

**SYLLABUS****Class – B.Com. III Year****SUBJECT –GOODS AND SERVICES TAX & CUSTOM DUTY**

UNIT-I	Goods and Services Tax – Introduction, meaning, features and basic elements. Important terms and Definition regarding GST. Background and implementation of GST in India. Structure and Classification of GST.
UNIT-II	Meaning and scope and Supply, Tax Liability on composite and mixed supply, Levy and Collection of Tax, Registration under GST. List of exempts goods under GST. Time and place of supply of goods and services. Determination of value of Taxable supply, practical problems, Preparation of Tax Invoice and rules and proforma.
UNIT-III	Composition Levy-Person eligible to opt composition, intermation for composition option. Condition and restriction for composition Rate of tax of the composition levy and the rules regarding Return, Practical, Problems, relating to composition levy.
UNIT-IV	Rules Provisions and procedure for Input tax Credit, Provisions regarding job-work. Classification of taxable goods and Services at the basis of tax rates and Practical Problems.
UNIT-V	Customs Duty – History, Introduction and nature, types of customs duty. Prohibition of Import and Export, Valuation rules, Computation of assessable value and calculation of customs duty.



UNIT - I

Goods and Services Tax: An Introduction concept. Basic Elements, Need and Impacts

MEANING OF GOODS AND SERVICES TAX (GST)

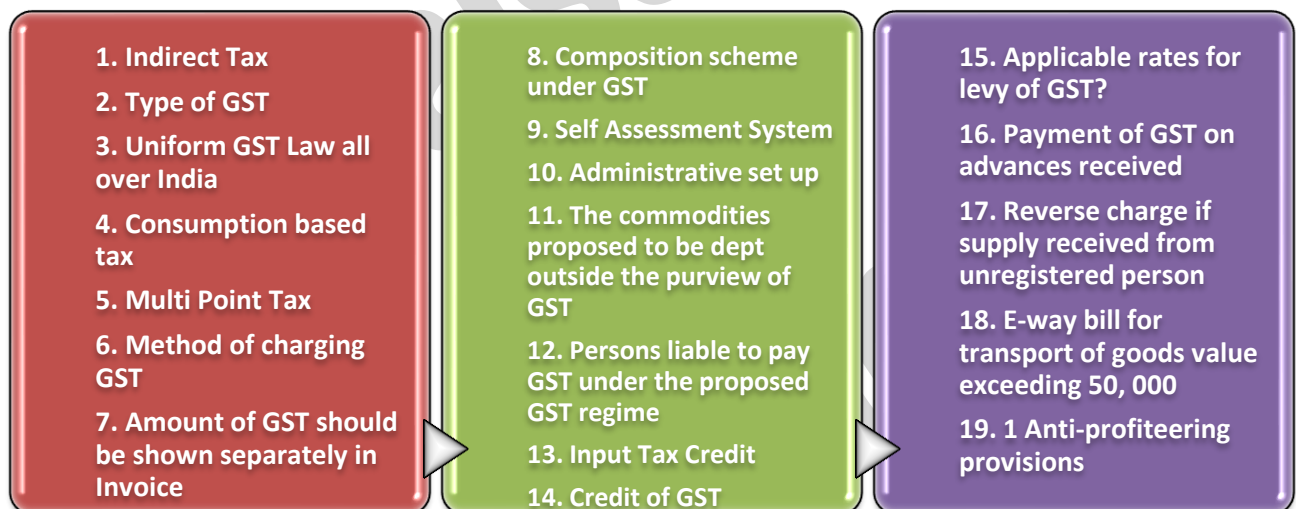
GST is a destination based tax on consumption of goods and services. It is proposed to be levied at all stages right from manufacture up to final consumption with credit of taxes paid at previous stages available as set off. In a nutshell, only value addition will be taxed and burden of tax is to be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



Benefits to Economy

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.
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.

