12	N.A.
		Application Form for grant of Unique Identity Number (DIN) to UN Bodies/ Embassies/others.	GST REG-13	N.A.
14.	Amendment procedure Sec. 28	Application for Amendment in Registration Particulars (For all types of registered persons)	GST REG-14	Within 15 days of such amendment.



No.	Subject	Particulars	Form Number	Time limit
		Order of amendment	GST REG-15	Within 15 working days from the date of receipt of application of amendment.
15.	Cancellation procedure Sec. 29	Application for cancellation of registration.	GST REG-16	Within 30 days of occurrence of the event warranting cancellation
		Show Cause Notice for Cancellation of Registration.	GST REG-17	N.A.
		Reply to the Show Cause Notice issued for Cancellation.	GST REG-18	Within 7 working days from the date of service of such notice.
		Order for Cancellation of Registration.	GST REG-19	Within 30 days from the date of application/ receipt of reply of SCN.
		Order for dropping the proceedings for cancellation of registration.	GST REG-20	N.A.
16.	Revocation procedure Sec. 30	Application for Revocation of Cancelled Registration	GST REG-21	Within 30 days from the date of service of the order of cancellation of registration.
		Order, for revocation of cancellation of registration,	GST-REG-22	Within 30 days from the date of receipt of the application.
		Show Cause Notice for rejection of application for revocation of cancellation of registration.	GST REG-23	-
		Reply to the notice for rejection of application for revocation of cancellation of registration.	GST REG-24	Within 7 working days from the date of the service of notice.



PLACE AND TIME OF SUPPLY

Dual GST system is adopted in India. Which type of GST shall be applicable on supply, depends on place of supply. It is necessary to determine Central GST + State GST or integrated GST shall be payable, the place of supply is an important factor. In case of Intra-State supply CGST+SGST shall be payable while in case of Inter-State supply IGST shall be payable. GST is a destination based tax, therefore place of supply should be determined.

The basic principle behind provisions relating to place of supply is that GST is destination based tax. Thus, tax is finally payable where goods and services are consumed. This issue is relatively easy in case of goods, but not so easy in case of services. Hence, in many cases, location of person receiving the service is relevant.

Provision to determine whether the transaction is intra-State or inter-State are contained in IGST Act. Export and import of goods and service are also covered under IGST provisions.

Supplies are categorized in the following two divisions from place of supply point of view

Inter-State supply of goods :

Where the location of the supplier and the place of supply are in the same State or Union territory shall be Intra-State Supply. So supply of goods where-

- (i) The location of the supplier, and
(ii) The place of supply of goods are in the same State or same Union territory shall be treated as intra-State supply

Intra-State supply of services

Where location of the supplier and place of supply are in same State Union territory shall be Intra-State supply.

So, supply of services where-

- (i) The location of the supplier and
(ii) The place of supply of services

Are in the same State or same Union territory shall be treated as intra-State supply i.e. supply within state.

Determination of place of supply of Goods - Sec. 10

The place of supply of goods. Other than supply of goods imported into or exported from India, shall be as under :

Table with 4 columns: S. No., Nature of Transaction, Particulars, Place of Supply. It details rules for 'Movement of goods' and 'Delivery of goods'.



S. No.	Nature of Transaction	Particulars	Place of Supply
		goods or otherwise, it shall be deemed that the said third person has received the goods.	
3	No movement of goods	Where the supply does not involve movement of goods, whether by the supplier or the recipient.	The location goods the time of the delivery to the recipient:
4	Assembling or Installation of goods.	Where the goods are assembled or installed at site.	Place Of such installation or assembly.
5	Supply on board	Where the goods are supplied on board a conveyance including a vessel,	Location at which such goods are taken on board motor vehicle.
6	Place of supply cannot be determined	Where the place of supply of goods cannot be determined.	Place of supply shall be determined in goods imported into or exported from India
7	Goods imported or exported	(a) imported into India (b) exported from India	Location of the importer. Location outside India.

PLACE OF SUPPLY OF SERVICES- SEC. 12 OF IGST

Provisions relating to determination of Supply of Service when location of supplier and recipient is in India.

I. Place of supply of services where location of supplier and recipient is in India (Sec. 12 of GST) shall be determined as under-

No.	Services	Nature of transaction	Place of Supply
1	General provision	Supply of services : (a) Made to a registered person (b) Made to any person other than a registered person.	Location of such person (i) The location of the recipient when address on record exists: and (ii) The location or supplier of services in other cases.
2	Services provided in relation to immovable property	Directly in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work.	Location at which immovable property is located.
3	Lodging accommodation	By way of lodging accommodation by a hotel, inn, guest house, home stay, club or campsite, including a house boat or any other vessel:	Location at which such hotel, lodgem. boat or vessel is located
4	Marriage hall etc.	Services by way of accommodation in any immovable property for	Location at which the immovable property is



No.	Services	Nature of transaction	Place of Supply
		organising any maniage or reception or matters related thereto, official, social, cultural, religious or business function including services provided in relation to such function at such Property.	located.
5	Ancillary services	Any services ancillary to the services referred to in clauses above (2), (3) and (4).	Location at which the immovable property or boat or vessel, is located or intended to be located.
6	Location of the immovable property outside India	If the location of the immovable property or boat or vessel is located or intended to be located outside India. Explanation- Where the immovable property or boat or vessel is located in more than one state or union territory the supply of services shall be treated as made in eac ¹ / ₄ . of the respective States or Union territories. in proportion to the value for services separately collected or determined in terms of the contract or agreement into in this regard or, in the absence of such contract or agreement on such other basis as may be prescribed.	Location of the recipient
7	Restaurant and catering services	Restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery.	Location where the services are actually performed.
8	Training and performance services.	Services in relation to training and performance appraisal to- (a) A registered person (b) A person other than a registered person	Location of such person. Location where the services ere actually performed.
9	Services related to entry for event or function.	Services provided by way of admission to a cultural artistic. sporting. scientific, educational, entertainment event or amusement park or any other place and services ancillary thereto.	Where the event is actually held or where the park or such other place is located.
10	Organisation of cultural, sporting, fair, exhibition services.	Services provided by way of. Organisation of a cultural, artistic. sporting. scientific, educational or entertainment event including	(i) To a registered person. shall be the location of such person:



No.	Services	Nature of transaction	Place of Supply
		supply of services in relation to a conference, fair, exhibition, celebration or similar events; or services ancillary to organisation of any of the events. Explanation : Where the event is held in more than one State or Union territory and a consolidated amount is charged for supply of services relating to such event, the place of supply of such services shall be taken as being in each of the respective States or Union territories in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.	(ii) To a person other than a registered person, shall be the place where the event is actually held and if the event is held outside India, the place of supply shall be the location of the recipient.
11	Transportation of Goods.	Services by way of transportation of goods including by mail or courier to recipient.	(a) A registered person . location of such person: (b) A person other than a registered person location at which such goods are handed over for their transportation.
12	Passenger Transportation.	Passenger transportation service to-Where the right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage. Explanation: the return journey shall be treated as a separate journey, even if the right to passage for onward and return journey is issued at the same time.	A registered person, shall be the location of such person. A person other than a registered person, shall be the place where the passenger embarks on the conveyance for a continuous journey. Determined in accordance with the provisions of sub-section (2).
13	Services on board a conveyance.	Services on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle	Location of the first scheduled point of departure of that conveyance for the journey.
14	Telecommunication	Tele-communicationservices including data transfer, broadcasting, cable and direct to home television services to any person- (a) In case of services by way of fixed telecommunication line, leased circuits internet leased circuit cable or dish antenna, be	The address of the recipient as per the records of the supplier of services and where such address is not available, the place of supply shall be location of the supplier of services.



No.	Services	Nature of transaction	Place of Supply
		<p>the location where the tele-communication line, leased circuit or cable connection or dish antenna is installed for receipt of services;</p> <p>(b) In case of mobile connection for tele-communication and Internet services provided on post-paid basis. be the location of billing address of the recipient of services on the record of the supplier of services'</p> <p>(c) In cases where mobile connection for telecommunication. internet service and direct to home television services am provided on pre-payment basis through a voucher or any other means-</p> <p>(i) Through a selling agent or a re-seller or a distributor of subscriber identity module card or re-charge voucher, be the address of the selling agent or re-seller or distributor as per the record of the supplier at the time of supply; or</p> <p>(ii) By any person to the final subscriber. be the location where such prepayment is received or such vouchers are sold;</p> <p>Note: (1) Where the address of the recipient as per the records of the supplier of services is not available, the place of supply shall be location of the supplier of services:</p> <p>(2) If such pre-paid service is availed or the recharge is made through Internet banking or other electronic mode of payment, the location of the recipient of services on the record of the supplier of services shall be the place of supply of such services.</p> <p>Explanation : Where the leased circuit is installed in more than one State or Union territory and a consolidated amount is charged for supply of services relating to such circuit, the place of supply of</p>	



No.	Services	Nature of transaction	Place of Supply
		such services shall be taken as being in each of the respective States or Union territories in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or in the absence of such contract or agreement, on such other basis as may be prescribed.	
15	Banking and other financial services.	Supply of Banking and other financial services. Including stock broking services to any person. Note: If the location of recipient of services is not on the records of the supplier.	Location of the recipient of services on the records of the supplier of services location of the supplier of services.
16	Insurance services	Supply of insurance services	(a) To a registered person, be the location of such person; (b) To a person other than a registered person. be the location of the recipient of services on the records of the supplier of services.
17	Advertisement services	Supply of advertisement services to the Central Government, a State Govt. a statutory body or a local authority meant for the States or Union territories identified in the contract or agreement shall be taken as being in each of such States or Union territories and the value of such supplies specific to each State or union territory in the absence of such contract or agreement, on such other basis as may be prescribed.	In proportion to the amount attributable to services provided by way of dissemination in the respective States or Union territories as may be determined in terms of the contract or agreement entered into in this regard.

PLACE OF SUPPLY OF SERVICES WHERE LOCATION OF SUPPLIER OR LOCATION OF RECIPIENT IS OUTSIDE INDIA SEC.13

The provisions of this section shall apply to determine the place of supply of services where the location of the supplier of services or the location of the recipient of service is outside India.

No.	Services	Nature of Services	Place of Services
1	General provision	The place of supply of service except the services specified in sub The place of supply of services heading (2) to 13 Note : Where the location of the	Location of the recipient of services.



No.	Services	Nature of Services	Place of Services
		recipient of services is not available in the ordinary course of business	Location of the supplier of services.
2	Performance based service.	(a) Services supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services, or to a person acting on behalf of the supplier of services in order to provide the services. (b) When such services are provided from a remote location by way of electronic means. (c) Services supplied in respect of goods which are temporarily imported into India for repairs and are exported after repairs without being put to any other use in India than that which is required for such repairs. (d) Services supplied to an individual represented either as the recipient of services or a person acting on behalf of the recipient which require the physical presence of the recipient or the person acting on his behalf, with the supplies for the supply of services.	Location where the services are actually performed. Location where goods are situated at the time of supply of services. Location of the recipient supplier. Location where the services actually performed.
3	Services relating to immovable property	Supply of services supplied directly in relation to an immovable property, including services supplied in this regard by experts and estate agents, supply of accommodation by a hotel, inn, guest house, club or campsite, by whatever name called, grant of rights to use immovable property, services for carrying out or co-ordination of construction work, including that of architects or interior decorators.	Where the immovable property is located or intended to be located.
4	Service relating to Events.	Services supplied by way of admission to. or organization of a cultural, artistic, sporting,	Where the event is actually held.



No.	Services	Nature of Services	Place of Services
		scientific, educational or entertainment event, or a celebration, conference, fair, exhibition or similar events and of service ancillary to such admission or organization.	
5	Services provided at more than one location	Where any services referred to in sub-section (3) or sub-section (4) or sub-section (5) is supplied at more than one location, including a location in the taxable territory, its place of supply	Location in the taxable territory.
6	Services provided in more than one state or Union Territory	Where the services referred to in sub section (3) or sub-section (4) or sub-section (5) are supplied in more than one State or Union Territory.	Place of supply of such services shall be taken as being in each of the respective States or Union territories and the value of such supplies specific to each State or Union territory shall be in proportion to the value for services separately collected or determined in tens of the contract or agreement entered into in this regard or, in the absence of such contract or agreement on such other basis as may be prescribed.
7	Services by Banking company.	(a) Services supplied by a banking company or a financial institution, or a non-banking financial company, to account holders. (b) Intermediary services (c) Services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels. up to a period of one month.	Location of the supplier of services. Location of the supplier Location of the supplier.
8	Transportation of goods.	Services of transportation of goods, other than by way of mail or courier.	Place of destination of such goods.
9	Passenger Transportation.	Passenger transportation services.	Place where the passenger embarks on the conveyance for a continuous journey.
10	Services on board a conveyance	Services provided on board a conveyance during the course of a passenger transport operation, including services intended to be	First scheduled point of departure of that conveyance for the journey.



