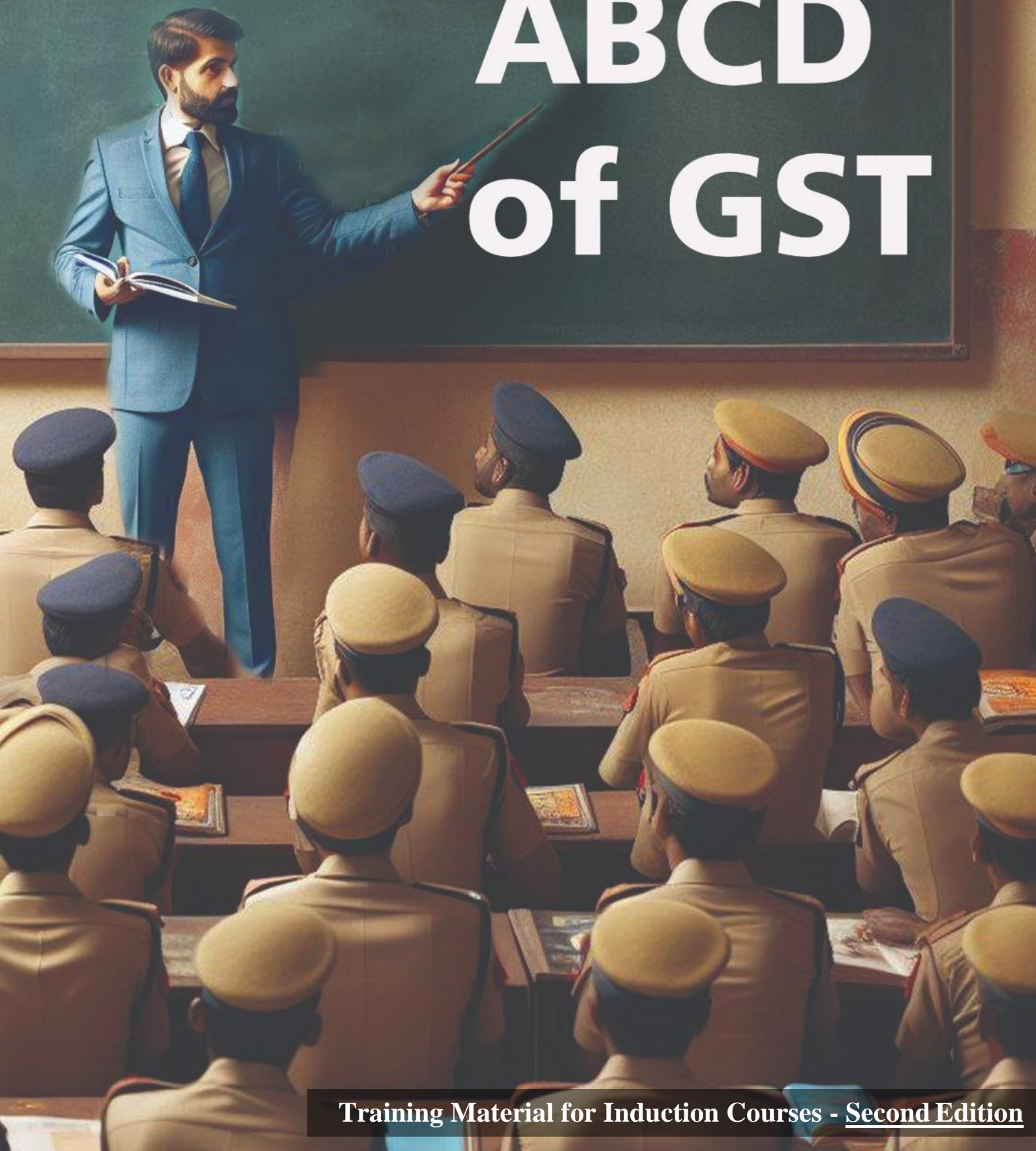


ABCD of GST



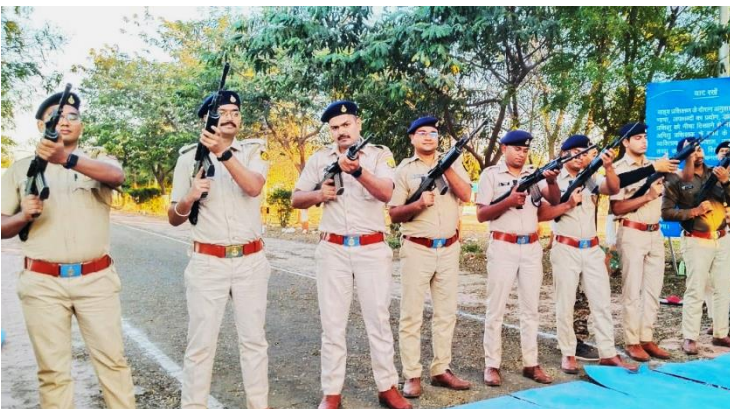
Training Material for Induction Courses - Second Edition



**NATIONAL ACADEMY OF CUSTOMS,
INDIRECT TAXES & NARCOITCS,
ZONAL CAMPUS BHOPAL**

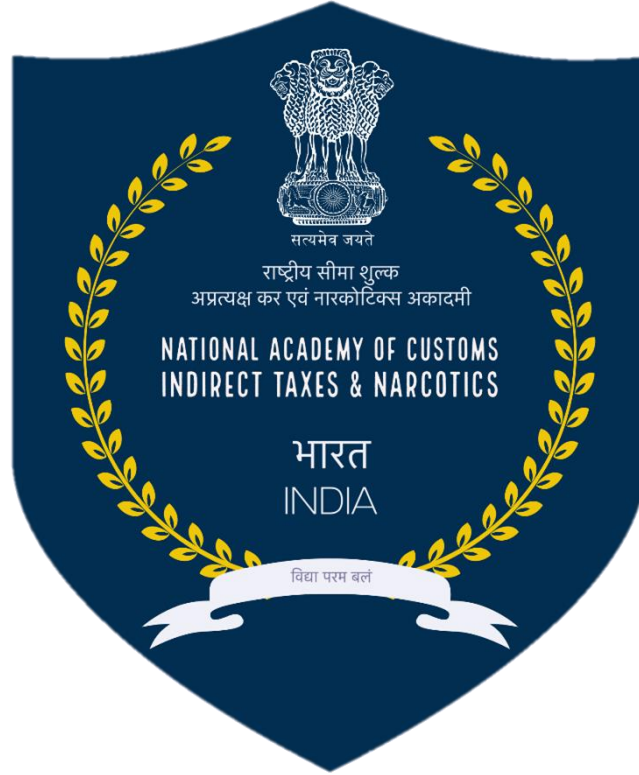


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Life at NACIN Bhopal

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ABCD of GST

**(Training Material for Induction Courses)
Second Edition**

**NATIONAL ACADEMY OF CUSTOMS, INDIRECT TAXES &
NARCOTICS, ZONAL CAMPUS, BHOPAL**

FOREWORD

Induction training is an important part of GST officers as it is a foundation of their career. Unfortunately, there was no training material/written notes available for the said course. Previous batches have given feedback about including written course material in addition to PPTs. In view of the demand for Induction training material, NACIN, Bhopal has prepared this booklet on GST provisions. “ABCD of GST” is an attempt by NACIN, ZC, Bhopal to provide comprehensive training material for Induction trainee officers. As the name itself suggest, the aim of this booklet is to explain some basic concepts of GST in simple language. The topics covered in the book include explaining basic concept like Supply, information about useful tools like data analytics, introduction about recent changes like GSTN Back office. This training material is prepared by Induction trainee officers of CGL-2021 batch and faculty of NACIN. The topics prepared by trainee officers are part of their project under induction training program.

Initially there were 14 topics in the first edition. However, encouraged by the positive feedback, 8 more topics have been added to further expand the scope of training material book. Few topics have been updated considering the recent changes. Earlier the book was circulated in e-book form to induction trainee inspectors. However now NACIN ZC Bhopal is publishing it in hard copy.

I extend my sincere appreciation to the Team NACIN, ZC, Bhopal for their dedicated efforts in producing this training material. Hopefully this book will not only guide newly inducted inspectors about different aspects of GST but also act as resource material for all stakeholders.

(Dr. K.N. Raghavan)
Director General, NACIN

PREFACE
[2nd Edition]

*“क्षणशः कणशश्चैव विद्यामर्थं च साधयेत् ।
क्षणो नष्टे कुतो विद्या कणो नष्टे कुतो धनम् ॥”*

It gives me immense pleasure to present the 2nd edition of ABCD of GST. There was a long pending demand for providing training material for Induction course. ABCD of GST is an attempt by NACIN, Zonal Campus, Bhopal to provide comprehensive training material to the Induction training officers. After publishing the 1st edition, we have received feedback from different stakeholders. Encouraged by the positive feedback we have decided to further expand the scope of training material. Now, we have added 8 more chapters to this training material book. These chapters are related to some basic concepts of GST and its practical aspects.

For tax officer, knowledge is of paramount importance. It is the duty of the GST officer to collect every single rupee, which is due to the government. Our attempt is to sensitize the Induction training officers with the basic concepts of law and importance of collecting tax in lawful manner. I hope that ABCD of GST will fulfill the objective of Induction training. I am thankful to all the stakeholders for making contribution to this training material. My special thanks to Shri Pranesh Gupta, Additional Director, Shri Gopal Singh, Assistant Director, Shri Bharat Kumar Tamrakar, Additional Assistant Director and the entire team of NACIN, Zonal Campus, Bhopal. I also express my gratitude for Shri Shailesh Sautkar, Professor at J.J. Institute, Mumbai for designing the cover page.