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

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.
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

1. Long term process	7. Higher prices	13. Conflict of interest between Centre and State
2. Difficulty in set off	8. More formalities	14. Post supply discounts and price reductions after supply not eligible for deduction from value
3. Problem in refund	9. Corruption	15. Artificial disallowances of input tax credit
4. Multiple rates of tax	10. Flip side of GST-No 'ease of doing business' in GST	16. Composition Scheme only if all purchases are from registered persons
5. Accounting problem	11. Accounting challenger	17. Valuation provisions copies from excise and service tax law
6. Conflict between States and Central	12. System is master-not human being	18. Interest on delayed payment

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 immoveable 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 or 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’.



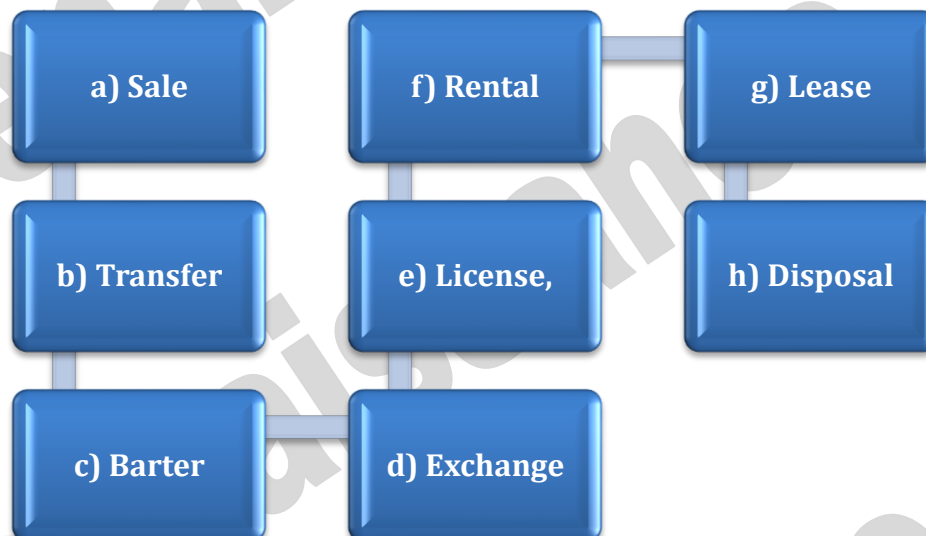
UNIT II

SUPPLY : MEANING, Scope and Types

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 –

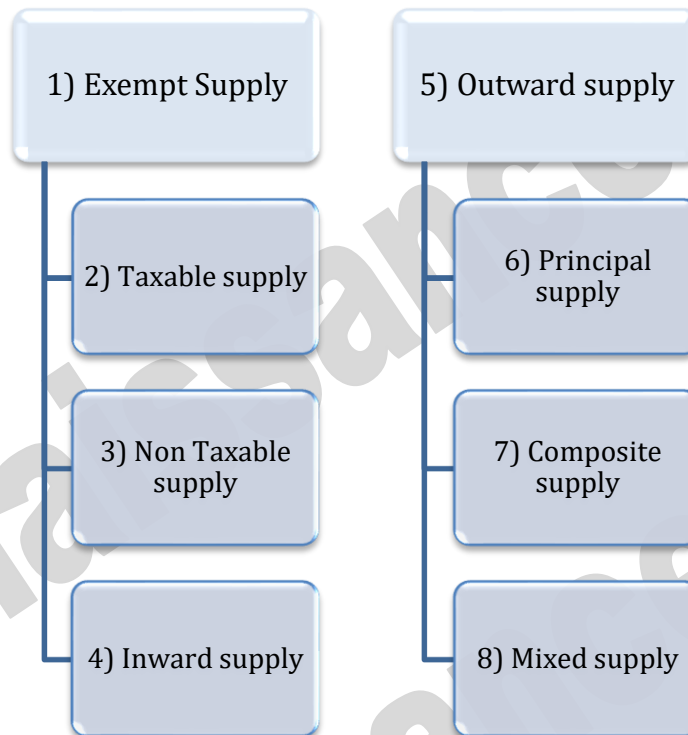


The definition of 'Supply' in section 7(1) of CGST Act is 'inclusive' definition. Section 7(1) of CGST Act, states that for the purpose of CGST Act, the expression 'supply' includes –

- 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.