No.	Services	Nature of Services	Place of Services
		wholly or substantially consumed while on board.	
11	Online information and database services.	The place of supply of online information and database access or retrieval services. (i) Advertising on the Internet; (ii) Providing cloud services; (iii) Provision of e-books, movie, music, software and other intangibles through tele-communication networks or internet. (iv) Providing data or information, retrievable or otherwise, to any person in electronic form through a computer network; (v) Online supplies of digital content (movie television shows, music and the like); (vi) Digital data storage; and (vii) Online gaming	Location of the recipient of services.

Time of Supply at a glance

Time of supply determines when liability to pay GST arises. The provisions are given through the following table —

Nature of transaction	Situation-A	Situation-B	Situation-C	Time of supply
Supply of goods	Issue of tax invoice	Receipt of-payment (even advance payment received)		Whichever is earlier
Tax on receipt of goods payable on reverse charge basis.	Receipt of goods	Date of payment to recipient (even advance payment made)	30 days from date of invoice of supplier.	Whichever is earlier.
Supply of vouchers for goods when supply is identifiable at that point.	Issue of voucher	Redemption of voucher		Date of issue of voucher
Supply of vouchers for goods when supply is not identifiable At that point.	Issue of voucher	Redemption of voucher		Redemption of voucher

TIME OF SUPPLY OF SERVICES: AT A GLANCE



Nature of transaction	Event A	Event B	Event C	Time of Supply
Supply of service	Invoice if issued within prescribed time.	Provision of service if Invoice not issued within prescribed time.	Date of receipt of payment from recipient (even advance payment received)	Whichever is earlier.
Tax on receipt of service . payable under reverse charge when service provider is not associated enterprise out of India	Date of payment to supplier of service (even advance payment made)	Date 60 days from date of invoice of supplier		Whichever is earlier.
Tax on receipt of service payable under reverse charge when service provider is associated enterprise out of India.	Date of payment to associate enterprise (even advance payment made)	Date of entry in books of account of recipient of supply		Whichever is earlier.
Supply of vouchers for service when supply is identifiable at that point	Issue of voucher	Redemption of voucher		Date of issue of voucher
Supply of vouchers for service when supply is not identifiable at that point	Issue of voucher	Redemption of voucher		Redemption of voucher



DETERMINATION OF TAXABLE VALUE OF GOODS SUPPLIED: WITH PRACTICAL PROBLEMS

The value of taxable supply of goods and services shall ordinarily be 'the transaction value' which is the price paid or payable, when the parties are not related and price is the sole consideration.

According to Sec. 15 – The value of supply of goods or services or both shall be the transaction value, that is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply .

Thus, following are main requirements or transaction value'.

- (1) Price actually paid or payable.
- (2) Price is for the goods
- (3) It includes, in addition to the price charged, any amount the buyer is liable to pay to assesses in respect of the supply
- (4) It includes packing charges weighment, loading freight, insurance, incidental expenses Supplies incurred before supply or any other amount payable by buyer to the manufacture.
- (5) It does not include GST but includes other taxes.
- (6) The transaction value will not be applicable for the purpose of payment of duty if the recipient and supplier are related.
- (7) If the goods are supplier to related person or valuation will be done on the basis of rules as may be prescribed.

Example of Transaction Value — Suppose a T.V. manufacturing company supply a specific model of T.V.. to dealers at the invoice price Rs. 8,000. –Apart from this the manufacturer also charged Rs. 400 for packing' and Rs. 600 for after sales service of the product. In this case the transaction value shall be Rs. 8,000 + 400 + 600 = 9,000 for determination of Taxable Value.

INCLUSIONS OF TRANSACTION VALUE

The following items will be included in transaction value for finding out taxable value, if the items are not included in transaction value or invoice price separately charged.

(1) Packing charges

Cost of normal packing will be covered, as in most cases; it is in connection with or in respect of supply. Packing supplied by recipient should be included, just like cost of any other material supplied.

Sometimes goods are packed in durable and returnable containers e.g. cooking gas packed in cylinders, cold drinks packed in bottles etc. As we know the gas cylinder or bottle of cold drink is returned to the manufacturer for refilling 'Returnable' means it should be normally returnable as per agreement or understanding between buyer and seller. Mere physical capability of returning is not enough. Manufacturer often takes security deposit from buyer to ensure return of the container. However, these are not sold to the buyer. deposit is forfeited if the container is not returned.

Cost of such durable and returnable packing will not be included. Supply of such container may be in 'relation' to supply. However, the relation is only Remote and indirect. There is no supply of container. It is transaction of bailment.' There is no direct 'connection' between supply of durable and returnable containers and the sale. So, in some cases, goods are packed in returnable packing, like gas cylinder, drums etc. In such case, tax is payable only on consideration received for the supply.

Thus, it is not required to add amortised cost of durable and returnable packing.



(2) Taxes Other than GST

Any taxes duties, fees and charges levied under any statute other than the GST Act.

Act. are includible in value, if charged separately.

but CGST, SGST, IGST and UTGST are not included.

Thus, SCS and CGST will be payable on net value only.

'Value' for GST will not include ISGT, CGST, SGST and GST Compensation Cess. However, other taxes (like entertainment tax or some other cess) will be includible if charged separately in invoice.

(3) Amount paid by recipient on behalf of supplier

Any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both is included in value.

(4) Incidental expenses

Incidental expenses, such as commission and packing, charged by the supplier to the recipient of a supply, including any amount charged for anything done by the supplier in respect of the supply of goods and/or services at the time of or before delivery of the goods or as the case may be supply of services.

Expenses like weighing, loading in factory, inspection, testing before supply will be includible in 'value'. Design charges incurred before supply will also

(5) Interest, late fee or penalty for delayed payment.

Interest or late fee or penalty for delayed payment of any consideration for any supply is includible in value.

(6) Outward freight, packing and other charges in tax invoice

In case of FOB basis contracts, the supplier arranges transport. In that case, he pays GST under reverse charge on outward freight. He then charges outward freight in the tax invoice. In such case, the outward freight charged is part of value of goods and GST is payable on value including outward freight. Similarly, packing charge, weighing charges and other charges are includible in value for levy GST. The GST rate is same as applicable to goods, as this is a composite supply.

(7) Subsidies directly linked in supply

Subsidies directly linked to the price excluding subsidies provided by the Central and State Governments are includible in 'Value' for charge of GST. Explanation. The amount of subsidy shall be included in the value of supply of the supplier who receives subsidy.

(I) Installation charges

If supplier takes responsibility for installation erection of machinery or plant/at site of recipient and charged for it, such amount shall be part of value if such installation fees charged separately it will be added to transaction value.

(II) Design and Engineering charges

Design and Engineering Charges are essential for purpose of manufacture and hence have to be included in value.

(III) Compulsory after Sales Service/service in warranty period is included

The heads 'servicing' and 'warranty' have been specifically included in definition of payments included in 'transaction value'

Manufacturers often give free after sale service during warranty period. Though these are called 'free services', cost of such services is already included in the price of product, promise for provision of after sale service certainly increases its marketability, it is in connection with sale and its cost is included



Exclusion from Transaction Value

The following items shall be excluded from transaction value while find out taxable value of supply –

(1) Discount or incentive given after supply

The value of the supply shall not include any discount that is given:

(c) Before or at the time of the supply provided such discount has been duly recorded in the invoice issued in respect of such supply; and

(d) After the supply has been effected, provided that (i) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and (ii) input tax credit as is attributable to the discount has been reversed by the recipient of the supply.

Thus, discount after supply is permissible as deduction only if it was known before or at the time of supply

(2) When value is inclusive of GST

Legally, GST is to be indicated separately in tax invoice. However, provision has been made for situations where GST is not shown separately in tax invoice.

If value of supply is inclusive IGST, CGST SGST or UTGST, the tax payable will be calculated by back calculations as follows –

$$\text{Tax amount} = [\text{Value inclusive of tax} + \text{Tax rate in \%}] / 100 + \text{sum of applicable tax rates in \%}$$

Note that the provision applies only the value of supply included GST. The rule does not say that the value is deemed to be inclusive of GST.

For example, when GST is payable under reverse charge, the amount charged by supplier goods or services cannot be taken as inclusive of GST.

**Computation of Taxable Value of Supply
by Manufacturer : Chart**

Transaction value or invoice price of Goods		
Add: Following items if these are not included in transaction Value		
(11) Taxes other than GST Except GST any tax duty cess, charge which are paid by recipient to supplier are incurred on behalf of supplier		
(12) Packing Charge Any type of packing e.g. primary packing. Secondary packing, transport packing. Returnable packing shall not be included.		
(13) Other cost and expenses related to supply Design and Engineering Charges, Consultancy fees, Testing fees, Inspection fees etc.		
(14) Loading Wieghment charges etc. Loading charges, weightment charges, handling charges etc.		
(15) Freight and transit insurance Outward freight and insurance		
(16) After sales service Value of free after sales service in warranty period		
(17) Installation charges Machine plant or any structure installation charges at the site of recipient		



(18) Expenses by recipient on behalf of supplier Expenditure by recipient on behalf of supplier (19) Interest, penalty for delayed payment Interest, late fees or penalty for delayed payment (20) Subsidy or incentive Subsidy directly linked to supply other than Government subsidy Less : : The following Discount before or at the time or after supply shown in invoice (Trade Discount, Cash Discount or Quantity Discount) Taxable value of supply		
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Calculation of GST Payable on Taxable Supply

	Value of Taxable		
	(as per calculation)		
	(GST Payable) effective rate 5%, 12%, 18% or 28%		
a)	In case of Intra-State Supply		
(i)	CGST 50% of rate applicable i.e. In case of 5%		
	(2.5%). 12% (6%), 18% (9%), 28% (14%)		
(ii)	SCST 50% of rate applicable		
	i.e. 2.5%. 6%, 9%, 14%.		
	Or		
b)	Inter State supply		
	Full rate 5%. 12%, 18%. 28%		
	Total GST Payable		
Less	: Input Tax Credit		
	on Inward Supply		
	Tax paid on purchase i.e.		
	Total GST Payable		

Note : If transaction value included GST then the following formula shall be applied

$$\frac{\text{Taxable value} * \text{Rate of GST}}{\text{Rate of GST} + 100}$$



COMPOSITION LEVY

Composition levy is a scheme for small and medium tax payers to tax paying under GST. Very small taxable persons whose total turnover is less than Rs. 20 lakh are not required to register under GST (The limit is 10 lakh I case of special states)

However, **Supplier whose turnover between Rs. 20 lakh to 1 crore is required to pay GST. Suppliers of this category are small and medium range tax payers. Under GST a simple tax paying scheme known as 'Composition levy' is provided for such medium tax payers.**

GST requires heavy compliance cost due to detailed accounting and paper work involved.

Small taxable persons do not have sufficient knowledge and expertise to comply with the requirements relating to records and accounts.

Hence, for them, a simplified composition scheme has been provided; vide section 10 of CGST Act.

MEANING AND CONCEPT OF COMPOSITION SCHEME

Small taxpayers with Rs. 1 crore (50 lakh in case of N.E. States) shall be eligible for composition levy. Under the scheme, a taxpayer shall pay tax as a percentage of his turnover in a state during the year without the benefit of Input Tax Credit. The floor rate of tax for CGST and SGST/UTGST shall be-

(a) 1% for supplier of goods as trader or distributor.

(b) 2% for manufacturers.

(c) 5% for restaurant services.

A composition supplier is required to file quarterly returns instead of monthly return.



FORMS AND RETURNS UNDER COMPOSITION LEVY

Form No.	Particulars	Time Frame
GST CMP-01	Intimation to pay tax u/s 10	Prior to the appointed day, but not later than 30 days after the said day.
GST REG-01-Part B	Granting option to pay tax u/s 10	N. A.
GST CMP-02	Declaration to pay tax u/s 10	Prior to the commencement of the financial year.
GST CMP-03	Intimation of details of stock on date of opting for composition levy.	Within 60 days of the date from which the option for composition levy is exercised
GST CMP-04	Application for withdrawal from Composition levy	Compulsory : Within 7 days of cessation to satisfy any of the condition mentioned under section 10. Voluntarily : Before the date of such withdrawal.
Form GSTR-4A	Auto populated details on inward supplies made available to the recipient registered-under compositor scheme on the basic of FORM GSTR-1 furnished by the supplier.	Quarterly
Form GSTR-4	All outward supplies of goods and services including auto populated details from Form GSTR-4A and tax payable details. Details of any additions, modification, or deletions in form GSTR-4A should also be submitted in Form GSTR-4.	Quarterly 18 th of month succeeding the quarter
Form GSTR-9A	Consolidated details of quarterly returns filed along with tax payment details.	31 st December of next financial year.



UNIT-IV

INTEGRATED GOODS AND SERVICES TAX

SCOPE, TERMS AND DEFINITIONS

MEANING OF INTEGRATED GOODS AND SERVICES TAX

"Integrated Goods and Services Tax" means tax levied under the IGST Act on the supply of any goods and / cc services in the course of inter-state trade or commerce. It is also levied on import or export of goods and services. It is known as IGST. Taxable event under IGST is supply of any goods and / or services in the course of inter-state trade or commerce.