If you have any suggestion or comment, then please write us to our official e-mail i.e. nacenbho-mp@gov.in and nacenbhopal@gmail.com.

April 29th, 2024

(Milind R. Lanjewar)
Additional Director General,
NACIN, Zonal Campus, Bhopal

PREFACE

*“विद्वत्त्वं च नृपत्वं च नैव तुल्यं कदाचन!
स्वदेशे पूज्यते राजा विद्वान् सर्वत्र पूज्यते !!”*

Knowledge is power and it is more important for officers working in specialized service like GST. Induction training is an important part of GST officers as it is a foundation of their career. It is expected that the newly inducted trainee officers should learn about GST Act and rules along with basic concepts of taxation. Though, there is a well-planned training module for Induction trainee Inspectors, unfortunately there is no training material available for the said course. The feedback received from earlier batches of Induction Trainee officers also indicate that there is a need of Induction training material. At present, the faculty at NACIN is taking sessions with the help of PPT but there are no written notes provided to trainees.

In view of the demand for Induction training material, NACIN, Bhopal has decided to prepare booklet on GST provisions. “ABCD of GST” is an attempt by NACIN, ZC, Bhopal to provide comprehensive training material for Induction trainee officers. This training material is prepared by Induction trainee officers of CGL- 2021 batch and faculty of NACIN. The topics prepared by trainee officers is part of their project under induction training program. As the name itself suggests, the aim of this booklet is to explain some basic concepts of GST in simple language. At present, we are covering 14 topics right from Supply to Data Analytics in GST. In near future we may add few more topics to this training material.

We welcome comments and suggestions from the readers to improve our Induction training material “ABCD of GST”. Please send your suggestions to our official e-mail i.e. nacenbho-mp@gov.in and nacenbhopal@gmail.com.

January 8th, 2024

NACIN, Zonal Campus, Bhopal team

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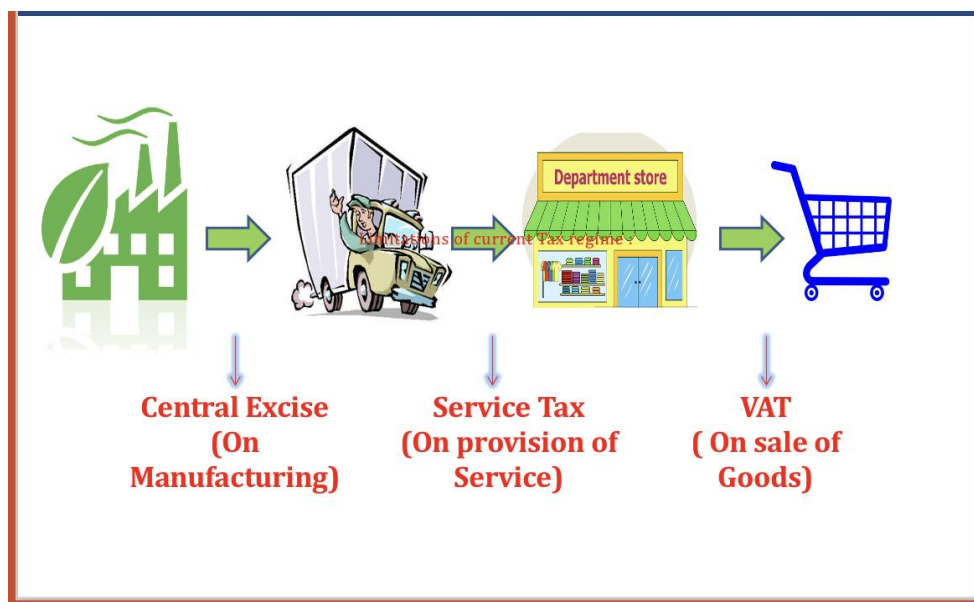
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Disclaimer:

This material is prepared for training purpose & strictly for departmental circulation only. For legal provisions one may refer to CGST Act read with rules & circulars.

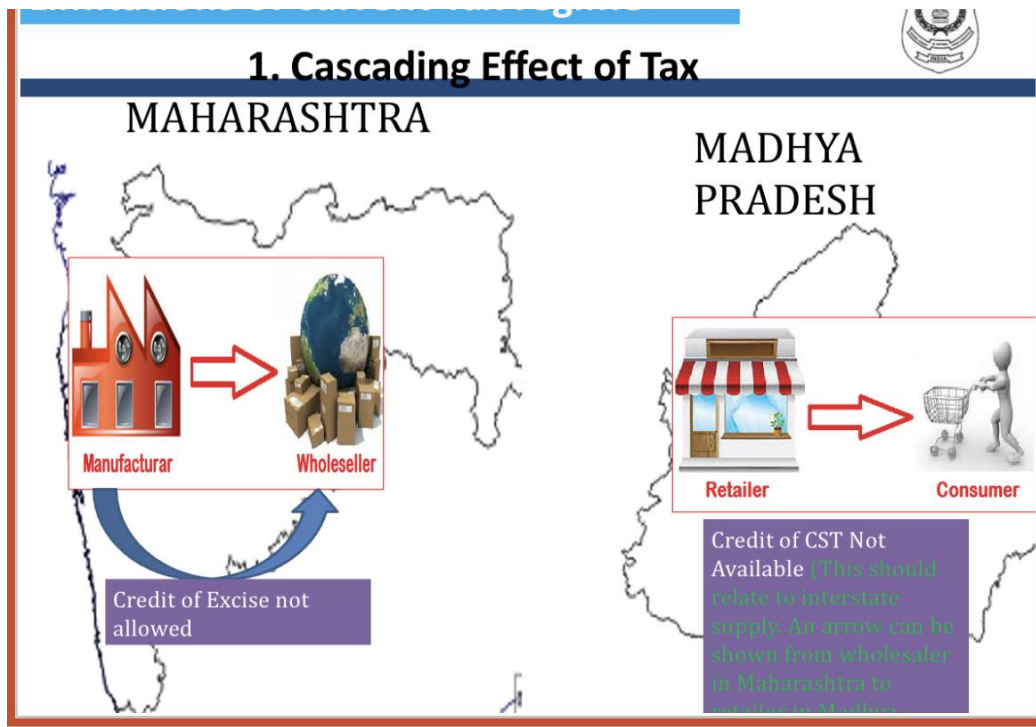
1. OVERVIEW OF GST

Introduction of Goods & Services Tax is the biggest tax reform of independent India. GST is single domestic Indirect Tax law for the entire country. Before GST the Indirect Taxes were imposed by Centre and State at different stage of supply chain. The Centre was levying central excise tax on manufacture and service tax on services, while state were imposing VAT on sale of Goods. However, under GST regime the entire supply chain is brought under single tax. Thus, GST is single tax on supply of goods and services where both centre and state can tax each supply of goods and services. Taxes imposed by Centre and states like Central Excise, additional duties of excise, additional duties of Customs, service tax, State VAT, Central Sales Tax, Purchase Tax, Entry Tax, Taxes on lottery, gambling etc are subsumed into GST.



Different Points of Taxation

In earlier tax regime, there was a cascading effect of tax as VAT was charged on the portion of Central Excise duty. There was no tax credit benefit across the taxes imposed by Centre and State and thus, obstructed the free flow of credit. The distortion is also caused by Central Sale tax. This tax was imposed whenever goods are supplies from one State to another. However, the recipient was not entitled to avail credit on CST paid by supplier and thus, CST was adding as cost to the recipient. Similarly, Inter-State taxes like Octroi were not part of credit chain and also restricted the movement of vehicle from one State to another. The Customs duties like CVD and SAD created problems for traders as they were not able to avail credit on these Customs duties. It was also observed that these Customs duties were actually providing negative protection to the domestically manufactured goods. All these problems of earlier tax regime have been addressed in GST era. There is a free flow of credit in entire supply chain under GST regime.



This is dual GST where Centre and State simultaneously levying it on common tax base. The GST levied by Centre on Intra State supply of goods and services is called as Central GST (CGST) and tax levied by State is called as State GST (SGST). The Integrated GST (IGST) is applicable to Inter-State supply of goods and services in India. The IGST is also applicable to Inter-State stock transfers of goods as well as on import and export of goods and services. The goods like alcohol for human consumption, electricity and real estate are kept out of purview of GST. Similarly, five petroleum products viz. petroleum crude, motor spirit, high speed diesel, natural gas and aviation turbine fuel will be brought under GST from a later date on recommendation of GST Council. The tobacco products will attract both GST and Central Excise duty.

The salient features of GST are as follows;

1. GST is a single tax on supply of goods or services or both out of which 50 percent will go to Central Government and 50 percent will go the State Government/Union Territory.
2. GST is destination based consumption tax. The tax would accrue to the state which has jurisdiction over the place of consumption. The IGST is levied on Inter-State supply of goods and services and rate of IGST is equal to the rate of CGST + rate of SGST. The accounts are settled periodically between the Centre and the States to ensure that SGST portion of IGST is transferred to the destination state where the goods or services are eventually consumed.
3. The taxpayers are allowed to take credit of taxes paid on inputs and utilise the same for payment of output tax. However, no Input Tax Credit on account of CGST shall be utilised towards payment of SGST and vice versa. The credit

of IGST would be permitted to be utilised for payment of IGST, CGST and SGST.