No.	Subject	Particulars	Form Number	Time limit
9.	E-Notice for clarification	E-notice for Seeking Additional Information/ Clarification/Documents relating to Application for Registration i Amendment / Cancellation.	GST REG-03	
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.



No.	Subject	Particulars	Form Number	Time limit
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.
		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.

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

Determination of time of supply of goods or services or both is an important factor to fix the point when the liability to charge GST arises.

As per section 120) of CGST Acts.

The liability to pay CGST/SGST on the goods and services shall arise at the time of supply of goods and services, as determined in accordance with provision of CGST Act

■ Provisions relating to time of supply - Sec. 12 to 14

To determine time of supply of goods or services or both provisions of GST Act under sec. 12 to 14 are applicable as follows-

I. TIME OF SUPPLY OF GOODS

If a person supplies taxable goods the time of supply shall be determined in the following way

:



1. Time of normal supply of goods

The time of supply of goods shall be the earlier of the following dates of CGST Act :

- (a) Date of issue of invoice- The date of issue of invoice by the supplier or the last date on which *he* is required before at the time of removal or delivery of goods to issue the invoice with respect to the supply or
- (b) Date of receiving payment- The date on which the supplier receives the payment with respect to the supply.

The date on which the supplier receives the payment' in respect of supply shall be-

- (i) The date on which the payment is entered in his books of account or
- (ii) The date on which the payment is credited to his bank account, whichever is earlier.

So, time of supply of goods shall be the earliest of the following dates :

- (i) The date of issue of invoice by the supplier; or
- (ii) The last date on which he is required, to issue the invoice with respect to the supply, i.e. before or at the time of removal or delivery of goods to recipient.
- (iii) The date on which the supplier receives the payment with respect to the supply.

Example

A car dealer received payment Itmauls the supply of car on 5th April, 2019 and car Was delivered on 15th April, 2010 In this situation the time of supply shall be deemed 5th April instead of actual delively lth AltlI tiernits'• date of payment is earlier than date of invoice.

On the contrary if the car was delivered on Pith April and payment was made on 17th April, the time of supply shall he 15th April.

■ The time limit for issue of invoice is as under :

(1) Time limit for issuance of Invoice in case Of supplier of goods- A registered person supplying taxable goods shall Issue invoice before or at the lime 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.

(2) Issuance of invoice in case of continuous supply of goods- In case of continuous supply of goods, where successive statements of account or successive payments arc 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.

(3) Goods sent on approval- Invoice requirements- 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-

- (i) Before or at the time of supply, or
- (ii) 6 months from the date of removal, whichever is earlier.

2. Time of supply in case of Reverse charge

In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely-



- (a) The date of the receipt of goods or
- (b) The date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier, or
- (c) The date immediately following thirty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier.

• **Note :** Where it is not possible to determine the time of supply as above the time of supply shall be the date of entry in the books of account of the recipient of supply.

3. Time of supply in case of vouchers In case of supply of vouchers by a supplier, the time of supply shall be-(a) The date of issue of voucher, if the supply is identifiable at that point; Or (b) The date of redemption of voucher, in all other cases.

4. Where it is not possible to determine the time of supply of Goods Where it is not possible to determine the time of supply under aforesaid provisions (4), the time of supply shall-(a) In a case where a periodical return has to be filed, be the date on which such return is to be filed; or (b) In any other case, be the date on which the tax is paid.

5. Time of supply with regard to an addition in value The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.

■ **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 Supply of goods

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 associated enterprise (even advance payment made)	Date of entry in books of account of recipient of supply		Whichever is earlier.



Nature of transaction	Event A	Event B	Event C	Time of Supply
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

Taxable Value of Supply of Goods

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 include 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 weightment, 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 FOR 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, weightment 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'

Manufactures 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 —

Tax amount = [Value inclusive of tax + Tax rate in %] / 100 + 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		

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 by 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 facsimile 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 by the authorised service station from the insurer, manufacturer for carrying out the repair 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 is to be paid on the amount of income tax deducted 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 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 in 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 .