IGST FOR INTER-STATE TRANSACTIONS

In case of Inter-State supply of goods and services, Import and export of goods and services there will be integrated GST (IGST) imposed by Government of India.

Under the GST regime, an integrated GST (IGST) would be levied and collected by the Centre on inter-State supply of goods and services. Under Article 269A of the Constitution, the GST on supplies in the course of Inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.

INTEGRATED GOODS AND SERVICES TAX ACT, 2017

An Act to make a provision for levy and collectfon of tax on inter-Sate supply of goods or services or both by the Central Government and for matters connected therewith or incidental thereto.

- (1) This Act may be called the Integrated Goods and Service Tax Act, 2017.
- (2) It shall extend to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint :

The provisions of IGST Act enforced from the following date.

Provisions of sections 1, 2. 3. 14, 20 and 22 are enforceable w.e.f. 22.6.2017.

Provisions of section 4 to 13, 16 to 19, 21, 23, to are enforceable wet 1.7.2017.

■ UNQUE FEATURES OF IGST IN INDIA

The basic aspects of IGST are as follow —

1. **Tax on Inter-State supply**— Integrated GST is payable on supply of goods or services or both in inter-state supplies.
2. **Smooth movement of goods**— Inter-State movement of goods will be smooth and hassle free.
3. **Same treatment of goods and services**— Distinction between goods and services will be considerably reduced except in cases relating to place of supply and time of supply. This will considerably reduce present ambiguities and litigation.
4. **Tax on import**— Equivalent IGST (CVD) will also be imposed on imports.
5. **Rates of IGST**— Equal to CGST + SGST i.e. full rate which is mentioned in tax rate schedule.
6. **Same rate all over India**— IGST rates will be same all over India and will not vary from State to State.
7. **Apportionment of revenue**— Revenue from IGST will be apportioned among Union and States by Parliament on basis of recommendation of Goods and Services Tax Council
8. **Utilisation of Input tax credit**— This apportionment will be required as input tax credit of IGST can be used for SGST and vice-versa.



9. **Tax on inter-state stock transfer**— Since IGST will be on 'supply of goods or services'. IGST will be payable on inter-state stock transfers, branch transfers etc.

10. **Provisions of CGST Act applicable**— In so many matters provisions and rules of CGST Act shall be applicable in respect of IGST. In case of Registration, Preparation of Tax invoice, payment of tax, Furnishing of Return, Refund, Penalty, Appeal etc. the provisions of Central GST Act shall be applied in same way under IGST.

NEED AND REASONS FOR LEVY OF IGST •

India is a federal country. To maintain financial relationship between centre and states the dual GST system adopted in India. The IGST is levied for the 'following reasons —

1. **Taxes will move with goods**— Advantages of IGST is that taxes will move along with goods and services, ensuring seamless movement of goods. IGST will eliminate need for obtaining refund of taxes in case of inter-state transactions.

In IGST, the question of refund will be only in case of physical export of goods or supplies to SEZ, international bidding etc. In other cases, the taxable person will pay IGST in one State and its input tax credit will be available to customer in other State.

Earlier, in view of peculiar features of CST and State VAT, goods were moving from one State to other State but taxes remained within the State. Partial refund was allowed but such refund was not easy at all.

2. **Distribution network will be simpler**— At present, if a taxable person wants to do business in multi-States, he has to maintain stocks in each

State and movement of goods from one State to another means further blockage of funds, besides commtion and harassment.

Under IGST, a taxable person can establish hub and spoke approach for distribution of his final products. He can maintain depots at few strategic locations in country and from those locations, he can distribute goods to nearby States. This will be very cost effective distribution network.

3. **Imports will be taxed under GST**-Imports of Goods and Services will be treated as inter state supplies and IGST will be levied on import of goods and services into the country. The incidence of tax will follow the destination principle and the tax revenue in case of SGST will accrue to the State where the imported goods and services are consumed. Full and complete set off will be available on the GST paid on import on goods and services.

4. **Exports will be treated under IGST**- Exports will be treated as zero rated supplies. No tax will be payable on exports of goods or services, however credit of input tax credit will be available and same will be available as refund to the exporters. The Exporter will have an option to either pay tax on the output and claim refund to IGST or export under Bond without payment of IGST and claim refund of Input Tax Credit (ITC).

SCOPE OF INTEGRATED GST

Integrated Goods and Services Tax is applicable Inrespect of interstate supply of goods and services, It is also applied on import-export of goods and services. Determination of scope of IGST is depends on place of supply of goods or services or both.

Provisions under section 7 & 8 are relevant to determine whether the transaction is infra - State or Inter-state are contained in IGST Act. Export and import of goods and services are also covered under IGST provisions.)

LEVY AND COLLECTION OF IGST

MAIN PROVISIONS REGARDING IGST

Dual GST system is adopted In India therefore a separate act is enforced for leaving of tax on inter-state supply of goods and services. known as IGST Act 2017 -

Main provisions regarding Levy and collection of tax under the Integrated **Goods and Services Tax Act 2017** the following provisions -

• **LEVY AND COLLECTION OF TAX - SEC. 5**



The following provisions shall be applied regarding levy and collection of IGST-

1. Tax on Inter-state supply- These shall be levied a tax called the integrated goods and services tax on all inter-State supplies of goods or services or both (except on the supply of alcoholic liquor for human consumption) on the value determined under Central Goods and Services Tax Act IGST shall be charged at rates, notified by the Government on the recommendations of the Council. At present rates of IGST are a 3%, 5%, 12%, 18% and 28%. It is collected in prescribed manner shall be paid by the taxable person.

2. Tax on Import or Export- The integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of Customs Tariff Act, 1975 on the value as determined under the said Act at the point when duties of customs are levied on the said goods.

3. Tax on petroleum products- At present petroleum product law crude, petrol, Diesel etc. are not covered under GST, but in the future the integrated tax on the supply of petroleum crude, high speed diesel, petrol natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.

4. Tax under Reverse charge system- The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both. The tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

5. Supply to unregistered person- The Integrated tax in respect of the supply of taxable goods or services in both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both. This provision is not applicable at present.

6. Inter-state supply by E-commerce operator- The Government may, on the recommendations of the Council, by notification, specify categories of services, the tax on inter-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services.

Note : (1) Where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax.

iii) Where an electronic commerce operator does not have a physical presence in the taxable territory and also does not have a representative in the taxable territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

DETERMINATION OF TAXABLE VALUE OF INTER-STATE SUPPLY

In case of inter-state supply of goods or services the taxable value shall be determined as per the provisions of central GST Act. In this regard Sec 15 of CGST Act shall be applied for valuation at taxable value, in respect of IGST. In case of import or supply of goods or services valuation procedure under Customs Act shall be followed -

Computation of Taxable Value of Inter-state Supply : Chart



<p>Transaction value or Invoice price of <i>Gnne1/4</i> Add : Following items if these are not Included in Transaction Value</p> <p>(1) Taxes other than GST Except GST any tax duty cess charge which are paid by recipient to supplier an incurred on behalf of supplier</p> <p>(2) Pecking charges Any types of packing e.g. primary packing, secondary packing. transport packing. Returnable packing shall not be included.</p> <p>(3) Other cost and expenses related to supply Design and Engineering Charges. Consultancy fees. Testing fees, Inspection fees etc.</p> <p>(4) Loading Weighment charges etc. Loading charges, weightntent charges, handling charges etc.</p> <p>(5) Freight and transit Insurance Outward freight and Insurance</p> <p>(6) After sales service Value of free after sales service in warranty period</p> <p>(7) Installation charges Machine, plant or any structure Installation charges at the site of recipient</p> <p>(8) Expenses by recipient on behalf of supplier Expenditure by recipient on behalf of supplier</p> <p>(9) Interest, penalty for delayed payment Interest, late fees or penalty for delayed payment</p> <p>(10) Subsidy or incentive Subsidy directly linked to supply other than Govenunent subsidy</p> <p>Less: The following Discount before or at the time or after supply shown in invoice • (Trade Discount. Cash Discount or Quantity Discount)</p> <p style="text-align: right;">Taxable value of supply</p>	<p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p>	<p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p>
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Calculation of GST Payable on Taxable Supply

<p>Value of Taxable Supply (as per calculation)</p> <p>Inter-State supply Full rate 3%, 5%, 12%. 18%</p> <p style="text-align: right;">Total GST Payable</p>	<p>.....</p>
<p>Less : Input Tax Credit on Inward Supply</p> <p>Tax paid on purchase i.e. (-)</p> <p style="text-align: right;">Net GST Payable</p>	<p>.....</p> <p>.</p> <p>.....</p> <p>.....</p> <p>.</p>

Note: If transaction value Included GST then the fokraing formula shall be applied :



Taxable value x Rate of GST
Rate of GST

LIST OF TAX FREE OR EXEMPTED GOODS

Goods and Services which are exempted under Central GST and State GST are also exempted under IGST for Inter-state supply.

There are above 150 items are exempt from GST. their names are given in schedule - Nil Rate Notified the Government. For the convenience of student a summarised and categorised list of exempted goods from GST point of view given below.

BRIEF LIST OF TAX FREE GOODS UNDER GST

- (1) All types of Food grains, it Wheat, Rice Corn, Jawar etc.
- (2) All types of pulses either separated or unseparated.
- (3) Gur, Khandsari
- (4) Any type of Salt (iodised or plain)
- (5) Notified animal or man operated Agricultural equipments.
- (6) Unbranded Attn, Maida. Rawa, Besan, Sabudana. Singhada
- (7) All types of seed
- (8) Cattlefeed, poultry feed, Aquatic feed, grass, hay. straw
- (9) Books, Maps, Charts, slate. pencils, chalk, news papers and Magazines.
- (10) Charcoal, fire wood
- (11) Curd, Lassi butter milk, separated milk, fresh milk. pasteurised milk. Chhena, Paneer etc. (Unbranded)
- (12) Fresh vegetables, Fresh Fruits, Fresh flowers. Fresh Plants. potato. onion. sugarcane. tender green coconut
- (13) Garlic and ginger. Natural honey (Unbranded)
- (14) Papad. Parmal, Chumla
- (15) All types of Bread, except *pizza* bread
- (16) Condoms and Contraceptives, Human blood
- (17) Betel leaves
- (18) Hearing Aids
- (19) Eggs, fresh meat, fish, live stocks.
- (20) Kumkum. bindi, alta, sindur, kajal, mehancli. Sanitary pads, Balch (211 Glass and plastic bangles.

PROVISIONS REGARDING JOB WORK

Job work means undertaking any treatment or process by a person on goods belonging to another registered taxable person. The person who is treating or processing the goods belonging to other person is called 'Job Worker' and the person to whom the goods belongs is called 'Principal'.

MAIN PROVISIONS RELATING TO JOB WORK

1) Good sent to a job worker will be treated as supply

It will be treated as a supply as supply includes all forms of supply such as sale, transfer, etc. However, the registered taxable person (the principal), under intimation and subject to such conditions as may be prescribed send any inputs and/or capital goods, without payment of tax, to a job worker for job work and from there subsequently to another job worker(s) and shall either bring back such inputs/capital goods after completion of job work or otherwise within 1 year/3 years of their being sent out or supply such inputs/capital goods after completion of job work or otherwise within 1 year / 3 years of their being sent out, from the place of business of a job worker on payment of tax within India or with or without payment of tax for export.

2) Job worker required to take registration



Job work is a service, the job worker would be required to obtain registration if his aggregate turnover exceeds the prescribed threshold.

3) Applicability of provisions of job work

The provisions relating to job work are applicable only when registered taxable person intends to send taxable goods. In other words, these provisions are not applicable to exempted or non-taxable goods or when the sender is a person other than registered taxable person.

4) Job work provisions should be followed

The principal can send the inputs or capital goods after payment of GST without following the special procedure. In such a case, the job worker would take the input tax credit and supply back the processed goods (after completion of job work) on payment of GST

5) Location of job worker and principal

This is not necessary as provisions relating to job work have been adopted in the IGST Act as well as in UTGST Act and therefore job worker and principal can be located either in same State or in same Union worker and principal can be located either in same State or in same Union Territory or in different States or Union Territories.

6) Maintenance or proper accounts related to job work

It is completely the responsibility of the principal to maintain proper account of job work related inputs and capital goods.

7) Inputs and capital goods sending directly to the premises of job worker

The principal is allowed to do so. The input tax credit of tax paid on inputs or capital goods can also be availed by the principal in such a scenario. The inputs or capital goods must be received back within one year or three years respectively failing which the original transaction would be treated as supply and the principal would be liable to pay tax accordingly.

8) Circumstances can the principal supply goods directly from the / premises of job worker

The goods can be supplied directly from the place of business of job worker without declaring it as additional place of business in two circumstances namely where the job worker is a registered taxable person or where the principal is engaged in supply of such goods as may be notified by the Commissioner.