4. The rate of tax will be decided by GST Council. GST Council is a constitutional body for making recommendation on issues relating to GST. The Council is a joint forum of the Centre and the States and a shining example of the Indian federalism. HSN code is used for classifying the goods under GST regime.
5. In order to suitably implement the GST legislation, this Act resulted in the insertion, deletion and amendment of certain Articles of the Constitution. The 101st Constitution Amendment Act, 2016 has brought following changes in Constitution.
 - Article 246A- related to Special provision w.r.t GST
 - Article 269A- Levy and collection of GST in the course of inter-state trade or commerce
 - Article 279A- GST Council

Benefits of GST

- One of the biggest benefits of GST is seamless flow of credit. The credit is not only available on input or input services within the State but also available in Inter-State transaction. Removing cascading effects on taxes has resulted in reduction of prices. In earlier tax regime the manufacturer was paying VAT on the portion of central excise duty also. For example, if manufacturer has to clear goods of value of 100 rupees and rate of duty for Central Excise and VAT were 10 percent each, then calculation was as follows;

Value = Rs. 100
Central Excise duty 10% = Rs. 10
Total = Rs. 110
VAT 10% on 110 = 11
Total price 110+11 = 121

Now assuming that in GST era the rate of duty is same, then the calculations are as follows;

Value = 100 Rs.
CGST at 10% = Rs. 10
SGST at 10% = Rs. 10
Total Price = Rs. 120

Thus, it can be seen that the prices have reduced in GST regime as both Centre and State are charging tax on same base and thus removing cascading effect.

The IGST model has maintained uninterrupted credit chain on Inter-State transaction. The trader, manufacturer or service provider can avail Input Tax

Credit for transaction within the State as well as across the State under GST era.

- GST is One Nation, One Market, and One Tax. Any specific goods or services will attract same rate of duty and law throughout the India. Thus, GST has unified the market in India.
- In GST era there are no Inter-State tax like CST or entry tax. All these taxes have been subsumed into GST with uninterrupted credit chain. This has also resulted in reduction in cost of warehouse and transportation. In earlier regime, many companies have built warehouses in different States to avoid the payment of CST. The goods used to be sent on stock transfer basis to warehouse locate in different states. These goods were further distributed or sold from warehouse to different dealers. This was also adding transportation cost to the manufacture. However, in GST regime there is no need to have a warehouse to avoid the payment of CST or Entry Tax. Many companies have reduced the number of their warehouses under GST regime. Removal of entry tax in GST regime has resulted in reducing the travel time in Inter-State movement by the trucks. As per reports, it is observed that the travel time on the truck has been reduced by 20% in GST regime.
- Reducing the cascading effect of taxes and logistics cost have resulted in reduction of prices. The lowering of prices has effect of increase in demand. Due to seamless flow of credit, now the credit is also available to capital goods used in sectors other than manufacture. This has resulted in boost to capital market in India. All these factors have helped in India's GDP growth. Now, India is one of the fastest growing economies in the world. The GST is value added tax which means tax is only applicable on value addition. The value addition mainly comes from wages and profit. As GST is capturing value addition, this has not only helped the growth of Indirect Taxes but also resulted in higher collection of direct tax. The GST is game changer for Indian economy as now we have higher Indirect Tax collection, higher Direct Tax collection, higher GDP, Uniform Market and reduction in prices. Its really Goods and Simple Tax.

Complied by
Milind R. Lanjewar
ADG, NACIN Bhopal

2. SUPPLY UNDER GST

Under GST, Supply is considered a taxable event for charging tax. The liability to pay tax arises at the 'time of supply of goods or services. Thus, determining whether or not a transaction falls under the meaning of supply, is important to decide GST's applicability.

Concept Before GST

Under the erstwhile indirect tax regime, there was no concept of Supply. The stage at which indirect taxes were levied varied under different tax laws. The 'excise duty' was charged on goods manufactured when they were taken out of the factory. 'Service Tax' was levied based on certain rules known as the 'point of taxation' rules, for services rendered. A VAT would arise on the value of the sale of goods or provision of services. The present system has merged all taxes to maintain a single taxable event.

Supply under GST

Supply includes sale, transfer, exchange, barter, license, rental, lease and disposal. If a person undertakes either of these transactions during the course or furtherance of business for consideration, it will be covered under the meaning of Supply under GST.



Statutory provisions

Supply has been defined in section 7 of GST Act. Schedule I specify the activity which are considered as supply even when they are rendered without consideration. Schedule II of Act specifies the matter which are to be considered as supply of goods or supply of services. The Schedule-III specifies certain transactions which are not considered as supply of goods or services.

Elements of Supply: -

- Supply has two important elements: -
- Supply is done for a consideration
- Supply is done in course of furtherance of business
- If the aforementioned elements are not met with, it is not considered as a supply.

Examples:

- Mr. A buys a table for Rs. 10,000 for his personal use and sells it off after 10 months of use to a dealer. This is not considered as supply under CGST as this is not done by Mr A for the furtherance of business
- Mrs. B provides free coaching to neighbouring students as a hobby. This is not considered as supply as this act is not performed for a consideration.

However, as specified in Schedule I of GST Act, certain activities are considered as supply even if it is made without consideration.

Classification of supply and types

There are a few supplies which are made together with two or more items. Such supplies are further classified into Composite Supply and Mixed Supply. (Section 8 of GST Act)

Composite supply:

A supply comprising of two or more goods/services, which are necessarily supplied in conjunction with each other as per frequent business practices followed in that area. In other words, these items cannot be supplied individually. There is a principal supply and a secondary supply in the whole transaction. In such cases, the tax rate on principal supply will apply to the entire supply. E.g. Buying a Dry Fruit Gift Box for Diwali. It includes dry fruits, a box, and a wrapper. Box and wrapper cannot be sold individually without the main content which is dry fruit. This is a composite supply.

Mixed Supply:

A supply comprising of two or more goods/services, wherein the supplies are independent of each other and are not necessarily required to be sold together is called a mixed supply. The first condition to be met for mixed supply is that 'it should not be a composite supply'. In such cases, the tax rate that is higher of the two supplies will be applicable to the entire supply. E.g Buying a Christmas package consisting of cakes, aerated drinks, chocolates, Santa caps, and other gift items. Each of these items can be sold separately and are not dependent on each other. This is a mixed supply.

Import of services:

Import of goods/services with consideration is considered as supply whether for personal or business use.

Activities considered as a supply of goods as per Schedule II of the GST Act-

Transfer of business assets:

1. Business assets transferred/disposed of with or without consideration
2. If the owner ceases to be a taxable person, then his business assets will be assumed to be supplied to him in course of his business –

This is not applicable in the following cases:

- a. Business is transferred to another person
- b. Business is carried by a taxable representative

Activities considered as a supply of services as per Schedule II of GST Act-

1. Land and building
 - a. Lease, rent, tenancy, easement, licence to occupy land
 - b. Lease or letting out of the building (Building includes commercial /industrial/residential complex for business use either wholly or partly)
2. Transfer of business assets: The owner uses or allows to use business assets for personal use.
3. Construction of a building/complex intended for sale to a buyer wholly or partly
4. Temporary transfer or permitting the use of intellectual property right
5. Renting of immovable property (Rented residence is exempted from GST)
6. Development of information technology software

7. Agreeing to refrain from an act – non-competition agreements
8. Transfer of right to use any goods for a consideration
9. Any treatment or process which is applied to another person's goods is a supply of services.

Activities or transactions treated neither as the sale of goods nor sale of services as per Schedule III of GST Act-

- Services provided by an employee to the employer
- Services of the funeral, burial, crematorium or mortuary including transportation of the deceased
- Services by any court or Tribunal
- Duties performed by the MP/MLA/MLC/ Members of Local Bodies
- Duties performed by any person as a chairperson or a member or a director in a body established by the Central Government or a state government or local authority
- Duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity
- Sale of Land
- Sale of Building (However, if construction of a complex /building intended for sale to a buyer and part of the consideration is received before completion, then it will be treated as Supply of Services)
- Actionable claims, other than lottery, betting and gambling.
- Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India*.
- Supply of warehoused goods to any person before clearance for home consumption*.
- Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption

**These transactions were inserted into the Act with effect from 1st February 2019. However, in Budget 2023, it was proposed that these entries will take retrospective effect from 1st July 2017. However, no refund will be made of all the tax that has been collected between 1st July 2017 and 31st January 2019.*

Conclusion:

In order to constitute a “supply”, the following elements are required to be satisfied:

1. The activity involves supply of goods or services
2. The supply is for a consideration unless otherwise specifically provided for.
3. Schedule I specifically provides the activities which shall be treated as supply even if such supply is made or agreed to be made without a consideration
4. Supply is made in the course or furtherance of business
5. Supply is made in the Taxable Territory
6. Supply is a Taxable Supply and
7. Supply is made by a taxable person.

Compiled by
Pranesh Gupta
Additional Director
NACIN Bhopal

3. TIME & PLACE OF SUPPLY

Time of supply means the point in time when goods/services are considered supplied'. When the seller knows the 'time', it helps him identify due date for payment of taxes.

Place of supply is required for determining the right tax to be charged on the invoice, whether IGST or CGST/SGST will apply.

PLACE OF SUPPLY

The Place of Supply of Goods and Services under the Goods and Services Tax (GST) regime is a critical aspect with implications for taxation, especially in a federal setup like India. The GST aims to effectively tax the consumption of goods and services at their destination or point of consumption. While determining the place of supply for goods is relatively straightforward, the challenge intensifies for services, particularly in the context of inter-state and international transactions.

In the case of goods, the place of supply is determined based on the physical location of the goods. However, services being intangible pose challenges in determining the exact place where they are acquired, enjoyed, and consumed. Factors like the location of service provider, service receiver, the place of activity, and the place of consumption contribute to the complexity.

Under GST, three types of taxes can be charged in the invoice. SGST and CGST in case of an intra-state transaction and IGST in case of an interstate transaction. But deciding whether a particular transaction is inter or intrastate is not an easy task. For example-Think about an online training where customers are sitting in different parts of the world or where goods are sold on a train journey passing through different states.