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-III

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 basis 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

INPUT TAX CREDIT

Input Tax Credit (ITC) is the core concept of GST. ITC avoids cascading effects of taxes and ensures that tax is collected in the State in which goods or services or both are consumed.

A registered person is entitled to take credit of input tax charged on supply of goods or services or both to him which are used or intended to be used in the course or furtherance of business, subject to other conditions and restrictions. Input Tax Credit is deducted against tax payable on goods or services supplied.

PROVISIONS OUTPUT RELATING TO INPUT TAX CREDIT-SECTION 16 TO 19

Provisions regarding Input Tax Credit are given under section 16 to 19 of GST Act. Rules 36 to 45 are applicable in this regard, detailed discussion is given below.

MEANING OF INPUT TAX CREDIT

“Input Tax Credit” means credit of ‘Input Tax’ – Section 2(56) of CGST Act.

Input Tax Credit is related to Input Tax, therefore the meaning of Input Tax i.e. tax paid by supplier in respect of goods purchased or services obtained from registered person.

Input Tax Credit is available for inputs and capital goods both. **When a registered person purchased goods or inputs for resupply, he pays tax on such goods and services obtained. In this case he is entitled to get input tax credit against tax payable on goods or services are both.** Tax paid by him shall be deducted against output tax and net amount shall be deposited.

MAIN FEATURES OF INPUT TAX CREDIT

Input Tax Credit is special factor of GST. Its salient features or main points are as follows-

- | | |
|--|---|
| 1. ITC available for Input Tax | 8. Composition every Levy not allowed |
| 2. Eligible items for ITC | 9. Claim of ITC on provisional basis |
| 3. Only registered person eligible to take ITC | 10. Inputs or capital goods received in installments |
| 4. Conditions necessary for obtaining ITC? | 11. Utilization of ITC-For payment of output tax |
| 5. Time limit for taking ITC | 12. Burden of proof-Person taking the credit |
| 6. Is credit of tax paid every input generally allowed | 13. Input tax credit only after supplier makes payment of GST |
| 7. Input tax Credit is not allowable | 14. Taking input tax credit in respect of inputs sent for job work. |

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 GS

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.

**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, weighment 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		

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–

- (9) 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;
- (10) 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 facsimile or telegraph or telex or for leased circuit,
- (11) The amount of premium charged by insurer from the policy holder,
- (12) The commission received by the air travel agent from the air line,
- (13) The commission, fee or any other sum received by an actuary or intermediary or insurance intermediary or insurance agent from the insurer,
- (14) 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,
- (15) The commission or any amount received by the rail travel agent from the Railways or the customer
- (16) 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 is to be paid on the amount of income tax deducted time also.



UNIT- V

Meaning of Custom Duty

The term customs have derived its essence from the term custom, which means a customary practice or a course of action that is observed and repeated in the like circumstances. Customs duty has been in vogue from ancient times.

In the present time customs duty means a tax which is levied by the Government on import of goods into India and export out of India. It is a central tax and mainly imposed on imported goods. Generally Govt. levies export duty on a very few items due to export promotion. At present peak rate of customs duty is 10%.

Main features of customs duty –

Customs duty is tax on import or export of goods. It is levied by central Govt. of India. It is collected and used by the centre. The main features of this tax are as under –

- 1) Customs Duty levied on import and export
- 2) Leaving of customs duty
- 3) Indirect Tax
- 4) Goods under Customs Act
- 5) Objects of Customs Duty
- 6) Important source of Revenue
- 7) Rate of Customs Duty

Merits of Customs Duty

- 1) Regulating import and export
- 2) Protection to Domestic industries
- 3) Regulating the international trade competition
- 4) Checking on wasteful expenditure

Disadvantages of Customs Duty



- 1) Increase the prices
- 2) Increase the cost of project
- 3) Domestic industries become lethargic
- 4) Incidence of customs Duty is uniform without discrimination.
- 5) Corruption