9) Goods of principal directly supplied from the job worker's premises

It will be included in the aggregate turnover of the principal. However, the value of goods or services used by the job worker for carrying out the job work will be included in the value of services supplied by the job worker.

10) Treatment of the waste and scrap generated during the job work

The waste and scrap generated during the job work can be supplied by the job worker directly from his place of business, on payment of tax, if he is registered. If he is not registered, the same would be supplied by the principal on payment of tax.

11) ITC in respect of inputs/capital goods sent to a job worker

Principal shall be entitled to take credit of taxes paid on inputs or capital goods sent to a job worker whether sent after receiving them at his place of business or even when such the inputs or capital goods are directly sent to a job worker without their being first brought to his place of business. However, the inputs or capital goods, after completion of job work, are required to be received back or supplied from job worker's premises, as the case may be, within a period of one year or three years of their being sent out.

12) When the inputs or capital goods are not received back or supplied from the place of business of job worker within prescribed time period

If the inputs or capital goods are not received back by the principal or are not supplied from the place of business of job worker within the prescribed time limit, it would be deemed that such inputs or capital goods had been supplied by the principal to the job worker on the day when the said inputs or capital goods were sent out by the principal (or on the date of receipt by the



job worker where the inputs or capital goods were sent directly to the place of business of job worker). Thus the principal would be liable to pay tax accordingly.

13) Treatment Jigs and fixtures are non-usable after their use and normally sold as scrap. What is the treatment of such items in job work provisions?

The condition of bringing back capital goods within three years is not applicable to moulds, dies, jigs and fixtures or tools.

The term inputs, for the purpose of job work, includes intermediate goods arising from any treatment or process carried out on the inputs by the principal or job worker.

Chapter -17

TAX LIABILITY UNDER REVERSE CHARGE

MEANING OF REVERSE CHARGE

Normally, GST is payable by 'taxable person' who is supplying goods and service. Taxable person means a person who is registered or liable to be registered requires every supplier of goods or services or both to register.

GST is payable by 'taxable person'. However, in some cases, GST is payable by person recipient of the goods or services or both. This is termed as 'reverse charge'.

'Reverse charge' means the liability to pay tax by the person receiving goods services or both instead of the supplier of such goods and/or services.

General provisions applicable where reverse charge applies

Though person receiving the goods or services is liable to pay GST and IGST, he is not supplier of those goods and services. He is only discharging liability, which is of supplier of goods and services.

Hence, some specific provisions have been made, which are summarised below.' These are discussed at appropriate places.

1. **Aggregate turnover** - 'Aggregate turnover' does not include value of supplies in which' tax is levied under reverse charge.
2. **Output tax**- "Output tax" excludes tax payable by him on reverse charge basis.
3. **Time of supply of goods** - Separate provisions relating to supply of goods where tax is payable on reverse charge basis.
4. **Time of supply of service** - Separate provisions relating to supply of services where tax is payable on reverse charge basis.
5. **Furnishing details of inward supplies** - Every person liable to pay service tax under reverse charge is required to furnish details of inward supplies.
6. **Liability to be registered** - Persons who are required to pay tax under reverse charge are required to be registered, irrespective of the threshold limit specified.

Tax under, reverse charge to be paid through electronic cash register only

When GST is payable under reverse charge, it should be paid by cash i.e. through Electronic Cash Ledger only the GST under reverse charge cannot be paid by utilizing input tax credit i.e. it cannot be paid by utilising Electronic Credit Ledger.

Input Tax Credit only after payment is made

Supply on which GST paid is actually the input service of recipient. Hence, he can avail its input tax credit. He can avail the ITC on such services (On which he is liable to pay GST under reverse charge) only after making payment of that tax in his electronic cash ledger.



Reverse charge in case of receipt of supply from unregistered person (not applicable up to 31.3.18)

In case of receipt of supply of goods or services or both by a registered person from unregistered supplier, IGST/CGST will be payable by the recipient.

This will also apply to registered persons paying GST under composition scheme.

The provision will apply even to small value supplies also like tea from tea vendor, repair services of petty contractors, stationery items, petty purchases etc., if such total supplies exceed 5,000 per day.

Persons providing services where service recipient is liable to pay GST under reverse charge need not register under GST

Persons who are making supplies of taxable goods or services or both. where total tax is payable on recipient of goods or services are exempt from registration.

Person not liable to register is not required to pay GST under reverse charge

Following persons are not required to register under GST :

- (a) Person engaged exclusively in supplying goods or services which are not liable to tax or are wholly exempted
- (b) Agriculturist.

It is clear that only a registered person is liable to pay tax. Thus, a person who is not required to register is not required to pay GST under reverse charge.

Supply of goods where GST payable under reverse charge

In case of supply of goods - following are under reverse charge -

- (a) cashew nuts, bidi wrapper leaves, tobacco leaves and silk yarn supplied by agriculturist - registered person receiving goods will be liable
- (b) In case of supply of lottery by State Government, lottery distributor or selling agent is liable.

GOODS LIABLE TO BE TAXED ON REVERSE CHARGE BASIS

The Central Government has specified the supply of following goods in respect of which the central tax shall be paid on reverse charge basis by the recipient of the intra-State supply of such goods and all the provisions of the said A shall apply to such recipient, namely:

GOODS : TABLE - I

S. No.	Description of supply of goods	Supplier of goods	Recipient of supply
1	Cashew nuts, not shelled or peeled	Agriculturist	Any registered person
2	Bidi wrapper leaves (tendu)	Agriculturist	Any registered person
3	Tobacco leaves	Agriculturist	Any registered person
4	Silk yarn	Any person who manufactures silk yarn from raw silk or silk Cocoons for supply of silk yarn.	Any registered person
5	Supply of lottery	State Government, Union Territory or any local authority	Lottery distributor or selling agent.

SERVICES, UNDER REVERSE CHARGE TABLE - II



List out categories of services on which tax will be payable under reverse charge mechanism under CGST Act, 2017.

1. Any service supplied by any person who is located in a non-taxable territory to any person (other than non-taxable online recipient (This is import of service)	Any person located in the taxable territory (other than non-taxable online recipient).
2. Supply of Services by a goods transport agency (GTA) in respect of transportation of goods by road to- (a) any factory registered under or governed by the Factories Act, or (b) any society registered (c) any co-operative society established by, or under any law: or (d) any person registered under the any GST Act (e) any body corporate established, by or under any law (f) any partnership firm whether registered or not under any law including association of persons; or (g) any casual taxable person	The recipient is liable if he is located in taxable territory.
3. Services supplied by an individual advocate including a senior advocate by way of representational services before any court, tribunal or authority, directly or indirectly, to any business entity located in the taxable territory, including where contract for provision of such service has been entered through another advocate or a firm of advocates, or by a firm of advocates, by way of legal services, to a business entity.	Any business entity located in the taxable territory
4. Services supplied by an arbitral tribunal to a business entity.	Any business entity located in the taxable territory.
5. Services provided by any person way of sponsorship to any body corporate or partnership firm	Any body corporate or partnership firm located in the taxable territory
6. Services supplied by the Central Government State Government. Union territory or local authority to a business entity excluding - (1) renting of immovable property, and	Any business entity located in the taxable territory [These services provided to business entity whose aggregate turnover is upto Z 25 lakh are exempt. These services are also exempt if cases reverse charge will



(2) services specified below- (i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than (ii) Central Government, State Government or Union territory or local authority (iii) Services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport (iv) Transport of goods or passengers.	not apply.
7. Services supplied by a director of a company or a body corporate to the said company or the body corporate.	The company or a body corporate located in the taxable territory
8. Services supplied by an insurance agent to any person carrying on insurance business.	Any person carrying on insurance business located in the taxable territory.
9 Services supplied by a recovery agent to a banking company or a financial institution or a non-bankim, financial company.	A banking company or a financial institution or a non-banking financial company located in the taxable territory.
10. Services supplied by a person located in non- taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India.	Importer
11. Supply of services by an author, music composer, photographer artist or the like by way of transfer or permitting the use or enjoyment of a copyright relating to original literary, dramatic, musical or artistic works to a publishes; music company, producer or the like	Publisher, music company by, producer or the like, located in the taxable territory.



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UNIT-V

ASSESSMENT, SCRUTINY AND TAX AUDIT

PROVISIONS RELATING TO ASSESSMENT - Sec. 59 to 64

MEANING OF ASSESSMENT

Assessment means determining the tax liability under GST Act.

Assess' in a taxing statute means the computation of the taxable value of e, the determination of tax payable by him, and the procedure for reeling or recovering the tax.

DIFFERENT ASSESSMENTS UNDER GST

Different GST assessment are given below -

- (1) Self assessment,
- (2) Provisional assessment,
- (3) Summary assessment,
- (4) Best Judgment assessment.

I. SELF ASSESSMENT : SECTION 59

Every registered person shall self assess the taxes payable under this ad and furnish a montly return for each tax period.

Every normal Registered person an Input Service Distributor, a nonresident taxable person, a person liable to tax deducate scheme source a person liable to tax collect tax shall, for every calendar month in case of composition scheme quarterly return or part thereof, furnish, in prescribed manner a return, electronically of inward and outward supplies of goods or services or both. input tax credit availed, tax payable, tax paid and such other particulars generally monthly return furnished by such person shall a accepted automatically. Such assessment called self assessment.

II. PROVISIONAL ASSESSMENT - SECTION 60

One can avail the facility provisional assessment in the two oases given below-

- (1) When the taxable person is unable to determine the value of goods/ services.
- (2) When the taxable person is wtable to determine rata of GST applicable.

In these two cases. one can have provisional assessment. Procedures fo such assessment is given below

1. Request of provisional assessment in writing- The taxae penon may request the proper officer in writing giving reasons for payrnt a tax on a provisional basis.

2. Application for provisional assessment- A registered person requesting for payment of tax on a provisional basis shall furnish an application In Form GST ASMT01 on the common portal The application should be submitted along *with* documents giving reason for payment of tax an a provisional basis The proper officer may an receipt of the application, issue a notice in Form GST ASMT-02 requiring the registered person to furnish additional information / dooarients in support of



his request. The applicant should file a reply to the notice in Form GST ASMT-03 and may appear in person before the said officer if he so desires.

(2) When the taxable person is unable to determine rate of GST applicable.

In these two cases, one can have provisional assessment. Procedures for such assessment is given below -

- 1. Request of provisional assessment in writing-** The taxable person may request the proper officer in writing giving reasons for payment of tax on a provisional basis.
- 2. Application for provisional assessment-** A registered person requesting for payment of tax on a provisional basis should furnish an application in Form GST ASMT-01 on the common form. The application should be submitted along with documents giving reason for payment of tax on a provisional basis. The proper officer may on receipt of the application, issue a notice in Form GST ASMT-02 requiring the registered person to furnish additional information / documents in support of his request. The applicant should file a reply to the notice in Form GST ASMT-03 and may appear in person before the said officer if he so desires.
- 3. Passing of order for provisional assessment-** The proper officer then pass an order-
 - (i) Within a period not later than 90 days from the date of receipt of such request,
 - (ii) Showing payment of tax on provisioned basis,
 - (iii) At such rate or on such value as may be specified by him.

Within 90 days from the receipt of application, the proper officer shall issue an order in Form GST ASMT-04 allowing the payment of tax on a provisional basis. Order will also indicate the amount for which the bond is to be executed and security to be furnished.

4. Bond - The registered person shall execute a bond (as given above) in Form GST ASMT-05 along with a security in the form of a bank guarantee for an amount as specified in the order of the proper officer. A bond furnished to the proper officer under SGST or IGST Act shall be deemed to be a bond furnished under CGST Act

5. Final assessment - The proper officer will issue a notice in Form GST ASMT-06, calling for information and records required for finalization of assessment. Within 6 months from the date of communication of provisional order, final assessment should be completed (this period of 6 months may be extended by the Joint Commissioner/ Additional Commissioner for a period not exceeding 6 months and by the Commissioner for such further period not exceeding 4 years). The final assessment order should be passed in Form GST ASMT-07. Final assessment order will specify the amount payable by the registered person or the amount refundable if any.

6. Interest - The registered person shall be liable to pay interest on tax not paid on due dates.

7. Release of security - The applicant may file an application in Form GST ASMT-08 for the release of the security. This application may be made at any time after passing of final assessment. The proper officer shall release the security after ensuring that the applicant has paid due GST along with interest.



This order should be passed in Form GST ASMT.09 within a period of 7 working days from the date of the receipt of the application for release of security,

III. SUMMARY ASSESSMENT SECTION 64

Summary assessment is permitted only to protect interest of revenue. The proper officer will have to take prior approval of the Additional Commissioner: joint Commissioner. Summary assessment can **be** completed by the proper officer only if he has some evidence pertaining to tax liability of a person. Where the taxable person to whom the liability pertains is not ascertainable and such liability pertains to supply of goods, the person in charge of such goods shall be deemed to be the taxable person liable to be assessed and liable to pay tax. Summary assessment order shall **be** issued in Form GST ASMT-16.

Provisions of summary assessment in certain special cases.