To help address some of these situations, the IGST act lays down certain rules which define whether a transaction is inter or intrastate. These rules are called the place of supply rules.

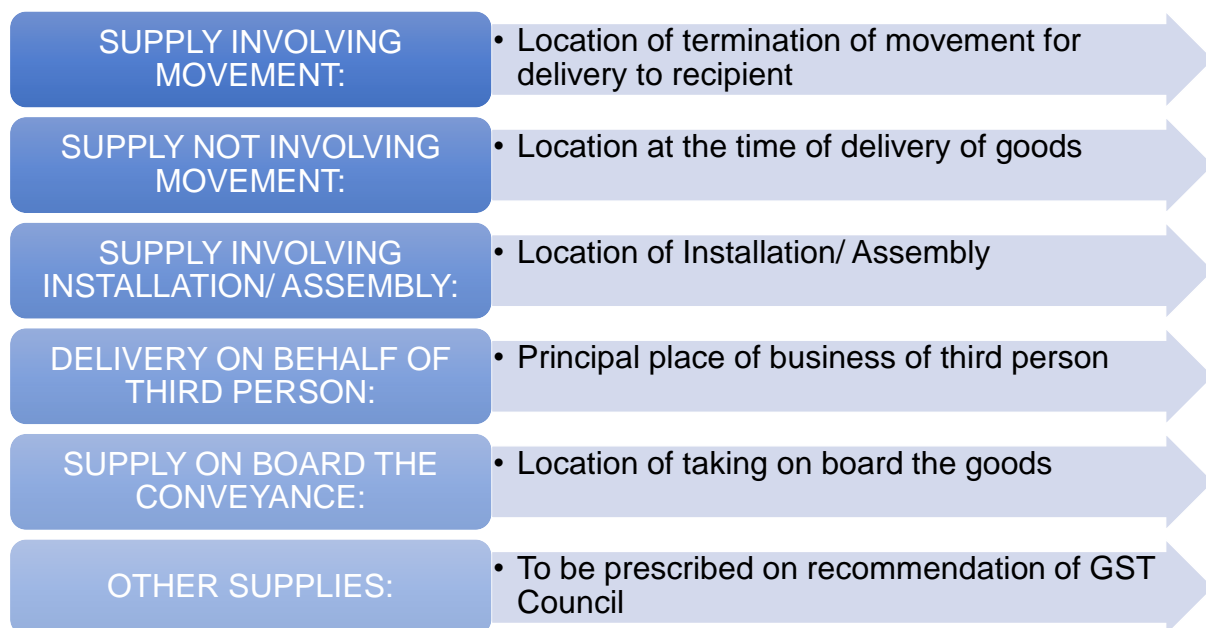
PLACE OF SUPPLY OF GOODS

For goods, Section 10 of the IGST Act specifies various scenarios:

- Place of Supply Goods involving movement (Sec 10(1)(a)): whether by the supplier or the recipient or by any other person, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient;
- Place of Supply for Non-Removed Goods (Sec 5(3)): Deals with situations like the supply of plant where goods are supplied from a place other than the supplier's premises.

- Supply on Behalf of Third Person (Sec 10(1)(b)): The place of supply is the principal place of business of the third person.
- Goods Assembled or Installed (Sec 10(1)(d)): The place of supply is where goods are assembled or installed.
- Goods on Board a Conveyance (Sec 10(1)(e)): The place of supply is where goods are taken on board.
- Other Supplies of Goods (Sec 10(2)): Where the place of supply of goods cannot be determined, the place of supply shall be determined in such manner as may be prescribed.

The same is as summarized below:



PLACE OF SUPPLY OF SERVICES

For services, Section 12 of the IGST Act outlines the following principles:

- B2B Services (Sec 12(2)(a)): The place of supply is the location of the service recipient.
- B2C and B2G Services (Sec 12(2)(b)): Default rule is the location of the recipient if available, else the location of the service provider.
- Exceptions to General Principle (Sec 12(3)): Place of supply is the location of immovable property for services related to it.
- Restaurant and Performance-Based Services (Sec 12(4)): Place of supply is where the service is performed.
- Training and Performance Appraisal (Sec 12(5)): Place of supply is the location of performance for non-registered persons.
- Admission to Events or Amusement Parks (Sec 12(6&7)): Place of supply is where the event is held.

- Organizing Events for Non-Registered Persons (Sec 12(7)(b)(ii)): Place of supply is where the event is held.
- Goods Transportation Services for Non-Registered Persons (Sec 12(8)): Place of supply is where goods are handed over for transportation.
- Passenger Transportation Services for Non-Registered Persons (Sec 12(9)): Place of supply is where the passenger embarks for a continuous journey.
- Services on Board a Conveyance (Sec 12(10)): Place of supply is the location of the first scheduled point of departure of the conveyance.
- Telecom Services (Sec 12(11)): Place of supply determined based on specific criteria.
- Banking and Financial Services (Sec 12(12)): Place of supply is the location of the service recipient on record.
- Insurance Services (Sec 12(13)): B2C transactions place of supply is the location of the service recipient on record.
- Advertisement Services to Government (Sec 12(14)): Place of supply is the state to which the service is identifiable.

Special provision for payment of tax by a supplier of online information and database access or retrieval services. Section 14(1), IGST Act, 2017 stipulates that on supply of online information and database access or retrieval services by any person located in a non-taxable territory and received by a non-taxable online recipient, the supplier of services located in a non-taxable territory shall be the person liable for paying integrated tax on such supply of services:

PLACE OF SUPPLY IN CASE OF IMPORT/ EXPORT

In case of Goods: (Sec 11, IGST Act, 2017) For Import Location of Importer is to be considered as place of supply. For Export: Location Outside India is to be considered as place of supply.

In case of Services: (Sec 13, IGST Act, 2017) the default location is the location of the Recipient. If the same is not available, then location of Supplier is to be considered as the place of supply with the following exception:

- Performance based
- In relation to Immovable property
- Admission to or Organization of an event
- Location of Supplier based
- Transportation of goods
- Passenger transportation
- Supply on board

In conclusion, the determination of the place of supply under GST, especially for services, involves a complex interplay of factors. The legal framework, as outlined in the relevant sections of the IGST Act, aims to provide clarity while addressing the challenges associated with the federal nature of the taxation system.

TIME OF SUPPLY

The Time of Supply holds pivotal significance within the framework of Goods and Services Tax (GST), as it delineates the moment when tax liability crystallizes. The CGST Act, 2017, intricately addresses the temporal dimensions associated with the supply of goods and services. Specifically, Sections 12, 13, and 14 of the CGST Act, 2017, are devoted to explicating the provisions pertaining to the Time of supply, and by extension, Section 20 of the IGST Act, 2017, extends their application to inter-State supplies subject to Integrated tax.

For goods (Sec 12(2), CGST Act), the Time of supply is established as the earliest occurrence between the date of issuing the invoice and the date of receiving payment. In instances where the tax is paid or is liable to be paid on a reverse charge basis (Sec 12(3), CGST Act, 2017), the time of supply is determined by the earliest occurrence among the following dates:

- the date of goods receipt;
- the date of payment recorded in the recipient's books or the date the payment is debited in their bank account, whichever comes first; or
- the date immediately succeeding thirty days from the issuance of the invoice or any analogous document by the supplier.

Conversely, in the domain of services Sec 13(1), CGST Act, 2017, the Time of supply hinges on the prior incidence of issuing the invoice, receiving payment, or the actual provision of the service.

Notification no. 66/2017-Central Tax dated 15.11.2017, exempts non-composition registered entities from the GST payment at the receipt of advance for goods. Instead, the entire GST liability crystallizes only upon invoicing, even in scenarios involving rate changes.

In the realm of services, similar temporal intricacies are observed. The value covered by an invoice or payment is deemed to be supplied. In voucher transactions, the Time of supply differentiates between single-purpose and general-purpose vouchers, attributing the former to the date of voucher issuance and the latter to the date of redemption.

When standard provisions fail to pinpoint the Time of supply, it defaults to the due date of filing the return for periodic filings or the date of tax payment in other instances.

For any addition to the value due to interest, late fees, or penalty, the time of supply is when the supplier receives such additions.

In case of a change in the tax rate (Sec 14, CGST Act, 2017), the time of supply is governed by specific rules based on the completion of supply before the rate change, issuance of the invoice, and receipt of payment.

(a) For supplies made before the change:

- If invoice and payment occur after the change, the time of supply is the earlier of the payment receipt or invoice issuance.
- If the invoice precedes the change but payment follows, the time of supply is the invoice date.
- If payment is received before the change but the invoice is issued after, the time of supply is the payment receipt date.

(b) For supplies made after the change:

- If payment is received after the change but the invoice precedes it, the time of supply is the payment receipt date.
- If the invoice and payment occur before the change, the time of supply is the earlier of payment receipt or invoice issuance.
- If the invoice is issued after the change but payment is received before, the time of supply is the invoice issuance date.

Compiled by
Shivi Sangwan
Deputy Director
NACIN Raipur

4. REGISTRATION UNDER GST

Introduction

In any tax system registration is the most fundamental requirement for identification of tax payers ensuring tax compliance in the economy. Registration of any business entity under the GST Law implies obtaining a unique number from the concerned tax authorities for the purpose of collecting tax on behalf of the government and to avail Input tax credit for the taxes on his inward supplies. Without registration, a person can neither collect tax from his customers nor claim any input tax credit of tax paid by him.