Important Definitions: Customs Act

- | | |
|---|---------------------------------------|
| 1) Import – Sec. 2 (23) | 20) Coastal Goods Sec. 2 (9) |
| 2) Export – Sec. 2 (18) to 2 (20) | 21) Smuggling Sec. 2 (43) |
| 3) Goods – Sec. 2 (22) | 22) Vehicles Sec. 2 (46) |
| 4) Baggage | 23) Adjudicating Authority Sec. 2 (1) |
| 5) Assessable Value | 24) Appellate Tribunal Sec. 2 (1B) |
| 6) Bill of Entry | 25) Assessment Sec. 2 (2) |
| 7) Export manifest or export report | 26) Indian Customs Waters Sec. 2 (28) |
| 8) Shipping Bill | 27) Land Customs Station Sec. 2 (29) |
| 9) Foreign going vessels and Aircraft – Sec. 2 (24) | |
| 10) Customs airport Sec. 2(10) | |
| 11) Customs Port Sec. 2 (12) | |
| 12) Customs Station Sec. 2 (13) | |
| 13) Customs Area Sec. 2 (11) | |
| 14) Entry Sec. 2 (16) | |
| 15) Prohibited Goods Sec. 2 (33) | |
| 16) Proper Officer Sec. 2 (38) | |
| 17) Warehoused Goods Sec. 2 (48) | |
| 18) Market Price Sec. 2 (34) | |
| 19) Person in charge Sec. 2 (35) | |



Types of Customs Duties –

Tariff rates for customs duty are prescribed in Customs Tariff Act, 1975. The types of duties are explained below.

1. **Basic Customs Duty** – Basic Customs Duty is levied under section 12 of the Customs Act. The rates at which duties of customs shall be levied are specified in the First and Second Schedules to the Customs Tariff Act, 1975.
2. **Social welfare surcharge** – As per finance bill 2018 social welfare surcharge is payable @10% on basic custom duty w.e.f. 2.2.2018 prior the imposition of SWS education case was charged on basic duty.
3. **Integrated Tax (IGST)** – After implementation of GST India Integrated tax (IGST) is payable on goods and services imported in india. To compensate loss of GST on import IGST is charged at aggregate amount of taxable value of import + basic customs duty + social welfare surcharge. Integrated value of import+ basic customs duty+ Social welfare surcharge. Integrated tax is charged at the rate which is applicable under GST on such goods.
4. **Safeguard duty** – Central Government is empowered to impose safeguard duty in specified imported goods if central Government is satisfied that the goods are being imported in large quantities an under such conditions that they are causing or threatening to cause serious injury to domestic industry. Such duty is permissible under WTO agreement. The only condition under WTO is that it should not discriminate between imports from different countries having Most Favoured Nation (MFN) status.
5. **Protective duties** – Section 6 of the Customs Tariff Act empowers the Central Government to levy a protective duty based on a recommendation made by the Tariff Commission.
6. **Countervailing duty** – If a country pays any subsidy (directly or indirectly) to the exporters for exporting goods to India, Central Government can imposed Countervailing duty upto the amount of subsidy cannot be ascertained, provisional duty can be collected and after final determination, difference may be refunded. Such imposition should be by way of a notification.
7. **Anti-Dumping duty** – Dumping means export of an article from any country or territory to India at less than its normal value i.e. when the prices at which the goods are exported to India are less than the comparable price for the like product when destined for consumption in the domestic market of the exporting country. Anti dumping duty is imposed for offsetting the adverse effects of increased imports, subsidized imports or dumped imports.
8. **Export duty** – At present, 15% Export Duty is levied only on hides, skins and leather, and duty of 10% is levied on snake skins, hides, skins and leathers, and fur lamb skins (No export duty is levied on hides, skins and leather of finished leather of goat, sheep and bovine animals and their young ones). There is no export duty on any other product.

A detailed discussion is given below in respect of various types of customs duty.



Procedure for Computation of Customs Duty

1. **Basic customs duty**- It is chargeable on assessable value of imported goods as given rate.
2. **Social welfare surcharge**- It is calculated on the amount of Basic customs Duty @ 10% w.e.f. 2.2.18 (Prior it education cess has applicable).
3. **Integrated GST (IGST)**- It is calculated on the sum of following-
 - a. Assessable value
 - b. Basic Customs duty
 - c. Social welfare surcharge

IGST shall be applicable at normal rate of GST (3%, 5%, 12%, 18%, 28%).