III CONDITIONS FOR MAKING SUMMARY ASSESSMENT

The summary assessment can be completed in case all of the following Conditions are satisfied

- (1) The Proper Officer must have evidence that there may be a tax liability.
- (2) The Proper Officer has taken prior permission of Additional Commissioner to assess the tax liability summarily.
- (3) The proper officer must have sufficient ground to believe that any delay in passing assessment order would adversely affect the interest of revenue.
- (4) Based on such permission, the Proper Officer may proceed to assess the tax liability of such person to protect the interest of revenue and issue an assessment order.

IV. BEST JUDGEMENT ASSESSMENT FOR NON-FILERS OF RETURN - SECTION 63

Where a registered person fails to furnish the monthly return even after the service of a notice the proper officer may proceed to assess the tax liability of the said person to the best of his judgement.

1. The best judgement assessment may be completed by the proper officer taking into account all the relevant material which is available or which he has gathered. Best judgement assessment order may be issued in Form GST ASMT-13 within a period of 5 years from the due date of furnishing of annual return.
2. **Withdrawal of best Judgment assessment order** - Where the registered person furnishes a valid return within 30 days of the service of best judgement assessment order, the said assessment order shall be deemed to have been withdrawn. However, the liability for payment of interest, or for payment of late fee under section 47 shall continue.
3. **Assessment of unregistered person** - Where a taxable person fails to obtain registration (even though liable to do so) or whose registration has been cancelled but who is liable to pay tax, the proper officer may proceed to assess the tax liability of such taxable person to the best of his judgement for the relevant tax periods. In such cases, assessment order may be



issued in Form GST ASMT-15 within a period of 5 years from the due date of furnishing of annual return.

4. Show-cause notice before a aforesaid assessment - The aforesaid assessment order shall not be passed without giving the person an opportunity of being heard. The proper officer shall issue a notice to such person In Form GST ASMT-14 containing the grounds on which the assessment is proposed to be made on *best* judgment basis and after allowing a time of 15 days to such person to furnish his reply.

GST ADMINISTRATION : AUTHORITIES, APPOINTMENT AND POWERS

ADMINISTRATION OF GST

An administrative set-up is constituted for taxation and administrative matters at Central Level and State levels. The Central authorities shall look after CGST and IGST marten while state authorities hande state tax matters

■ OFFICERS UNDER THIS ACT

The Govenvnt shall, by notification. appoint the follouing classes of officers fa the purposes of this Act, namely

- (a) Principal Chief Convnissionen of Central Tax or Principal Directors *General* of Central Tax.
- (b) Chief Commissioners of Central **Tax** or Directon General of Central Tax,
- (c) Principal Cotnminioners of Central Tax a Principal Additional Directors General of Central Tax.
- (d) Commissioners of Central Tax cr Additional Direct or General of Central Tax.
- (e) Additional Commissioners of Central Tax or Additional Directors of Central Tax,
- (f) Joint Commissioners of Central Tax or joint Directors of Central Tax. (9) Deputy Commissioners of Central Tax or Deputy Directors of Central Tax,
- (h) Assistaat Commissioners of Central Tax or Assistant Directors of Central Tax. and
- (i) Any other class of officers as it may deem frt.

Note : The officers appointed under the Central Ex-re Act. shall be deemed to be the duals appointed under the provisions of this Act

■ APPOINTMENT OF OFFICERS

The Board may, in addition to the aforesaid officers appoint such persons as it may think fit to the officers under this Act The Board may, by order, authorise any officer referred above mentioned (a) to (hi to appoint officers of central tax below **the rank** of Assistant Commissioner of central tax for the administration of this Act.



POWERS OF GST OFFICERS

Various powers are given to GST Officer. so that GST law can be Implemented properly **and there** should not be tax evasion.

1. Power of Inspection

GST officer Joint Commissioner or higher rank can authorise in writing any other officer of GST to inspect any places of business of the taxable person or the persons engaged in the business of transporting goods or the owner or the operator of warehouse or godown or any other place He can do so when has reasons to believe that -

- (a) A taxable person has suppressed any transaction relating to supply of goods or services or both or the stock of goods in hand, or has claimed input tax credit in excess of his entitlement under the Act **or** has indulged in contravention of any of the provisions of this Act or rules made thereunder to evade tax under this Act. or
- (b) Any person engaged in the business of transporting goods **or** operator of a warehouse or a godown or **any** other place is keeping goods which have escaped payment of tax or **has kept** accounts or goods in such a manner as is **likely to** **evade** tax payable under this Act

2. Search and seizure of goods, documents, books or things

Where the GST officer, Joint Commissioner a higher rank either pursuant to an inspection carried out otherwise, has reasons to believe that **any** goods liable to confiscation or any documents or books or things, which in his opinion shall be useful **for** or relevant to any proceedings under this Act, are secreted in any place. he may authorise in writing any other GST officer to search and seize or may himself search and seize such goods, documents or books or things. order of seizure should be in form GST INS-02

Note : Where it is not practicable to seize any such goods, the Proper officer, or any officer authorised by him, may sent on the **custodian** of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous **permission** of such officer. Such order shall be issued in form GST

Inventory should be prepared and signed by person from whom goods were **seized**. The goods, documents or books or things so seized shall be retained by such officer only for so long as may be necessary for their examination and for any inquiry or proceeding under this Act.

The documents, books or things which have not been **retained** upon for the issue of notice under this Act shall be **retained** to such person within 30 days of issue of said notice

3. Transit checks • Inspection of goods in movement

The Central or a State Government may require the person in charge of a conveyance carrying any consignment of goods of value exceeding such amount as may be specified, to any with him such



documents as may be prescribed in this behalf Where any conveyance is intercepted by the proper officer at any place, he may require the person in charge of the said conveyance to produce such documents and devices for verification and the said person shall be liable to produce the documents and devices and also allow Inspection of goods.

4. Power to arrest

If the Commissioner has reason to believe that any person has committed an offence which is punishable under section he may, by order, authorise any officer of central tax to arrest such person. Where a person is arrested for an offence GST Act. the officer authorised to arrest the person shall inform such person of the grounds of arrest and produce him before a magistrate within twenty four hours. In the case of a non-cognizable and bailable offence, the Deputy Commissioner or the Assistant Commissioner, shall, for the purpose of releasing an arrested person on bail or otherwise, have the same powers and be subject to the same provisions as an officer-in-charge of a police station.

5. Power to summon persons to give evidence and produce documents

The proper officer under the Act shall have power -to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry in the same manner as prescribed in the case of civil-court. Superintendent of Central Tax has been designated as proper officer? who is empowered to issue summons State Government will prescribe Proper officer for purpose of SGST in the respective State. (I) Powers of Director General Safeguards to Issue summons under GST Director General Safeguards or a person authorised by him has been conferred with powers to issue summons to give evidence or produce records. He will be Proper officer? for this purpose. This will be treated as 'judicial proceeding' - rule 132 of CGST Rules 2017. Director General of Safeguards has been given these powers as he is required to implement anti-profiteering provisions. Enquiry is judicial proceeding - Every such Inquiry under section 70(I) shall be deemed to be a "judicial proceeding" within the meaning of the Indian Banal Code.

6. Access to business premises for inspection and audit

Any officer under this Act, authorized by the proper officer not below rank of Joint Commissioner, shall have access to any place of business of a registered person to inspect books of account, documents, oomputets, computer programs, computer software (whether installed in a computer or otherwise) and such other things as he may require and which may be available at such place, for the purposes of carrying out any audit, scrutiny, verification and ehedcs as may be necessary to safeguard the interest of revenue.

7. Other Powers

GST Authorities or officers have some other powers discussed as below –

- (I) Power to seal or break open door, box. almiarh during seizure operations - The officer authorised under section 67(21) shall have the power to seal or break open the door of any premises or to break open any &trysail, box, receptacle in which any goods, accounts, registers or documents of the person are suspected to be concealed, where access to such premises. tdrnirah. box or receptacle is denied.



- (II) Person entitled to make copies or take extracts - The person from whose custody any documents are seized under section 67(2) shall be entitled to make copies thereof or take extracts therefrom in the presence of an officer of GST, except where making such copies or taking such extracts may, in the opinion of the proper officer, prejudicially affect the investigation.
- (III) Provisional release of seized goods - Goods seized shall be released on provisional basis on execution of bond and furnishing of security or on payment of tax, interest and penalty.
- (IV) Officer empowered to order release of seized goods - Proper Officer to release provisionally the seized goods for the purpose of IGST is Additional Commissioner !Joint Commissioner of Central Tax.
- (V) Purchase of goods or services from business premises to check tax invoice - The Commissioner or an officer authorised by him may cause purchase of any goods or services or both by any person authorised by him from the business premises of any taxable person, to check the Issue of tax invoices or bills of supply by such taxable person, and on return of goods so . purchased by such officer. such taxable person or any person in charge of the business premises shall refund the amount so paid towards the goods after cancelling any tax invoice or bill of supply issued.
- (VI) Immediate sale of perishable or hazardous goods - The Central or a State Government may, having regard to the perishable or hazardous nature of any goods deprecation in the value of the goods with the passage of time, constraints of storage space for the goods or any other relevant considerations, by notification, specify the goods or class of goods which shall, as soon as may be after its seizure be disposed of by the proper officer in prescribed manner: Where such perishable or hazardous goods have been seized by a proper officer, he shall prepare an inventory of such goods in the manner as may be prescribed In this behalf. If goods are perishable, these can be released Immediately on payment of market price or tax, Interest and penalty payable, whichever is lower. The goods should be released by Issuing order in form GST-INS
If he fails to do so, goods may be disposed of by Commission= red adjust the amount against tax, interest and penalty.

EXERCISE THE POWERS AND DISCHARGE THE DUTIES

Subject to such conditions and limitations as the Board may impose-

(1) An officer of central tax may exercise the powers and discharge the duties conferred or imposed on him under this *Ad.*

(2) *An* officer of central tax may exercise the powers and discharge the duties conferred or imposed under this Act on any other officer of central tax who is subordinate to him.

(3) The Commissioner may, subject to such conditions and limitations as may be specified in this behalf by him, delegate his powers to any other officer who is subordinate to him.

(4) An Appellate Authority shall not exercise the powers and discharge the duties conferred or imposed on any other officer of central tax.

AUTHORISATION OF STATE TAX OFFICERS



Authorisation of officers of State tax or Union territory tax as proper officer the following -

- (1) The officers appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act are authorised to be the proper officers for the purposes of this Act. subject to such conditions as the Government shall. on the recommendations of the CPU not, by notification, specify.
- (2) Subject to the conditions specified in the notification issued where any proper officer issues an order under this Act. he shall also issue an order under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as authorised by the State Goods and Services Tax **Act** or the Union Territory Goods and Services Tax Act, as the case may be, under intimation to the jurisdictional officer of State tax **Of** Union territory tax.
- (3) Where a proper officer under the State Goods and Services Tax **Act** or the Union Territory Goods and Services Tax **Act** has initiated any proceedings on a subject-matter, no proceedings shall be initiated by the proper officer under this Act on the same subject-matter
- (4) Any proceedings for rectification, appeal and revision, wherever applicable, of any order passed by *an* officer appointed under this Act shall not **be** before an officer appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act

AVOIDANCE OF DUAL CONTROL

A taxable person should be under one authority • either Centre or State. This principle of avoiding dual control has been accepted by CST Council and it is **Inlable. It** is envisaged that in case of taxable persons with turnover upto (1.50 coxes per annum. 90% will be under jurisdiction of State Government authorities and 10% will be under jurisdiction of Central Government authorities. In case of taxable persons with more than t 1.50 cores per annum, the dishibution will be 50 : 50.

It seems such bifurcation will be done cn random basis. If so, thts may lead to chaos. Ideally, taxable prisons having multistate businesses (including telecom. banking. insurance) and those predominantly in export and import field should be under control of Central Government. Industries and businesses restricted to one State should be under control of State Government. This will ensure avoidance of conflicting views by tax authorities on same issue.

CONSTITUTION OF GST COUNCIL

GST Council has been constituted on 15.9.16 Union Finance Minister is Chairman of Council. Following are members of Council - (a) Union Minister of Stale in-charge of ReVenue or Finance and (b) Minister incharge of Finance or Taxation or any other Minister nominated by each State Government.

The GST Council has started work in right earnest and various meetings of GST Council have already *en held. Various issues am being sorted out in the meetings of **GST** Council.

■ ROLE OF GST COUNCIL



A GST Council would be constituted comprising the Union Finance Minister the Minister of State (Revenue) and the State Finance !Taxation Ministers to make recommendations to the Union and the States on -

- (i) The taxes, cesses and surcharges levied by the Centre. the States and the local bodies which may be subsumed under CST:
- (ii) The goods and services that may be subjected to or exempted from the GST
- (iii) The date on which the GST shall be levied on petroleum crude. high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel;
- iv) Model GST laws, principles of levy. apportionment of]GST and the principles that govern the place of supply:
- (v) The threshold limit of turnover belcsv which the goods and services may be exempted from GST;
- (vi) The rates including floor rates with bands of GST;
- (vii) Any special rate or rates for a specified period to raise additional resources during any natural calamity or disaster;
- (viii) Special provision with respect to the North - East States, J&K Himachal Pradesh and Uttaralhand; and
- (ix) Any other matter relating to the GST, as the Council may decide.