Need and advantages of registration

Registration will confer the following advantages to a taxpayer:

- He is legally recognized as supplier of goods or services.
- He is legally authorized to collect tax from his customers and pass on the credit of the taxes paid on the goods or services supplied to the purchasers/recipients.
- He can claim input tax credit of taxes paid and can utilize the same for payment of taxes due on supply of goods or services.
- Seamless flow of Input Tax Credit from suppliers to recipients at the national level.

Liability to register

GST being a tax on the event of “supply”, every supplier needs to get registered. However, small businesses having all India aggregate turnover below Rupees 20 lakh (10 lakh if business is in Special Category States) need not register. The small businesses, having turnover below the threshold limit can, however, voluntarily opt to register.

The aggregate turnover includes supplies made by him on behalf of his principals, but excludes the value of job-worked goods if he is a job worker. But persons who are engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax or an agriculturist, to the extent of supply of produce out of cultivation of land are not liable to register under GST. Also, if all the supplies being made by a supplier are taxable under reverse charge, there is no requirement for such a supplier to register in light of Notification No. 5/2017-Central Tax dated 19.06.2017.

Nature of Registration

The registration in GST is PAN based and State specific. Supplier has to register in each of such State or Union territory from where he effects supply. In GST

registration, the supplier is allotted a 15-digit GST identification number called “GSTIN” and a certificate of registration incorporating therein this GSTIN is made available to the applicant on the GSTN common portal. The first 2 digits of the GSTIN is the State code, next 10 digits are the PAN of the legal entity, the next two digits are for entity code, and the last digit is check sum number. Registration under GST is not tax specific which means that there is single registration for all the taxes i.e. CGST, SGST/UTGST, IGST and cesses.

A given PAN based legal entity would have one GSTIN per State, that means a business entity having its branches in multiple States will have to take separate State wise registration for the branches in different States. But within a State an entity with different branches would have single registration wherein it can declare one place as principal place of business and other branches as additional place of business. However, a business entity having separate business verticals (as defined in section 2 (18) of the CGST Act, 2017) in a state may obtain separate registration for each of its business verticals. Further a unit in SEZ or a SEZ developer needs to necessarily obtain separate registration.

- Generally, the liability to register under GST arises when you are a supplier within the meaning of the term, and also if your aggregate turn over in the financial year is above the exemption threshold of 20 lakh rupees (10 lakh rupees in special category states except J & K). However, the GST law enlists certain categories of suppliers who are required to get compulsory registration irrespective of their turnover that is to say, the threshold exemption of 20 lakh rupees or 10 lakh rupees as the case may be is not available to them. Some of such suppliers who need to register compulsorily irrespective of the size of their turnover are those who are,
- Inter-state suppliers; however, persons making inter-state supplies of taxable services and having an aggregate turnover, to be computed on all India basis, not exceeding an amount of twenty lakh rupees (ten lakh rupees for Special Category States) are exempted from obtaining registration vide Notification No. 10/2017-Integrated Tax dated 13.10.2017.
- A person receiving supplies on which tax is payable by recipient on reverse charge basis
- Casual taxable person who is not having fixed place of business in the State or Union Territory from where he wants to make supply. However casual taxable persons making supplies of specified handicraft goods need not take compulsory registration and are entitled to the threshold exemption of Rs. 20 Lakh. Handicraft goods are specified in Notification no. 33/2017-Central Tax dated 15.09.2017 as amended by Notification no. 38/2017-Central Tax dated 13.10.2017.

- Non-resident taxable persons who is not having fixed place of business in India
- A person who supplies on behalf of some other taxable person (i.e. an Agent of some Principal)
- E-commerce operators, who provide platform to the suppliers to make supply through it
- Suppliers of goods who supply through such e-commerce operator who are liable to collect tax at source. Persons supplying services through e-commerce operators need not take compulsory registration and are entitled to avail the threshold exemption of Rs. 20 Lakh as per Notification No. 65/2017-Central tax dated 15.11.2017.
- Those ecommerce operators who are notified as liable for GST payment under Section 9(5) of the CGST Act, 2017
- TDS Deductor
- Input service distributor
- Those supplying online information and data base access or retrieval services from outside India to a non-registered person in India.

A casual taxable person is one who has a registered business in some State in India, but wants to effect supplies from some other State in which he is not having any fixed place of business. Such person needs to register in the State from where he seeks to supply as a casual taxable person. A non-resident taxable person is one who is a foreigner and occasionally wants to effect taxable supplies from any State in India, and for that he needs GST registration. GST law prescribes special procedure for registration, as also for extension of the operation period of such casual or non resident taxable persons. They have to apply for registration at least five days in advance before making any supply. Also, registration is granted to them or period of operation is extended only after they make advance deposit of the estimated tax liability.

In respect of supplies to some notified agencies of United Nations organisation, multinational financial institutions and other organisations, a centralised unique identification number (UIN) is issued.

Standardisation of procedures

A total of 30 forms / formats have been prescribed in the GST registration rules. For every process in the registration chain such as application for registration, acknowledgment, query, rejection, registration certificate, show cause notice for

cancellation, reply, cancellation, amendment, field visit report etc., there are standard formats. This will make the process uniform all over the country. The decision making process will also be fast. Strict time lines have been stipulated for completion of different stages of registration process.

An application has to be submitted on line through the common portal (GSTN) within thirty days from the date when liability to register arose. The casual and non-resident taxable persons need to apply at least five days prior to the commencement of the business. For transferee of a business as going concern, the liability to register arises on the date of transfer.

The Proper Officer has to either raise a query or approve the grant of registration within three working days failing which registration would be considered as deemed to have been approved. The applicant would have to respond within seven working days starting from the fourth day of filing the original application. The proper officer would have to grant or reject the application for registration within seven working days thereafter.

Amendment of Registration

Except for the changes in some core information in the registration application, a taxable person shall be able to make amendments without requiring any specific approval from the tax authority. In case the change is for legal name of the business, or the State of place of business or additional place of business, the taxable person will apply for amendment within 15 days of the event necessitating the change. The proper officer, then, will approve the amendment within next 15 days. For other changes like name of day to day functionaries, e-mail Ids, Mobile numbers etc. no approval of the proper officer is required, and the amendment can be affected by the taxable person on his own on the common portal.

Generally, the amendments take effect from the date of application for amendment. Commissioner, however, has been given powers to permit amendments with retrospective effect.

Cancellation of Registration

The GST law provides for two scenarios where cancellation of registration can take place; the one when the taxable person no more requires it (voluntary cancellation), and another when the proper officer considers the registration liable for cancellation in view of certain specified defaults (Suo-motu cancellation) like when the registrant is not doing business from the registered place of business or if he issues tax invoice without making the supply of goods or services. The taxable person desirous of cancellation of Registration will apply on the common portal within 30 days of event warranting cancellation. He will also declare in the application the stock held on the date with effect from which he seeks cancellation. He will also work out and declare the quantum of dues of payments and credit

reversal, and the particulars of payments made towards discharge of such liabilities. In case of voluntary registration (taken despite not being liable for obtaining registration), no cancellation is allowed until expiry of one year from the effective date of registration. If satisfied, the proper officer has to cancel the registration within 30 days from the date of application or the date of reply to notice (if issued, when rejection is concluded by the officer).

Revocation of Cancellation

In case where registration is cancelled suo-motu by the proper officer, the taxable person can apply within 30 days of service of cancellation order, requesting the officer for revoking the cancellation ordered by him. However, before so applying, the person has to make good the defaults (by filing all pending returns, making payment of all dues and so) for which the registration was cancelled by the officer. If satisfied, the proper officer will revoke the cancellation earlier ordered by him. However, if the officer concludes to reject the request for revocation of cancellation, he will first observe the principle of natural justice by way of issuing notice to the person and hearing him on the issue.

Physical verification in connection with registration

Physical verification is to be resorted to only where it is found necessary in the subjective satisfaction of the proper officer. If at all, it is felt necessary, it will be undertaken only after granting the registration and the verification report along with the supporting documents and photographs shall have to be uploaded on the common portal within fifteen working days.

Compiled by
Kaushik Deb
AAD, NACIN Bhopal

5. ACCOUNTS AND OTHER RECORDS UNDER GST

Every registered person under GST must self-assess the tax obligations under section 59 of the CGST Act 2017. Taxpayers must file GST returns with assessed documents within the pre-determined tax period. The department looks into each compliance submitted on the government portal; examines, audits, or investigates each document filed by the registered taxpayer. The process of compliance verification requires taxpayers to remain accountable by maintaining accounts and records under GST. In short, to ascertain actual tax liability appropriate accounts and other records must be maintained.

Every taxpayer registered under GST must maintain all records at his principal place of business as mentioned in the certificate of registration. Where more than one place of business is specified in the certificate of registration, the accounts related to each place of business shall be kept at such place of business.

The provision pertaining to accounts and other records under GST is given under Section 35 and 36 of the CGST Act to be read with CGST Rule 56 to 58.

What records must be maintained under GST

Every registered person must maintain records of:

- Production or manufacture of goods
- Inward and outward supply of goods or services or both
- Stock of goods
- Input tax credit availed
- Output tax payable and paid and
- Other particulars as may be prescribed

Records at Warehouse- account of goods remain in the warehouse, including the particulars relating to dispatch, movement, receipt and disposal of such goods.

Records by Transporter- Main records of goods transported, delivered and goods stored in transit by him and for each of his business branch. They have to enrolled by submitting form GST ENR-1 and obtain an unique enrolment number. Form GST ENR-2 for more than one state.