Prohibition on Import and Export –

Prohibition on import or export denotes prohibition on import and export of the specified goods.

Reasons for prohibiting imports and exports –

The customs act, 1962 envisages enforcing various restrictions and prohibitions in respect of import and export of goods. Section 11 of the customs act empowers the central government to prohibit the import or export of goods of any specified description. The conditions for restrictions may be required to be fulfilled before or after clearance. The purposes for which import/exportation can be prohibited are enumerated below –

- 1) Maintenance of security of India.
- 2) Maintenance of public order and standards of decency or morality.
- 3) Prevention of smuggling.
- 4) Prevention of shortage of goods of any description.
- 5) Conservation of foreign exchange and safeguarding of balance of payments.
- 6) Prevention of injury to the economy of the country by uncontrolled import or export of gold or silver.
- 7) Prevention of surplus any agricultural produce or the product of fisheries.
- 8) Maintenance of standards for classification, grading or marketing of goods in international trade.
- 9) Established of any industry.
- 10) Prevention of serious injury to domestic production of goods of any description.
- 11) Protection of human, animal or plant life or health.
- 12) Protection of national treasures of artistic, historic or archaeological value.



- 13) Conservation of exhaustible natural resources.
- 14) Protection of patents, trade mark and copyrights.
- 15) Prevention of deceptive practices.
- 16) Carrying on of foreign trade in any goods by the state, or by a corporation owned or controlled by the state to the exclusion, complete or partial, of citizens of India.
- 17) Fulfillment of obligations under the Charter of the United Nations for the maintenance of international peace and security.
- 18) Implementation of any treaty, agreement or convention with any country.
- 19) Compliance of imported goods with any laws which are applicable to similar goods produced or manufactured in India.
- 20) Prevention of dissemination of documents containing any matter which is likely to prejudicially affect friendly relations with any foreign state or is derogatory to national prestige.
- 21) Prevention of the contravention of any law for the time being in force.
- 22) Any other purpose conducive to the interests of the general public.

Prohibited items of Imports/Exports –

Some of the prohibited items of imports/exports are shown here under –

a) Exports –

- 1) Sandalwood oil,
- 2) Cardamom,
- 3) Psychotropic substances,
- 4) Obscene books and other publications,
- 5) Tussar/Muga silk
- 6) Indian made wool,
- 7) Chillies and vegetable oil products
- 8) Animal casings
- 9) Specified fruits
- 10) Mechanical lighters
- 11) Books containing maps/diagrams showing borders of India erroneously.

b) Imports –

- 1) Explosives,



- 2) Arms and ammunition,
- 3) Psychotropic substances
- 4) Narcotic drugs
- 5) Counterfeit coins
- 6) Quinine,
- 7) Saccharine
- 8) Matches
- 9) Fictitious stamps
- 10) Armored cars
- 11) Antiquities
- 12) Negative film or print of an Aerial photograph of any place in India.

Prohibited goods for export –

Prohibited goods for exports mean such goods which cannot be exported from India in any case. The following goods are prohibited for export –

- 1) Wild life and their parts
- 2) Exotic birds
- 3) Endangered plants
- 4) Beef
- 5) Human skeletons
- 6) Tallow
- 7) Fat
- 8) Wood and wood product
- 9) Chemicals for weapons
- 10) Sandal wood
- 11) Red sandal wood

Aforesaid goods cannot be exported due to scarcity and to protect national interests. Exports of prohibited goods shall be illegal export and punishable.