INSPECTION, SEARCH, SEIZURE AND ARREST

For effective implementation of the GST Act and Checking tax evasion provisions and rules are made in respect of inspection, search and seizure.

INSPECTION, SEARCH AND SEIZURE - SECTION 67 TO 69

Provisions and rules regarding inspection, search. seizure and *Anon an* as follows-

The relevant provisions are discussed as under -

I. POWER OF INSPECTION (SECTION 67(1)1

Where the proper cares ie. .toini Comm..%xoner ce lute rank has reasons to believe that

(a) A taxable person has Suppressed any transaction relating to supply of goods or senates or both, or

- (i) Suppressed the stock of goods in hand, or



- (ii) Claimed input tax credit in excess of his entitlement under this Act, or (III) Indulged in contravention of any **of** the provisions of this Act or the rules made thereunder to evade tax under this Act; or

(b) Any person engaged in the business of transporting goods, or

An owner or operator of a warehouse or **a** godown or any other place is keeping goods which have escaped payment of tax or has kept his accounts **a goods** in such a manner as S likely to cause evasion of tax payable under this Ad.

Proper may authorise in writing any other officer of central tax to taped any places of business of the taxable person **or** the persons engaged in the business of transporting goods or the owner or the operator of warehouse **a** godown or any other place.

II. POWER TO SEARCH AND SEIZURE - SECTION 67(2)

'Seizure' means goods are taken in custody by the department. 'Confiscation' means the goods become property of Government and Government can deal with it as it wants. On the other hand 'seizure' means goods are in custody of Government, but the property of goods remains with the owner.

Where the proper officer, the rank of joint Commissioner or higher rank either pursuant to an inspection carried out under this Section or otherwise, has reasons to believe that –

(I) Any goods liable to confiscation, or Cu Any documents or books Or things, which in his opinion shall be useful for or relevant to any proceedings under this Act. are secreted in any place, he may authorise in writing any other officer of central tax to search and seize, or may himself search and seize such goods, documents or books or things.

■ DETENTION OF GOODS WHICH CANNOT BE SEIZED

Where it is not practicable to seize any such goods, the proper officer, or any officer authorized by him may –

- (a) Serve on the owner or the custodian of the goods an order that
- (b) He shall not remove. part with, or otherwise deal with the goods .
- (c) Except with the previous permission of such officer.

■ PERIOD OF RETENTION OF DOCUMENTS AND THINGS

The documents or boats or things so seized shall be retained by such officer only for so long as may be necessary for their examination and for any Inquiry or proceedings under this Act.

■ PROCEDURE FOR CARRYING OUT INSPECTION, SEARCH AND SEIZURE

1. Authorization by officer for conduct of inspection. search and seizure - Where the proper officer not below the rank of a joint Commissioner has reasons to believe that a place of business or any other place is to be visited for the purposes of Inspection or search or, as the case may be, seizure he shall issue an authorization in FORM GST INS-01 authorizing any other officer subordinate to him to conduct the inspection or search or. as the case may be, seizure of goods, documents, books or things liable to confiscation.



2. Seizure order- When any goods, documents, books or things are liable for seizure under Section 67(2), the proper officer or an authorised officer shall make an order of seizure in FORM GST INS-02.

3. Custodian' to keep safe custody of goods- The proper officer or an authorised officer may entrust upon the the owner or the custodian of goods, from whose custody such goods or things are seized, the custody of such goods or things for safe upkeep and the said person shall not remove, part with or otherwise deal with the goods or things except with the previous permission of such officer.

4. Prohibitory order- Where it is not practicable to seize any such goods, the proper officer or the authorised officer may serve on the owner or the custodian of the goods, an order of prohibition in FORM GST FNS-03 that he shall not remove. part with, or otherwise deal with the goods except with the previous permission of such officer

5. Preparation of inventory of seized good-

The officer seizing the goods. Documents, books or things shall prepare an inventory of such goods or documents or books or things containing inter alia, description, quantity or unit make mark or model where applicatble and get it signed by the person from whom such goods or documents or books or things are seized

III. INSPECTION OF GOODS IN MOVEMENT (SECTION 68)

The relevant promaccs are discussed as under

I. Carrying of e.way bill - The Government may require the person in charge of a calve:once carrying any consignment of goods of value exceeding such amount as may be specified to any with him such documents and such devices as may be prescribed.

Conveyance (Section 2(34)) : "Conveyance' includes a vessel, an aircraft and a vehicle.

2. Validation of e.way bill- The details of documents required to be canied shall be validated In such manner as may be prescribed.

3. Transit cheek of e-way bill- Where any conveyance is Intercepted by the proper officer al any place, he may require the person in charge of the said conveyance to produce the documents prescribed under the said subsection and devices for verification, and the said person shall be liable to produce the documents and devices and also allow the inspection of goods.

IV. POWER TO.ARREST (SECTION 691)

The following provisions are related to power to arrest -

1. Officer empowered by Commissioner has power to arrest- The Commissioner is vested with the power to authorise (by an order) any CGST Officer to arrest a person, where there is a reason to believe that such person has committed the specified alleged offences..

2. Person committing specified offences Is liable to be arrested-The person committing the punishable under section 132 offence can be arrested by a CGST officer upon authorization by the Commissioner -



Whoever commits any of the following offences may be arrested.

- (a) Supplies any goods or services or both without issue of any invoice, in violation of the provisions of this Act or the rules made thereunder, with the intention to evade tax.
- (b) Issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made there under leading to wrongful availment or utilization of input tax credit or refund of tax.
- (c) Avails input tax credit using such Invoice or bill.
- (d) Collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due.

3. Informing grounds of arrest and production before magistrate—

Where a person is arrested under this Section for an offence the officer authorised to arrest the person shall inform such person of the grounds of arrest and produce him before a Magistrate within 24 hours.

(a) Where a person is arrested for any Offence specified he shall be admitted to bail or in default of bail, forwarded to the custody of the Magistrate;

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

OFFICERS TO ASSIST PROPER OFFICERS

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

DETENTION, SEIZURE AND RELEASE OF GOODS AND CONVEYANCES IN TRANSIT

'Detention' means the goods are temporarily detained by officers to check whether there is any violation of law. If there is any violation, goods are seized. Otherwise, goods are released. Often 'detention' is only by verbal instructions and goods can be released without any formality, if the documents etc. are found to be in order.

1. Detention or Seizure of goods / conveyance

Where any person transports any goods, or stores any goods while they are in transit, in contravention of the provisions of this Act or the rules made thereunder, then all such goods, and conveyance used as a means of transport for carrying the said goods, and documents relating to such goods and conveyance, shall be liable to detention or seizure.

2. Release of detained or seized goods / conveyance The detained or seized goods or conveyance shall be released: (a) Where the owner of the goods comes forward for payment of tax and penalty:



- (i) On payment of the applicable tax and penalty equal to 100% of the tax payable or such goods, and
- (ii) In case of exempted goods, on payment of an amount equal to (i) 2% of the value of goods, or (ii) 25.000 Whichever is less.

(b) Where owner does not come forward for payment of such tax and penalty:

(i) On payment of the applicable tax and penalty equal to the 50% of the value of the goods reduced by the tax amount paid thereon, and

(ii) In case of exempted goods, on payment of an amount equal to (i) 5% of the value of goods, or (ii) 25.000. whichever is less. (c) Furnishing a security : Upon furnishing a security equivalent to the amount payable under clause (a) or clause (b) in such form and manner as may be prescribed.

3. Provisional release of seized goods For release of seized goods on a provisional basis, upon :- bond and furnishing of a security or on payment of applicable tax. L-- penalty payable, as the case. may be. _

4. Issuance of notice The proper officer detaining or seizing goods cr cz - - _EZ-E notice specifying the tax and penalty payable and : ;7 payment of tax and penalty under this Section. 5. Opportunity of being heard No tax, interest cr penalty shall be determined without giving the person concerned an opportunir; of being heard. 6. Deemed conclusion of proceedings On payment of amount referred in Section 129(1), all proceedings in respect of the notice shall be deemed to be concluded.

7. Failure to pay tax and penalty within 7 days Where the person transporting any goods or the owner of the goods fails to pay the amount of tax and penalty, as within 7 days of such detention or seizure, further proceedings shall be initiated in accordance with the provisions of section 130.

CONFISCATION OF GOODS OR CONVEYANCES AND LEVY OF PENALTY

Contravening goods are liable to confiscation. Conveyance involved in offence is also liable to confiscation. Goods confiscated by Government can be taken back on payment of redemption time.

Provisions relating to confiscation of goods or conveyances and levy of penalty are under —

1. Specified Contraventions any person

(i) Supplies or receives any goods in contravention of any of the provisions of this Act or the rules made there-under with intent to evade payment of tax; or

(ii) Does not account for any goods on which he is liable to pay tax under this Act: or

(iii) Supplies any goods liable to tax under this Act without having applied for registration; or

(iv) Contravenes any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or

(v) Uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of this Act or the rules made there-under unless the owner of the conveyance proves that it



was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance, then, all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty 2. Redemption fine Whenever confiscation of any goods or conveyance is authorised by this Act, the officer adjudging it shall give to the owner of the goods an option to pay in lieu of confiscation, such fine as the said officer thinks fit.

(i) Maximum amount of Redemption fine: Such fine leviable shall not exceed the market value of the goods confiscated, less the tax chargeable thereon.

(ii) Aggregate amount of fine and penalty - Cannot be less than penalty : The aggregate of such fine and penalty leviable shall not be less than the amount of penalty leviable.

(iii) Redemption fine in case of conveyance used for the carriage of the goods or passengers for hire : Where any such conveyance is used for the carriage of the goods or passengers for hire, the owner of the conveyance shall be given an option to pay in lieu of the confiscation of the conveyance a fine equal to the tax payable on the goods being transported thereon.

3. Tax, penalty and other charges also payable

Where any fine in lieu of confiscation of goods or conveyance is imposed the owner of such goods or conveyance or the person referred to in Section 130(1), shall, in addition, be liable to any tax, penalty and charges payable in respect of such goods or conveyance.

4. Opportunity of being heard

No order for confiscation of goods or conveyance or for imposition of penalty shall be issued without giving the person an opportunity of being heard.

5. On confiscation - Title vests in Government •

Where any goods or conveyance are confiscated under this Act, the title of such goods or conveyance shall thereupon vest in the Government.

6. Taking and holding possession of Confiscated things

The proper officer adjudging confiscation shall take and hold possession of the things confiscated and every officer of Police, on the requisition of such proper officer, shall assist him in taking and holding such possession.

7. Disposal of confiscated goods or conveyance

The proper officer may, after satisfying himself that the confiscated goods or conveyance are not required in any other proceedings under this Act and after giving reasonable time not exceeding 3 months to pay fine in lieu of confiscation, dispose of such goods or conveyance and deposit the sale proceeds thereof with the Government.

OTHER PROVISIONS REGARDING SEIZURE

1. Return of documents or things not relied upon The documents, books or things seized under this section, or Any other documents, books or things produced by a taxable person or Any other person,



which have not been relied upon for the issue of notice under this Act or the rules made thereunder, shall be returned to such person within a period not exceeding 30 days of the issue of the said notice.

2. Power to seal/ break open the door etc.

The authorised officer shall have the power to seal or break open the door of any premises or to break open any Almirah, electronic devices, box, receptacle in which any goods, accounts, registers or documents of the person are suspected to be concealed, where access to such premises, almirah, electronic devices, box or receptacle is denied.

3. Copies or extracts of seized documents can be taken by taxable person

The person from whose custody any documents are seized under this section shall be entitled to make copies thereof or take extracts there from in the presence of an authorized officer at such place and time as such officer may indicate in this behalf except where making such copies or taking such extracts may, in the opinion of the proper officer, prejudicially affect the investigation.

4. Provisional release of seized goods

The goods so seized shall be released, on a provisional basis, upon execution of a bond and furnishing of a security, in such manner and of such quantum, respectively, as may be prescribed or on payment of applicable tax, interest and penalty payable, as the case may be.

5. Return of goods, if no notice given within 6 months from date of seizure

Where any goods are seized under this section and no notice in respect thereof is given within 6 months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized.

6. Disposal of notified category of seized goods

The Government may, having regard to –

- (i) The perishable or hazardous nature of any goods,
- (ii) Depreciation in the value of the goods with the passage of time,
- (iii) Constraints of storage space for the goods, or
- (iv) Any other relevant considerations, by notification, specify the goods or class of goods which shall, as soon as may be after its seizure under this section, be disposed of by the proper officer in such manner as may be prescribed.

7. Preparation of inventory of goods Where any goods, being goods specified in Section 67(8), have been seized by a proper officer, or any officer authorised by him, he shall prepare an inventory of such goods in such manner as may be prescribed.