Account for works contract- (Rule 56 (14)) Every registered person executing works contract shall keep separate accounts for works contract showing -

- (a) the names and addresses of the persons on whose behalf the works contract is executed;
- (b) description, value and quantity (wherever applicable) of goods or services received for the execution of works contract;
- (c) description, value and quantity (wherever applicable) of goods or services utilized in the execution of works contract;

- (d) the details of payment received in respect of each works contract; and
- (e) the names and addresses of suppliers from whom he received goods or services.

Other important account to be maintained

- Every registered person shall keep and maintained a separate account of advances received, paid and adjustment made thereto.
- Every registered person shall keep and maintained name and complete address of suppliers and recipients.
- The complete address of the premises where the goods are stored by him.
- Every agents shall maintain accounts and records like authorization, goods/services details and particulars as required under this act.

Period for Retention of Accounts under GST

As per the GST Act, every registered taxable person must maintain the accounts books and records for at least 72 months (6 years). The period will be counted from the last date of filing of Annual Return for that year.

The last date of filing the Annual return is 31st December of the following year.

For example:

For the year 2017-2018, the due date of filing the annual return is 31.12.2018. The books & records of 2017-2018 must be maintained for 6 years, i.e., 31.12.2023

If the taxpayer is a part of any proceedings before any authority (First Appellate) or is under investigation then he must maintain the books for 1 year after the order of such proceedings/appeal has been passed.

Electronic Records- The requirements prescribed for maintenance of records in electronic form are that proper electronic back-up of records will be kept and the registered person, on demand, shall produce the relevant records or documents, duly authenticated, in hard copy or in any electronically readable format.

Consequences of not Maintaining Proper Records

As per section 35 (6) Subject to the provisions of clause (h) of sub-section (5) of [section 17](#), where the registered person fails to account for the goods or services or both in accordance with the provisions of sub-section (1), the proper officer shall determine the amount of tax payable on the goods or services or both that are not accounted for, as if such goods or services or both had been supplied by such person and the provisions of [section 73](#) or [section 74](#), as the case may be, shall, *mutatis mutandis*, apply for determination of such tax.

Compiled by
Bharat Kumar Tamrakar
AAD, NACIN Bhopal

6. COMPOSITION LEVY SCHEME UNDER GST LAW

The Composition Levy is an alternative method of levy of tax designed for small taxpayers whose turnover is up to prescribed limit. The objective of Composition Levy scheme is to bring simplicity, ease the compliance burden and reduce cost of compliance for the small taxpayers. The scheme is optional. It essentially provides for a turnover tax regime for such taxpayers, with facility for filing of return on annual basis along with quarterly payment of tax. Under this scheme, a registered taxable person, whose Aggregate Annual Turnover has not exceeded Rs. 1.50 Cr in case of goods (Rs. 75 Lakh in case of Special Category States) in the previous financial year, may opt for this scheme. Composition Levy scheme has been made available for suppliers of services (to those who are otherwise not eligible under Section 10(1) of the CGST Act) with a tax rate of 6% (3% CGST + 3% SGST) having an Aggregate Annual Turnover in the preceding FY up to Rs. 50 Lakh. An eligible manufacturer / service provider registered under Composition Levy scheme has to pay an amount equal to certain percentage of his turnover in the State or Union Territory, as tax to the government. However, any other eligible supplier (e.g. trader) has to pay an amount equal to certain percentage of his turnover of taxable supplies of goods and services in the State or Union territory. This tax has to be paid on quarterly basis. Such taxpayer does not have to maintain elaborate records and instead of regular monthly returns, which a normal taxpayer has to file under GST, he has to file a simple annual return in FORM GSTR04. However, upon opting for this scheme, he cannot issue taxable invoice under GST law and he can neither collect GST from his customers nor can claim Input Tax Credit on his purchases.

Method to calculate Aggregate Annual Turnover

Aggregate Annual Turnover is computed on All India basis for a person having same Permanent Account Number (PAN). It is sum of value of all outward supplies falling in the following four categories:

- 1) Taxable supplies;
- 2) Exempt supplies;
- 3) Exports of goods/services;
- 4) Inter-state supplies;
- 1) but excludes:
 - 5) the value of inward supplies on which tax is payable by a person on reverse charge basis;
 - 6) taxes including cess paid under GST law;
 - 7) the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

Registration and Intimation under the scheme

- Registration under GST law is compulsory for opting for this scheme.
- A person who was not registered under existing law but applies for fresh registration may opt for the scheme by providing necessary information under Part-B of FORM GST REG-01.
- Any registered person who wants to opt for Composition Levy has to file an electronic intimation in the FORM GST CMP-02 prior to the commencement of financial year for which the option to pay tax under Composition Levy is exercised and also has to furnish a statement in FORM GST ITC-03 in accordance with the Rule 44(4) of CGST Rules, 2017, within 60 days from the commencement of the relevant financial year.
- There is no need to file intimation in FORM GST CMP-02 every year. The intimation once filed would remain valid, as long as the taxpayer is eligible for Composition Levy scheme under GST.

Effective Date for Composition Levy

- Effective date is the beginning of the financial year for registered taxpayer who intimates about opting for the scheme under FORM GST CMP-02.
- Effective date is the date of registration for a person who applies for new registration under Rule 8 (1) of CGST Rules, 2017 by providing necessary information under Part-B of FORM GST REG-01.

Persons who are not eligible for the scheme

Barring few exceptions, all registered taxable persons whose Aggregate Annual Turnover has not exceeded the eligibility limit (as mentioned above) in the previous financial year are eligible to opt for this scheme. List of taxable persons who are not eligible for the scheme is as below:

1. A casual taxable person i.e. a person who occasionally undertakes supplies in a State or Union Territory where he has no fixed place of business;
2. A Non-Resident Taxable Person i.e. a person who occasionally undertakes supplies but has no fixed place of business or residence in India;
3. A person engaged in providing inter-state supply of goods and services or both;
4. A person engaged in supply of non-taxable goods i.e. goods which are not taxable under GST law;
5. A person engaged in supply of goods through an Electronic Commerce Operator (ECO) who is required to collect Tax at source under Section 52 of the CGST Act;
6. A person engaged in manufacturing of goods notified under Section 10 (2) (e) of the CGST Act 2017.

Rate of Tax under the scheme

There are different rates prescribed for three different category of suppliers.

1. An eligible manufacturer has to pay 1% (0.5% CGST + 0.5% SGST/ UTGST) of turnover in a state or Union Territory, as the case may be.
2. All eligible service providers (or goods and service suppliers) have to pay 6% (3% CGST + 3% SGST / UTGST) of turnover in a State or Union Territory, as the case may be.
3. An eligible person engaged in making supplies mentioned in clause (b) of para 6 of Schedule II of the CGST Act (provider of restaurant Service) has to pay 5% (2.5% CGST + 2.5% SGST/UTGST) of turnover in a state or Union Territory, as the case may be.
4. All other eligible suppliers (i.e. traders) have to pay 1% (0.5% CGST + 0.5% SGST/UTGST) of the taxable turnover in a State or Union Territory, as the case may be.

Bill of Supply

A taxable person opting for the scheme has to issue bill of supply as he is not eligible to issue taxable invoice under GST. He has to mention the words “Composition Taxable Person not eligible to collect tax on supplies” at the top of every bill of supply issued by him.

Conditions & Restrictions under the scheme

A person opting for the scheme has to adhere to the following conditions:

- ❖ Issue bill of supply in the prescribed manner;
- ❖ pay all taxes on purchases including taxes to be paid on reverse charge basis, if any;
- ❖ don't claim Input Tax Credit of purchases;
- ❖ mention the words “Composition Taxable Person” on every notice board or signboard displayed at the prominent place at his every place of business;
- ❖ withdraw from the scheme if not eligible.

Validity of the Composition Levy scheme

A person opting for the Composition Levy scheme can continue to pay tax under the said scheme as long as he/she satisfies the eligibility criteria and conditions related to the scheme.

Conditions which may render a person ineligible for the scheme

A person is ineligible for the scheme, if

- ❖ he wrongly opts for the scheme;
- ❖ his turnover exceeds the eligible limit for the scheme (as detailed above);
- ❖ he contravenes eligibility criteria or any of the conditions of the scheme.

Withdrawal from the Composition Levy scheme and procedure thereafter

- A registered person who intends to withdraw from the scheme has to file an intimation for withdrawal from the scheme in the FORM GST CMP-04, before the date of such withdrawal.
- A registered person who ceases to satisfy any provision of the scheme has to file an intimation for withdrawal from the scheme in the FORM GST CMP-04, within 7 days of occurrence of such event.
- After opting out of the scheme, he has to pay tax as normal taxpayer and issue tax invoice for every taxable supply made thereafter.
- Subsequently he has to forward a statement in FORM GST ITC-01 containing details of the stock of the inputs and inputs contained in semi-finished or finished goods held in stock by him on the date on which the option is withdrawn. The said statement has to be submitted on the common portal within 30 days from the date of withdrawal.
- He shall be entitled to take credit of input tax in respect of inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the day immediately preceding the date from which he becomes liable to pay tax as normal taxpayer under Section 9 of the CGST Act, 2017.

Filing of Intimation / Statement / Return

- ❖ The eligible existing registrants eligible can opt in Composition Levy scheme by submitting FORM GST CMP 02 on common portal. The new registrant can opt in Composition Levy scheme for services at the time of submitting application for registration in FORM GST REG 01 on common portal.
- ❖ At the time of opt in Composition Levy scheme by existing taxpayer, a statement in FORM GST ITC 03 need to be filed by him for reversing the credit of input tax availed on inward supplies by the taxpayer.
- ❖ Every Composition taxpayer has to furnish a quarterly statement containing the details of payment of self-assessed tax in FORM GST CMP-08, till the 18th day of the month succeeding such quarter.
- ❖ The taxpayer need to furnish a yearly return in FORM GSTR-4, till the 30th day of April following the end of such financial year.