Restricted items for export –

In this category such goods covered which shall be exported under some restrictions. Such goods can be exported after the fulfillment of required conditions and legal formalities. The list of restricted goods for exportation is as up under –

- 1) Cattle
- 2) Camel
- 3) Chemical fertilizers



- 4) Fresh and frozen silver pom fishes
- 5) Fur, hides and skins
- 6) Industrial leather, fur leather, luggage leather, shoe upper leather.
- 7) Ores of chrome, manganese
- 8) Pulses, paddy, rice bran, seeds and planting material
- 9) Sea shells
- 10) Silk worms
- 11) Groundnut oil in consumer packs above 5 kgs.
- 12) Vintage motor cars,
- 13) Human blood plasma
- 14) Waste special minerals
- 15) Viscose staple fibre and
- 16) Chemicals for weapons

Aforesaid restricted items can be exported by dealers and agencies after obtaining license. They should follow the conditions mentioned in license. The quantity of export of such restricted goods must be in the limit permitted.

Free Import & Restricted Import

There were many restrictions and legal formalities in relation to import of goods in India before liberalization. Presently, most of the goods can be imported without any license. Schedule II gives Export Policy. It contains very few products, where export is prohibited or restricted. Excluding those items, export of all other goods is free.

Imports may be classified in two categories –

1. Free Import
2. Restricted Import

Detailed discussion is given in connection of above categories.

Free Import

As per WTO (World Trade Organization), India had to remove all quantitative restrictions (QRs) on imports in phased manner. Hence, the imports were being liberalized every year and import restrictions were completely lifted on 1.4.2001. Now almost all items are freely importable. However, to control imports, customs duty on some Products has been increased.



Basically, all imports are free except to the extent regulated by Foreign Trade Policy or any other law, Importer can be actual user or trader. All items, except restricted, prohibited and State Trading Enterprises can be freely imported under OGL i.e. Open General Licence.

Restricted Import

Now, imports of goods are generally freely permitted. However, there are various restrictions on import of some goods.

Very few items have been included in restricted list. These can be imported only against license –

Provisions in respect of Imports – Restrictions on imports are summarized here.

1. Import only through State Trading Enterprises
2. Import of food Articles
3. Import of gold & Silver
4. Prohibited Items
5. Import of Textile material
6. Import of old cars
7. Import of new cars
8. Import of alcoholic items

Transaction Value – Inclusions –

Some costs, services and expenses are to be added to the price paid or payable, these are not already included in the invoice price. These are discussed below –

1) Commission and Brokerage includible – Commission and brokerage except buying commission is includible. Buying commission means fees paid by importer to his agent for the service of representing him abroad in purchase of goods being valued.

Exporters from abroad often appoint local agents in India to promote their sales in India. These agents get commission in Indian Rupees which is paid directly by Indian Importer. (Amount net of



commission is paid to foreign exporter in foreign currency). This commission is includible for purpose of valuation.

In some cases, when imports are made by canalizing agency, goods are sold to Indian buyer on high sea sale basis. The imported goods are cleared by Indian buyer. In such cases, service charges payable to the canalizing agency have to be included for calculation of 'Assessable Value'.

2) Packing cost is includible – Cost of containers which are treated as being part of goods for customs purposes. Similarly, cost of packing-both labour and material is to be included.

Cost of durable and returnable containers not to be added-Modern trend is pack goods in containers for convenience of transport. These containers are durable and re-usable. Hence, cost of such containers is not added for Customs Valuation, if importer agrees to execute a bond to re-export the containers within six months.

3) Value of Goods supplied by buyer to be added – If buyer has supplied goods free of cost or at reduced cost in connection with production or export of goods, these should be included. The goods may be (a) materials, components, parts and similar items incorporated in imported goods (b) tools, dies, moulds and similar items used in production of imported goods (c) consumables used in production of imported goods.

4) Services/documents/technical know-how supplied by Buyer to be added – Cost of engineering, development, art work, design work and plans and sketches undertaken by buyer which is necessary for production of imported goods is includible, only if such work is undertaken outside India. The addition should be done on objective and quantifiable data. Data available with importer should be used as far as possible. If the services are purchased or leased by importer, such purchase/lease cost should be added. If the importer has himself done the work abroad, its cost should be added on basis of structure and management practices of importer and his accounting methods.

5) Royalties and license fee – If buyer has paid royalties and license fees separately in relation to imported goods, these are includable, unless they are already included in selling price. Royalty may include payments in respect of patents, trademarks or copyrights. However, following i.e. (a) charges for the right to reproduce the goods in Indian shall not be added and (b) payments made by buyer



(importer) for right to distribute or resale the imported goods shall not be added if such payment is not a condition for export to India.