8. Applicability of provisions of the Code of Criminal Procedure The provisions of the Code of Criminal Procedure, 1973, relating to search and seizure, shall, so far as may be, apply to search and



seizure under this section subject to the modification that Section 165(5) of the said Code shall have effect as if for the word "Magistrate", wherever it occurs, the word "Commissioner" were substituted.

9. Seizure of accounts, registers or documents produced before proper officer of person evading tax Where the proper officer has reasons to believe that any person has evaded or is attempting to evade the payment of any tax, he may, for reasons to be recorded in writing, seize the accounts, registers or documents of such person produced before him and shall grant a receipt for the same, and shall retain the same for so long as may be necessary in connection with any proceedings under this Act or the rules made thereunder for prosecution.

10. Purchase of goods or services from business premises to check issue of tax invoice.

OFFENCES AND PENALTIES

OFFENCES UNDER GST LAW

Major offence in GST law is obviously nonpayment or short payment of taxes or improper availment or utilization of input tax credit or erroneous refund. Provisions regarding penalty, punishment and compounding in respect of various offences are given under Sec. 122 to 138.

VARIOUS PROVISIONS REGARDING PENALTY

The following provisions are made to impose penalty regarding offences under GST Act.

1. PENALTY FOR CERTAIN OFFENCES - SECTION 122

Under this category 21 types of offences are covered (list given ahead). A person shall be liable to a penalty of rupees ten thousand or an amount equivalent to the tax evaded or the tax not deducted or short deducted or deducted but not paid to the Government or tax not collected or short collected or collected but not paid to the Government or input tax credit availed of or passed on or distributed irregularly or the refund claimed fraudulently, as the case may be, whichever is higher.

TYPES OF OFFENCE

Where a taxable person who commits the following offence shall be liable to penalty -

- (1) Supplies any goods or services or both without issue of any invoice or issues an incorrect or false invoice with regard to any such supply;
- (2) Issues any invoice or bill without supply of goods or services or both Issues violation of the
- (3) Collects provisions of this Act or the rules; Government tax amount as tax but fails to pay the same to the government beyond a period of 3 months from the date on which such payment becomes due; 1338/

(4) collects any tax in contravention of the Act from the date on which to Pay the same to the Government which is less than the amount the tax, or deducts Government department tax which is less than the amount due; deducted, an beyond a period of 3 months

(5) Provisions of this Act but fails to pay tax becomes due; Government tax amount as tax but fails to pay the same to the government beyond a period of 3 months from the date on which such payment becomes due; 1338/



- (6) less than the amount required to be collected or where he fails to pay to the Government the amount collected as tax;
- (7) Takes or utilises input tax credit without actual receipt of goods services or both either fully or partially, in contravention of the provisions of this Act or the rules,;
- (8) Fraudulently obtains refund of tax under this Act;
- (9) Input service distributor takes or distributes input tax credit in contravention
- (10),Falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information or return with an intention to evade payment of tax due under this Act;
- (11) Is liable to be registered under this Act but fails to obtain registration;
- (12) Furnishes any false information with regard to registration particulars, either at the time of applying for registration, or subsequently;
- (13) Obstructs or prevents any officer in discharge of his duties under this Act;
- (14) Transports any taxable goods without the cover of documents as may be specified in this behalf;
- (15) Suppresses his turnover leading to evasion of tax under this Act;
- (16) Fails to keep, maintain or retain books of account and other dociuarne thereunder, with the provisions of this Act or the rules mad
- (17) Fails to furnish information or documents called for by an officer in accordance with the provisions of this Act or the rules made there-under or furnishes false information or documents Proceedings under this Act,
- (18) Supplies, transports or stores any goods which he has reasons to believe are liable to confiscation under this Act.
- (19)Issues any invoice or document by using the registration nubere of another registered person:
- (20) Tampers with. or destroys any material evidence or documenb
- (21) Disposes off or, tampers with any goods that have been detabned seized. or attached under this Act;

■ QUANTUM OF PENALTY

He than he low to pay a penaky inrepect of above motioned offence ay.

- (a) Rs. 10.000. or (b) An amount equivalent to –
 - (i) The tax evaded, or
 - (ii) The tax not deducted under section- 51 or short deducted or deducted but not paid to the Government, or



(iii) Tax not collected under section 52 or short collected or collected but not paid to the Government, or input tax credit availed of or pd on or distributed irregularly, or

(iv) The refund claimed fraudulently, whichever is higher

2. SUPPLYING GOODS ON WHICH TAX NOT PAID OR SHORT PAID OR INPUT TAX CREDIT

WRONGLY AVAILED Any registered person who supplies any goods or services or both on which any tax has not been paid or short-paid or erroneously refunded, or where the input tax credit has been wrongly availed or utilised –

(a) For any reason, other than the reason of fraud or any waftd miastaternent or suppression of facts to evade tax, shall be liable to a Penalty of -(i) Rs 10,000 or (ii) 10% of the tax due from such person, whichever is higher.

(b) For reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty of Rs. 10,000 or (ii) The tax due from Such penon, whichever is higher.

3. AIDING OR ABATING OFFENCE OR CONTRAVEMNG PROVISIONS -SECTION 22(3)

Any person who

(a) Rids, or abets any of the offences specified in section 122(1) above',

(b) Acquires potession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made there under.

Shall be liable to a penalty which may extend to rupees twenty five thousand.

4 PENALTY FOR FAILURE TO FURNISH INFORMATION OR RETURN • SECTION 123

If a person who is required to furnish an information return fails to do so within the period specified in the notice issued the proper officer may direct that such person shall be liable to pay a penalty of one hundred rupees for each day of the period during which the failure to furnish such penalty imposed under this section shall not exceed Rs. 5000.

5. FINE FOR FAILURE TO FURNISH STATISTICS (SECTION 124)

6. GENERAL PENALTY (SECTION 125)

GENERAL DISCIPLINES RELATED TO PENALTY [SECTION 126)

Following are the general disciplines to be followed while imposing penalties-

1. Penalty not to be imposed for minor breaches or omission or mistake-
2. Penalty imposed to depend on the facts and circumstances of each case-
3. Opportunity of being heard
4. Penalty order to clearly specify the nature of breach-



5. Voluntary disclosure to be a mitigating factor
6. Non applicability in case of penalty of fixed amount or fixed percentage-

POWER TO WAIVE PENALTY OR FEE OR BOTH

LIABILITY OF OFFICERS AND CERTAIN OTHER PERSONS (SECTION 133)

COMPOUNDING OF OFFENCES

Fine and imprisonment can be imposed only by competent criminal court. However, instead of going to court, the offender may agree to pay a certain amount. Order for paying composition money can be made by quasi-judicial authorities. This is called 'compounding of offences'. 'Compounding of offences' is essentially a compromise arrangement between administrator of the enactment and person committing an offence. Compounding of crime consists of receipt of compounding fees in return for an agreement not to prosecute one who has committed an offence –

1. Compounding of offences

Any offence under the Act may, either before or after the institution of prosecution, be compounded by the Competent Authority on payment, by the person accused of the offence, to the Central Government or the State Government. as the case be. of such compounding amount in such.

2. Compounding fees Payable

The amount for compounding of offences under this section shall be such as may be prescribed, subject to –

- (i) The minimum amount not being less than ₹ 10,000 or 50% of the tax involved, whichever is higher, and
- (ii) If the maximum amount not being less than 30,000 or 150% of the tax, whichever is higher.

3. Discharge after paying Compounding fees

On payment of such compounding amount as may be determined by the competent authority, no further proceedings shall be initiated under the Act against the accused person in respect of the same offence and any criminal proceedings, if already initiated in respect of the said offence, shall stand abated. Thus, compounding can be after initiation of criminal proceedings also.

4. Compounding does not affect proceedings under other law

5. Compounding only after tax, interest and penalty paid

6. Offences cannot be compounded

PROCEDURE FOR COMPOUNDING OF OFFENCES (RULE 162)

1. Application for Compounding of Offence
2. Calling of report by the Commissioner
3. Allowing or rejection of compounding application
4. Opportunity of being heard
5. Tax interest and penalty to be paid before application is allowed
6. Payment of compounding amount



APPEAL AND REVISION

CGST and SGST makes provisions in respect of appeals against orders passed by adjudicating authority i.e. GST officers. An aggrieved person appeal against order passed by GST authority in the following way at four stages

I. Appeal to Appellate Authority- The GST Act makes provisions of first appeal before 'Appellate Authority' under Sec. 107- Appellate Authority will be departmental officer. Pre-deposit of 10% tax is required to be made before filing appeal before Appellate Authority.

II. Appeal to Appellate Tribunal- Second appeal before 'National Goods and Service Tax Appellate Tribunal' (Appellate Tribunal). The Appellate Tribunal will be common for CGST, IGS-T, UGST and SGST. The Appellate Tribunal will have Member (Judicial), Member (Centre) and Member (State). Thus, Appellate Tribunal will have a three member bench. For appeal before Appellate Tribunal, further 20% Of disputed tax liability is payable.

III. Appeal to High Court- Section 117 CGST Act makes provision for appeal to High Court. Appeal may be filed against order of Appellate Tribunal can before High Court only if substantial question of law is involved.

IV. Appeal to Supreme Court- CGST Act makes provision under sec. 118 for appeal to Supreme Court, excluding that, civil court has no jurisdiction in GST matters. If the matter involves interpretation of 'place of supply', appeal lies before Supreme Court and not before High Court. Now we shall discuss in detail of various provisions, rules and procedure regarding various types of Appeals.

I. APPEAL BEFORE APPELLATE AUTHORITY - SEC. 107

Any person aggrieved by any decision or order passed against him under any CGST Act by an adjudicating authority, may appeal to such Appellate Authority "adjudicating authority" means any authority, appointed or authorised to pass any order or decision under this Act. "Appellate Authority" means an authority appointed or authorised to hear appeals.

PROVISIONS AND PROCEDURE FOR APPEAL

Provisions, Rules and Procedure for Appeal before Appellate Authority are discussed below -

1. Eligible Person and authority to file appeal First Appeal before appellate authority may be filed by -

(I) payer or assessee who aggrieved any decision or Any i.e. tax order person passed by GST officer.

(ii) Any departmental officer authorized by the commissioner to review order passed by adjudicating authority,

2. Time limit for filing appeal

Appeal before Appellate authority may be filed with following time limit-

(a) In case of assesses or Tax Payer - Appeal against order of adjudicating authority - To be filed within 3 months by person i.e. tax payer-Any person aggrieved by any decision or order passed under this Act or the SGST Act or the LTIG.ST Ad by an adjudicating authority may appeal to such Appellate Authority prescribed manner within 3 months from the date on which the said decision or order is communicated to such person.

(b) In case of GST department- Commissioner may review orders passed by adjudicating authorities and direct filing of appeal to Appellate authority within 6 months. The Commissioner may -(I) On his own motion, or (II) Upon request from the Commissioner of State



tax or the Commissioner of Union territory tax, (iii) Call for and examine the record of any proceedings in which an adjudicating authority has passed any decision or order under this Act or the SCS Act or the &MST Act, (or the purpose of satisfying himself as to the legality or propriety of the said decision or order. and may, by order direct any officer subordinate to him to apply to the Appellate Authority within 6 months from the date of communication of the said decision or order.

• **CONDONATION OF DELAY IN FILING APPEAL**

Appellate Authority can condone delay upto one month beyond 3 or appellant / 6 months for department if he is satisfied that the appellant was prevented by sufficient cause from presenting in the aforesaid period of three months or six months Act.

3, Application in Prescribed form and verification :

(a) Application by aggrieved person-

(b) Departmental application to the Appellate Authority-

APPEALS TO APPELLATE TRIBUNAL SEC. 112

Appeal against order of Appellate Authority or Revisional Authority lies before Appellate Tribunal. Appellate Tribunal is a quasi judicial authority. There will be National Bench and Regional Benches of Appellate Tribunal, which will hear appeals where one of the issues involved relates to place of supply i.e. inter-state transactions. These will be under supervision of President. State Bench and Area benches of Appellate Tribunal will hear appeals where issue relating to place of supply is not involved i.e. transaction is intra-State. These will be under supervision of State President.

■ **PROCEDURE FOR APPEAL TO TRIBUNAL**

The following Procedure shall be adopted in respect of appeal to Appellate Tribunal.

1. Aggrieved person to file Appeal within 3 months- Any person aggrieved by an order passed against him by appellate authority (first appeal) Tax Act may appeal to the Appellate Tribunal against such order within 3 months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal.

The Appellate Tribunal may, in its discretion, refuse to admit any such appeal —

(i) Where the tax or input tax credit involved, or

(ii) The difference in tax or input tax credit involved, or

(iii) The amount of fine, fee or penalty determined by such order, **does not exceed** 50,000.