Action for wrongly opting the scheme or for contravention of any provision of the scheme

- (a) In the scenario, when the proper officer has reason to believe that the registered person has wrongly opted for the scheme or he has contravened the provisions of the scheme, then he will seek a reply by issuing a show cause notice to such person in the FORM GST CMP-05. This notice is to be replied within 15 days of receipt of the same. Thereafter within 30 days of receipt of reply, officer has to issue an order in FORM GST CMP-07, either accepting the reply or denying the option to pay tax under the scheme.

- (b) Subsequently the registered person who has been denied the option to pay tax under the scheme has to forward a statement in FORM GST ITC-01 containing details of the stock of the inputs and inputs contained in semi-finished or finished goods held in stock by him on the date on which the option is denied. The said statement has to be submitted on the common portal within 30 days from the date of denial order passed in the FORM GST CMP-07.
- (c) The delinquent taxpayer will be liable to pay the due tax and penalty. However, no adverse action will be taken without following the principles of natural justice.

Benefits under GST Composition Levy Scheme

- a) **Less Compliance:** Under the normal scenario, a taxpayer under GST has to file monthly / quarterly returns and yearly returns. Further, he has to upload details of invoices issued by him during the period. For small suppliers and business, it may be difficult. Whereas under Composition Levy scheme, quarterly payment of tax and yearly filing of return have been prescribed. This will ease the compliance burden for SMEs, and they can focus more on their business rather than getting occupied in compliance procedures.
- b) **Reduce tax liability:** Another advantage of being registered with Composition Levy scheme is the rate structure. While most of the services fall under either 12% or 18% GST bracket, Composition service providers need to pay only 6% of supplies made by them.
- c) **High Liquidity:** For normal taxpayers, most of the working capital is blocked as Input Tax Credit because the taxpayer can avail ITC only if his supplier has filed the return. The supplier has to pay tax at standard rate and the Credit of Input Tax will be availed only when his supplier files the return. In Composition Levy scheme, the taxpayer need not worry about his supplier filing return as he cannot take the credit and will pay tax at nominal rate.

Limitations of GST Composition Levy Scheme

There are some limitations under GST Composition Levy scheme, which a taxpayer must be aware of before opting for the scheme. These are:

- (a) **No credit of Input Tax:** Any taxpayer registered under Composition Levy scheme will not be eligible to take Credit of Input Tax paid on purchases. Also, the buyer of taxpayer's supplies will not get the credit of taxes paid by taxpayer.
- (b) **No Inter-State business:** The major drawback of the scheme is that the taxpayer cannot deal in inter-state supplies or affect exports of goods and services. He is barred from performing such actions which limit his territory for expansion and can only conduct local or intra-State transactions.
- (c) **Pay tax form own pocket:** Since the taxpayer is not allowed to charge tax from his buyer, he has to pay tax out of his own pocket, despite the rate being

low. He is not even allowed to issue a tax invoice, resulting in the burden on the taxpayer to pay tax.

Conclusion

Goods and Services Tax has the potential to boost revenue for the government, lower the budget deficit, which means more funds will be generated to spend on the welfare of the society and people. There will always be a section of traders, dealers or taxpayers who will find it difficult to maintain books of accounts or fulfil the compliance requirements of tax laws. This may happen due to the small size of their business or due to the nature of their business. To give benefit to these businesses, Composition Levy scheme has been launched for such small taxpayers.

The scheme is quite beneficial to small suppliers and intra-state local suppliers as it prevents them from various procedural compliances and gives a hassle free working environment. In pre-GST era, to make compliances better for small businesses, States have provisions in their VAT law about the Composition Levy scheme. Similarly, even in GST, Composition Levy scheme has been introduced to safeguard the interests of small businesses.

Compiled by
Kaushik Deb
AAD, NACIN Bhopal

7. VALUATION IN GST

VALUATION IN GST

As the tax is paid on value as determined, valuation is always important aspect of indirect tax administration. The concept of value has been evolved with the time. Many disputes of valuations under C. Ex regime specially related to post removal charges were settled through different judgments of Apex court like Bombay Tyre or MRF Tyre Judgements and paved the way for transaction value. The concept of transaction value adopted during earlier regime was also based on WTO valuation rules. This concept of transaction value is retained in GST.

TRANSACTION VALUE

Under GST, supply is considered a taxable event. Barring few exceptions, consideration is important element of supply. Thus value of supply is price or consideration paid by recipient to supplier. The value of the supply is the value on which the GST is chargeable. Determination of value of the supply is not only required to charge the goods and services tax, but also for arriving at the value of supply to compute the turnover prescribed for obtaining registration under GST. The Section 15 of CGST Act has adopted the concept of 'transaction value' for determining the taxable value of supply on which the goods and services tax shall be levied. Under CGST ACT taxable value is the transaction value i.e. price actually paid or payable, provided the supplier and the recipient are not related and price is the sole consideration. In most of the cases of regular normal trade, invoice value will be the taxable value. However, to determine value of certain specific transactions, specific provisions have been provided under the CGST Rules, 2017. Any taxes, fees, charges levied under any law other than GST law, expenses incurred by the recipient on behalf of the supplier, incidental expenses like commission & packing incurred by the supplier, interest or late fees or penalty for delayed payment and direct subsidies (except government subsidies) are also to be added to the price (if not already added) to arrive at the taxable value. 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 mentioned in the invoice, (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 has been reversed by the recipient of the supply as is attributable to the discount on the basis of document issued by the supplier.

VALUATION RULES

Where the value of the supply of goods or services or both cannot be determined under sub-section (1) of Section 15 of CGST Act, the same shall be determined as per valuation rules from 27 to 34. There may be situations like consideration is not wholly in money or supplier and recipient are related or there is

doubt about accuracy of value declared by supplier then in such cases the value shall be determined as per valuation rules.

Where consideration for a transaction is not solely in money, taxable value has to be determined as per prescribed Valuation Rule. In such cases as per Rule 27, following values have to be taken sequentially to determine the taxable value:

- a. Open Market Value of such supply.
- b. Total money value of the supply i.e. monetary consideration plus money value of the non-monetary consideration.
- c. Value of supply of like kind and quality.
- d. Value based on cost i.e. cost of supply plus 10% mark-up. (Costing method- Rule 30)
- e. Value of supply determined by using reasonable means consistent with principles & general provisions of GST law. (Best Judgement method-Rule 31)

Here “open market value” of a supply of goods or services or both means the full value in money, excluding the integrated tax, central tax, State tax, Union territory tax and the cess payable by a person in a transaction, where the supplier and the recipient of the supply are not related and the price is the sole consideration, to obtain such supply at the same time when the supply being valued is made. Further “supply of goods or services or both of like kind and quality” means any other supply of goods or services or both made under similar circumstances that, in respect of the characteristics, quality, quantity, functional components, materials, and the reputation of the goods or services or both first mentioned, is the same as, or closely or substantially resembles, that supply of goods or services or both.

Illustration:

- Where a new phone is supplied for Rs.20000/- along with the exchange of an old phone and if the price of the new phone without exchange is Rs.24000/-, the open market value of the new phone is Rs. 24000/-.
- Where a laptop is supplied for Rs.40000/- along with a barter of printer that is manufactured by the recipient and the value of the printer known at the time of supply is Rs.4000/- but the open market value of the laptop is not known, the value of the supply of laptop is Rs.44000/-.

The value of the supply of goods or services or both between distinct persons as specified in sub-section (4) and (5) of section 25 or where the supplier and recipient are related, other than where the supply is made through an agent, then as per Rule 28 shall be the open market value of such supply; if open market value is not available, be the value of supply of goods or services of like kind and quality; if value is not determinable under above two methods, be the value as determined by application of rule 30 or rule 31, in that order: Provided where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of goods or services.

The value of supply of goods between the principal and his agent shall be the open market value of the goods being supplied, or at the option of the supplier, be 90% of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person, where the goods are intended for further supply by the said recipient (Rule 29). For Example: (i) Where a principal supplies groundnut to his agent and the agent is supplying groundnuts of like kind and quality in subsequent supplies at a price of Rs. 5000 per quintal on the day of supply. Another independent supplier is supplying groundnuts of like kind and quality to the said agent at the price of Rs. 4550 per quintal. The value of the supply made by the principal shall be Rs. 4550 per quintal or where he exercises the option the value shall be 90% of the Rs. 5000 i.e. is Rs. 4500 per quintal. If value is not determinable under above method, be the value as determined by application of rule 30 or rule 31, in that order.

Where the value of a supply of goods or services or both is not determinable by any of the methods mentioned in the rules then the value shall be one hundred and ten percent of the cost of production or manufacture or cost of acquisition of such goods or cost of provision of such services (Rule 30). The Cost of production of goods is generally computed using the CAS-4 (Cost of Production for captive consumption) method. Further if none of the method is applicable then valuation is done by using Residual method (Rule 31). This best judgement method shall be determined using reasonable means consistent with the principles and general provisions of section 15 and these rules. Provided that in case of supply of services, the supplier may opt for this rule, disregarding rule 30.

The value of supply of lottery run by State Governments (lottery not allowed to be sold in any State other than the organizing State) shall be deemed to be 100/112 of the face value of ticket or of the price as notified in the Official Gazette by the organising State, whichever is higher. The value of supply of lottery authorised by State Governments (a lottery which is authorised to be sold in States other than the organising State) shall be deemed to be 100/128 of the face value of ticket or of the price as notified in the Official Gazette by the organizing State, whichever is higher. The value of supply of actionable claim in the form of chance to win in betting, gambling or horse racing in a race club shall be 100% of the face value of the bet or the amount paid into the totalisator (Rule 31A).