Royalties and license fees related to imported goods that the buyer is required to pay, directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable.

6) Other payments made to seller to be added – If buyer has made, directly or indirectly, any payment to seller as a condition of sale, such payments should be included for obvious reason that ordinary selling price has been reduced due to such payment.

7) Cost of Transport upto port should be added – Cost of transport from exporting country to India is to be added in Assessable Value. In other words, CIF value is the basis for valuation. If the goods are imported by air, the air freight will be very high. Hence, in case air freight is higher than 20% of FOB price of goods, only 20% of FOB price will be added for customs valuation purposes.

8) Insurance cost should be added – Insurance charges on goods are to be added. If these are not ascertainable, these will be calculated @ 1.125% of FOB value of goods. If the importer has paid insurance charges on customs duty, which is a post importation factor, insurance charges relating to such customs duty are not includible.

9) Landing charges to be added – Cost of unloading and handling associated with delivery of imported goods in port (called landing charges) shall be added. These will be calculated @ 1% of CIF value, i.e. FOB price plus freight plus insurance.

Exclusions from Assessable Value –

If the following items are included in the transaction value, then such expenses or charges should be excluded –

1) Some specific charges –

If the following charges are included in the invoice, shall be excluded from assessable value.



- a) Charges for construction, erection, assembly, maintenance or technical assistance undertaken after importation of plant, machinery or equipment.
- b) Cost of transport after importation.
- c) Duties and taxes in India.

2) Payment not related to imported goods –

Other payments from buyer to seller that do not relate to imported goods are not part of the customs value.

3) Interest on Deferred Payment –

Interest on deferred payment, if shown separately in the Invoice cannot be added. However, if there is a fixed charges payable irrespective of date of payment, it will not be allowed as deduction even if such fixed charges is termed as interest.

Calculation of Customs Duty Payable

The following are the different types of customs (Import) duties –

- 1. Basic customs duty-** It is chargeable on assessable value of imported goods as given rate.
- 2. Social welfare surcharge-** It is calculated on the amount of Basic customs Duty @ 10% w.e.f. 2.2.18 (Prior it education cess has applicable).
- 3. Integrated GST (IGST)-** It is calculated on the sum of following-
 - d. Assessable value
 - e. Basic Customs duty
 - f. Social welfare surcharge

IGST shall be applicable at normal rate of GST (3%, 5%, 12%, 18%, 28%).



Computation of Assessable Value in Rs

Invoice Price of Goods		.....
Add – Following Items		
1. Commission to agent of seller	.....
2. Cost of Packing	.....
3. Development and Design charges	.....
4. royalty and license fees	.....
5. Other payment or supply to seller	.....	(+).....
FOB Value		.....
Add –		
6. Transportation cost	.....
Foreign to Indian port (see note – 1)		
7. Insurance Premium	.....
If the insurance premium is not given then 1.125% of FOB price will be added.		(+).....
(CIF) Cost of Insurance & Freight Value or		.....
Assessable value		

Note – Conversion of Foreign currency shall be at the rate prescribed by Central Excise & Customs Board.

FOB Price = Free on Board Value (Price + Packing + Commission + other expenses up to ship)

CIF value = Cost, Insurance and freight Value

Note –

1. If the goods are imported through air and air freight is more than 20% of FOB price, then maximum 20% of FOB will be taken as transportation cost.
2. For the conversion of value in foreign currency to Indian currency (i.e. Dollars to Rs.) the Exchange Rate will be taken declared by the Board of Excise & customs (CBE & C). Rate announced by Reserve Bank of India or Rate charged by the bank is immaterial.

Formulas and Procedure for Calculating Duty Payable

1. Basic Customs Duty (BCD)

$$\frac{\text{Assessable value} \times \text{Basic Rate of custom duty}}{100}$$

2. Social welfare surcharge @ 10% of basic duty.

3. IGST on assessable value + Basic duty + Social welfare surcharge = aggregate amount X rate of GST.