2. Appeal by the GST department— Commissioner to direct subordinate authorities to apply to Tribunal against order of Appellate or Revisionary authority. The Commissioner may —

(i) On his own motion, or

(ii) Upon request from the Commissioner of State tax or Commissioner of Union territory tax, call for and examine the record of any order passed. Appellate Authority or



- Revisonal Authority under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act.
- (iii) For the purpose of satisfying himself as to the legality or propriety of the said order and may, by order.
- (iv) Direct any officer subordinate to him to apply to the Appellate Tribunal within 6 months from the date on which the said order has been passed for determination of such points arising out of the said order as may be specified by the Commissioner in his order.

3. Application for appeal to the Appellate Tribunal- Appeal to the Appellate Tribunal by person -

(i) Filing of appeal and provisional acknowledgement- An appeal to the Appellate Tribunal shall be filed along with the relevant documents either electronically or otherwise as may be notified by the Registrar, in FORM GST APL-05, on the common portal and a provisional acknowledgement shall *be* issued to the appellant immediately. '

(ii) Filing of memorandum of cross objections- A memorandum of cross objections to the Appellate Tribunal shall be filed either electronically **or** otherwise as may be notified by the Registrar, in FORM GST APL-06.

4. Application to the Appellate Tribunal by department- An application to the Appellate Tribunal shall be made electronically or otherwise. in FORM GST APL-07, along with the relevant documents on the common portal.

5. Signing- The appeal and the memorandum of cross objections shall be signed in the specified manner.

6. Submission of certified copies of impugned order and Issuance of final appeal number- A certified copy of the decision or order appealed against along with fees shall be submitted to the Registrar within 7 days of the filing of the appeal and a final acknowledgement, indicating *the* appeal number shall be issued thereafter in FORM GST APL-02 by the Registrar.

7. Fees of filing and restoration of appeal - The fees for filing of appeal or restoration of appeal shall be P 1,000 for every ? 1 lakh of tax **or** input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined in the order appealed against, subject to a maximum of r 25,000.

There shall be no fee for application made before the Appellate Tribunal for rectification of errors

■ ORDERS OF APPELLATE TRIBUNAL (SECTION 1131)

The Appellate Tribunal may-

(I) After giving the parties to the appeal an opportunity of being heard, (ii) Pass such orders thereon as it thinks fit.

(ill) Confirming, modifying or annulling the decision or order appealed against, or

May refer the case back to the Appellate Authority, or the Revisonal **Authorthly cc** to the original adjudicating authority-

(a) With such directions as it may think **fit**,

(b) For a fresh adjudication or decision

(c) After taking additional evidence. if necessary.

The following points are important regarding order by tribunal-



1. **Order and its summary** — The Appellate Authority shall, along with its order issue a summary of the order in FORM GST APL-04 clearly indicating the final amount of demand confirmed.
2. **Statement of demand** - Jurisdictional officer shall issue a statement in FORM GST APL-04 clearly indicating the final amount of tax, interest or penalty confirmed by the Appellate Tribunal.
3. **Time limit for disposal of appeal - If possible within one year from the date on which such appeal is filed**— The Appellate Tribunal shall, as far as possible, hear and decide every appeal within a period of 1 year from the date on which it is filed.
4. **Communication of order** - The Appellate Tribunal shall send a copy of every order passed under this section to the Appellate Authority or the Revisional Authority, or the original adjudicating authority, as the case may be. the appellant and the jurisdictional Commissioner or the Commissioner of State tax or the Union territory tax.
5. **Final Fact finding authority** - Orders passed by the Appellate Tribunal on an appeal shall be final and binding on the parties.

III. APPEAL TO HIGH COURT

What are the orders that are appealable to the High Court ? Can the delay in filing an appeal be condoned by the High Court —

1. **Appealable matters before High Court**— Any person aggrieved by any order passed by the State Bench or Area Benches of the Appellate Tribunal may file an appeal to the High Court and the High Court may admit such appeal, if it is satisfied that the case involves a substantial question of law.
2. **Time limit and Fees for filing appeal**— An appeal to the High Court shall be filed within a period of 180 from the date on which the order appealed against is received by the aggrieved person and it shall be in such form, verified in such manner as may be prescribed. The High Court may entertain an appeal after the expiry of the said period if it is satisfied that there was sufficient cause for not filing it within such period.

■ PROCEDURE FOR APPEAL

The following procedure Appeal to the High Court —

1. **Filing of appeal** - An appeal to the High Court under shall be filed in FORM GST APL-08.
2. **Signing** - The grounds of appeal and the form of verification as contained in FORM GST APL-08 shall be signed in the specified manner.
3. **At least 2 judge bench to hear appeal** — Where an appeal has been filed before the High Court, it shall be heard by a Bench of not less than two Judges of the High Court, and shall be decided in accordance with the opinion of such Judges or of the majority, if any, of such Judges. Where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall, then, be heard upon that point only, by one or more of the other Judges of the High Court and such point shall be decided according to the opinion of the majority of the Judges who have, heard the case including those who first heard it.
4. **Formulation and Hearing on substantial question of law**—Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question and the appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question:



5. Decision on question law and its judgement— The High Court shall decide the question of law so formulated and deliver such judgement thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

6. Issues that can be decided — The High Court may determine any issue which -

- (a) Has not been determined by the State Bench or Area Benches; or
- (b) Has been wrongly determined by the State Bench or Area Benches, by reason of a decision on such question of law.

7. Effect to be given to High Court judgement— Where the High Court delivers a judgement in an appeal filed before it under this section, effect shall be given to such judgement by either side on the basis of a certified copy of the judgement.

8. Provisions of CPC to apply— Save as otherwise provided in this Act, the provisions of the Code of Civil Procedure, 1908, relating to appeals to the High Court shall, as far as may be, apply in the case of appeals under this section.

IV. APPEAL TO SUPREME COURT

Under Section 118 appeal can be filed to Supreme Court under the CGST Act, 2017 —

1. Matters in which Appeal lies - An appeal shall lie to the Supreme Court -

- (a) From any order passed by the National Bench or Regional Benches of the Appellate Tribunal. or
- (b) From any judgement or order passed by the High Court in an appeal in any case which, on its own motion or on an application made by or on behalf of the party aggrieved, immediately after passing of the judgement or order, the High Court certifies to be a fit one for appeal to the Supreme Court.

2. Provisions of the Code of Civil Procedure. 1908 to apply- The provisions of the Code of Civil Procedure 1908 relating to appeals to the Supreme Court shall, so far as may be. apply in the case of appeals under this section as they apply in the case of appeals from decrees of a High Court.

3. Effect to be given to Supreme Court judgement- Where the judgement of the High Court is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in Section 117 in the case of a judgement of the High Court.

4. Demand confirmed by the Court- The jurisdictional officer shall issue a statement in FORM GST API.-04 clearly indicating the final amount of demand confirmed by the High Court or, as the case may be, the Supreme Court.

■ NON-APPEALABLE DECISIONS AND ORDERS [SECTION 1211

No appeal shall lie against any decision taken or order passed by an officer of central tax if such decision taken or order passed relates to any one or more of the following matters. namely:

- (a) **An** order of the Commissioner or other authority empowered to direct transfer of proceedings from one officer to another officer; or (I>) **An** order pertaining to the seizure or retention of books of account, register and other documents; or
- (c) An order sanctioning prosecution under this Act, or
- (d) An order passed under sec. 80 in relation to payment of tax and other amount in instalments.

. REVISION - SEC. 108

Provisions are made under Sec. 108 of GST **Act** regarding revision. The relevant provisions are discussed as under -



1. **Revision! Authority • 'Revisional Authority'** means an authority appointed or authorised for revision of decision or orders.

2. **Revision of orders prejudicial to interest of revenue** - The Revisional Authority may, on his own motion, or upon information received by him, or on request from the Commissioner of State tax, or the Commissioner of Union territory tax call for and examine the record of any proceedings, and if he considers that any decision or order passed under Any Act by any officer subordinate to him is erroneous in so far as -

(I) it is prejudicial to the interest of revenue. and

(id) Is illegal or improper. or

put Has not taken into account certain material facts

(a) Whether available *at* the **tone** of issuance of the said order or not **or**

(b) In consequence of **an** observation by the Comptroller and Auditor General of India, The revisional authority may, if necessary

(a) Stay the operation of such decision or order for such period as he deems fit. and

(b) After giving the person concerned an opportunity of being heard.

(c) After making such further Inquiry as may be necessary,

(d) Pros such order, as he thinks just and proper, including enhancing or modifying or annulling the said decision or order

3. No revision in certain cases— The Revisional Authority shat not nerds¢ any power

(a) The order has been subject to an appeal to appellate authority or appellate tribunal cc High Court or Supreme Court:

(b) The period specified for appeal has not yet expired or more than 3 years have expired **after** the passing of the decision or order sought to be revised. or

(c) The order has already been taken for revision under this section at *an* earlier stage; or

(d) The order has been pasted in exercise of the powers.

4. Revision on points which **bus not been raised and decided In appeal** - The Revisional Authority may pass an order on any point which has not been raised and decided in an appeal, before the expiry of -

(a) A period of 1 year **from** the dated the order bi such appeal, or

(b) A period of 3 years **after** passing of order sought to revised, whichever is later.

5. **Revision. ' order to be binding-** Every order passed in revision shall be final and binding on the parties

In the following circumstances additional evidence can be produced by **an** appellant befogs the Appellate Authority or the Appellate Tribunal.

PRODUCTION OF ADDITIONAL EVIDENCE BEFORE

THE APPELLATE AUTHORITY OR THE APPELLATE TRIBUNAL [RULE 1121:

The appellant shall not **be** allowed to produce before the Appellate Authonw or **the Appellate Tribunal any evidence, whether oral or documentary, Other than the evidence produced by him during the cause of the proceedings**

before the adjudicating authority or, as the case may be, the Appellate Authority incept In the following circumstances, namely :

(a) When the adjudicating authority or, as the case may be, the Appellate Authority has refused to admit evidence which ought to have been admitted; or



(b) Where the appellant was prevented by sufficient cause from producing the evidence which he was called upon to produce by the adjudicating authority or, as the case may be, the Appellate Authority, or.

(c) Where the appellant was prevented by sufficient cause from producing before the adjudicating authority or, as the case may be, the Appellate Authority any evidence which is relevant to any ground of appeal: or

(d) Where the adjudicating authority or, as the case may be, the Appellate Authority has made the order appealed against without giving sufficient opportunity to the appellant to adduce evidence relevant to any ground of appeal.

AUTHORISED REPRESENTATIVE

The following provisions in the CGST Act, 2017 which govern the appearance by 'an authorised representative,, and the qualifications for such a person.

1 Appearance by authorised representative • Any person who is entitled or required to appear before -

(I) An officer appointed under this Act, or

(ii) The Appellate Authority, or

(iii) The Appellate Tribunal

In connection with any proceedings under this Act otherwise **than when** required under this Act to appear personally for examination on oath **or** affirmation may subject to the other provisions **of** this section, appear by an authorised representative.

2. Person who can act as Authorised representative - Authorised representative' shall mean a person authorised by the person to appear on his behalf, being -

(a) His relative or regular employee; or

(b) An advocate who is entitled to practice in any court in India, and who has not been debarred from practicing before any court in India; or

(c) Any chartered accountant, a cost accountant or a company secretary, who holds a certificate of practice and who has not been debarred from practice; or

(d) A retired officer of the Commercial Tax Department of any State Government or Union territory or of the Board who, during his service under the Government, had worked in a post not below the rank than that of a Group-B Gazetted officer for a period of not less than 2 years.

(e) Any person who has been authorised to act as a goods and services tax practitioner on behalf of the concerned registered person.

3. Person who cannot act as Authorised representative - No person —

(a) Who has been dismissed or removed from Government service shall be qualified to represent any person for all times; or

(b) Who is convicted of an offence connected with any proceedings under —

(i) This Act,

(ii) The State Goods and Services Tax Act,

(iii) The Integrated Goods and Services Tax Act or

(iv) The Union Territory Goods and Services Tax Act, or

(v) Under the existing law or under any of the Acts passed by a State Legislature dealing with the imposition of taxes on sale of goods or supply of goods or services or both;

(c) Who is found guilty of misconduct by the prescribed authority shall be qualified to represent any person for all times.



(d) Who has been adjudged as an insolvent shall be qualified to represent any person for the period during which the insolvency continues.

APPEAL AND REVISION FORMS

Form No.	Particulars	Time Frame
GST APL-01	Appeal to the Appellate Authority by registered person.	Within 3 months from the date of communication of order.
GST APL-02	Issuance of final acknowledgement, indicating appeal number.	N.A.
GST APL-03	Departmental Application to the Appellate Authority.	Within 6 months from the date of communication of decision or order.
GST APL-04	Order of Appellate Authority or Appellate Tribunal.	Within 1 year from the date on which appeal or application is filed.
GST APL-05	Appeal to the Appellate Tribunal	Within 3 months from the date of communication of order
GST APL-06	Memorandum of cross objections	Within 45 days of the receipt of notice from Appellee Tribunal.
GST APL-07	Application to the Appellate Tribunal	Within 6 months from the date of communication of decision or order
GST APL-08	Appeal to the High Court	Within 180 days from the date of receipt of order appealed against