Methods to determine Taxable value of following seven specific supplies have also been prescribed under Chapter-IV of the CGST Rules, 2017 are as follows. These provisions are optional on part of supplier (Rule 32).

Value of supply in case of services in relation to purchase or sale of foreign currency-

- a) Based on the difference between the buying and selling rates, or
- b) Based on the percentage of the gross amount exchanged

The option is with the money exchanger and once chosen will be applicable for the whole year.

Value of supply in case of services by booking agents-

- a) 5% of the basic fare in case of domestic air tickets
- b) 10% of the basic fare in case of international air tickets

Value of supply in case of services of life insurance –

Under GST, the taxable value of supply of services in relation to life insurance business is 25% for first year, 12.5% for subsequent years & 10% in case of single premium policy on the premium charged.

Value of supply in case of a taxpayer dealing in buying and selling of second hand goods

- a) The price difference between the buying price and the selling prices
 - b) In case if the price difference is negative then it shall be ignored
- Repossession of goods from a defaulting borrower. The purchase price of the goods reduced by 5% per quarter thereof from the date of purchase to the date of disposal by the person taking possession of the asset.

As per Rule 32, Pure Agent is person who has contractual agreement with the recipient to incur expenditure for the procurement of goods or services or both, Does not hold the title of goods or services or both , Does not use the same for personal consumption, Receives the actual amount incurred to procure such goods or services. According to the valuation rule, the expenditure or costs incurred by the supplier as a pure agent (contracted to the recipient of the supply of services) shall be excluded from the value of supply, if all of the following conditions are satisfied: Makes payment to the third party on authorization of the recipient, Payment made to the third party shall not be used by the same for personal consumption, Receives the actual amount incurred to procure such goods or services.

The rate of exchange for determination of value of taxable goods shall be the applicable rate of exchange as notified by the CBIC under section 14 of the Customs Act, 1962 for the date of time of supply of such goods, as determined under section 12 of the CGST Act. Further the rate of exchange for determination of value of taxable services shall be the applicable rate of exchange determined as per the generally accepted accounting principles for the date of time of supply of such services, as determined under section 13 of the CGST Act.

Where the value of supply is inclusive of GST, the tax amount shall be determined in the following manner,

Tax amount = (Value inclusive of taxes X GST tax rate in %) / (100+ sum of GST tax rates in %)

For example - If the value inclusive of tax is Rs.100 / - and applicable GST tax rate is 18% then

Tax amount = $(100 \times 18) / (100 + 18) = 1800 / 118 = \text{Rs. } 15.25$.

Thus, the valuations provisions under GST have been made as per International Practise and keeping in mind the past disputes under earlier regime. As GST is chargeable at each supply in entire supply chain, there is no scope of disputes like post removal charges of C. Ex regime. There is also no need of MRP provisions under GST for valuation purpose as no value can escape from entire supply chain from taxation. Earlier the valuation provisions of goods cleared to sister concern was disputed and cumbersome processes however under GST regime it has been made simple as invoice value as declared is accepted if recipient is eligible for credit. The valuation provisions under GST has brought transparency and unbiased way of method of taxation.

Solved example –

1. Mr. AJAY from Bhopal has sold goods to Mr. VIJAY from Indore for Rs. 10,000. Mr. Ajay is charging packing charges of Rs. 500. Mr. Ajay is also paying freight of Rs. 2000 from his premises to Mr. Vijay's premises. Calculate AV and GST payable if total rate of duty is 18%

Solution-

Selling Price - Rs 10000

Packing charges - + Rs 500

Transportation - + Rs 2000

(Any amount supplier is liable to pay in relation to supply and incidental expenses)

Total AV= Rs 12, 500

(Supply within state)

CGST= $9/100 \times 12500 = \text{Rs } 1125$

SGST = $9/100 \times 12500 = \text{Rs } 1125$

TOTAL TAX= Rs 2250

2. Mr Ram, a manufacturer from Bhopal has sold his goods to Mr Shyam from Mumbai at price of Rs 30000/-. He has charged royalty for design from Mr Shyam of Rs 1000/-Transportation charges Rs 3000/- and transit insurance is Rs1000/-. Mr Ram has Offered discount of Rs 1000. As there was delay in payment, Mr Shyam has also paid penalty of Rs 2000/- . Calculate AV and GST if total rate of tax is 18%.

Solution-

Selling Price- Rs 30000

Royalty charges – + Rs1000

Transportation- +Rs 3000

Transit Insurance- +Rs1000

Discount - -Rs1000
Penalty – + Rs 2000
A.V. = RS 36000/-
(Supply in different state so IGST)
 $18\% \text{ on } 36000 = 18/100 \times 36000 = \text{Rs } 6480$

- *This is Prepared by Induction trainee officers -Priya Pandey, Arjun Bagwan, Adarsh Sharma, Ashish Kumar Pandey, Vinayak Pandey, Osho Singh, Mayank Chandroul, under the guidance of ADG Shri Milind R Lanjewar.*

8. HSN & CLASSIFICATION

Introduction

The HSN code, or Harmonized System of Nomenclature code, is a standardized international system developed by the World Customs Organization (WCO) to facilitate the systematic classification of goods. The primary objective of the HSN code is to provide a common language for the classification of products and to simplify international trade by ensuring uniformity in the classification of goods across different countries.

In India, the HSN code is widely used in the context of the Goods and Services Tax (GST). It helps in the systematic classification of goods for taxation purposes, ensuring that the appropriate tax rates are applied to different categories of products. The use of HSN codes in the GST framework streamlines the tax process and promotes transparency in trade-related transactions.

Importance of GST HSN Code

The importance of GST HSN (Harmonized System of Nomenclature) codes in the context of the Goods and Services Tax (GST) in India is significant for several reasons:

- **Global Standardization:** HSN codes provide a globally recognized and standardized system for classifying goods. This facilitates international trade by ensuring a common language and classification system for products traded between countries.
- **Cost Minimization:** The use of HSN codes helps minimize cost associated with customs procedures. By providing a standardized and internationally accepted coding system, HSN codes contribute to the efficiency of customs clearance process, reducing delay and associated cost.
- **Simplification of Customs Procedures:** HSN codes simplify customs procedure by providing a systematic and standardized method of classifying goods. This not only streamlines the customs clearance process but also reduces the likelihood of error or discrepancy in the classification of products.
- **GST Rate Determination:** HSN codes play a crucial role in determining GST rates for specific goods. The codes are linked to different tax rates, helping taxpayers and businesses easily identify the applicable rate for a particular product. This clarity contributes to better tax compliance.
- **Facilitates Taxpayer Understanding:** For taxpayers, especially businesses involved in import and export, HSN codes serve as a valuable tool for understanding the GST rates associated with specific products. This knowledge is essential for accurate tax calculation and reporting.
- **Mandatory for GSTR Forms:** The use of HSN codes is mandatory while filling out GSTR (Goods and Services Tax Return) forms. Including HSN codes in these forms ensure that the tax authorities have a detailed and

standardized record of the goods being traded, promoting transparency and accountability.

- **Accurate Data Compilation:** HSN codes contribute to accurate data compilation and analysis for tax authorities. They provide a structured and organized way to categorize goods, making it easier for authorities to monitor and analyze trade patterns and tax collections.
- **Uniformity in Taxation:** By adopting HSN codes, India aligns itself with international standards, promoting uniformity in the taxation of goods. This not only enhances the ease of doing business but also fosters a more consistent and transparent tax system.

The incorporation of GST HSN codes in the Indian taxation system brings about standardization, transparency, and efficiency in international trade, customs procedures, and GST compliance, ultimately, contributing to a more seamless and globally integrated economic environment.

How does HSN code work?

The HSN (Harmonized System of Nomenclature) code system is designed to classify goods in a systematic and structured manner, providing a common language for international trade. Here's how the HSN code system works and the criteria for its adoption:

Criteria for Adoption:

1. If the turnover is upto Rs. 5 crores, businesses must adopt 4-digit HSN codes.
2. If the turnover is above Rs. 5 crores, businesses must adopt 6-digit HSN codes.
3. For import, export, and international trades, 8-digit HSN codes are recommended.

Structure of HSN Codes:

The HSN code system organizes goods into the following categories:

1. Sections: There are 21 sections that broadly categorize goods based on their nature.
2. Chapters: There are 99 chapters that provide a more detailed classification.
3. Headings: There are 1244 headings that further specify the characteristics of the goods.
4. Subheadings: There are 5244 subheadings, offering the most detailed level of classification.

Example of HSN Code Structure:

As an example, consider an 8-digit HSN code: 1234.56.78.

- The first two digits (12) represent the chapter.
- The next two digits (34) represent the heading.
- The next two digits (56) represent the subheading.
- The last two digits (78) provide a further level of details/Tariff items.

Application in GST

- In the context of the Goods and Services Tax (GST), businesses are required to mention the appropriate HSN code on their GSTR-1 (Details of outward supplies of goods or services or both).
- The adoption of HSN codes aids in the calculation of GST rates applicable to specific goods, facilitating accurate tax compliance.

International Trade: HSN codes are crucial for international trade as they provide a standardized classification system recognized globally. The 8-digit HSN codes are particularly important for import and export transactions.

The HSN Module: The HSN module classifies goods into various sections, chapters, headings, and subheadings, ensuring a comprehensive and organized system for categorizing a wide range of products. The HSN code system operates based on a hierarchical structure, with different levels of classification. Its adoption by businesses is determined by their annual turnover. The system is integral to facilitating accurate classification, promoting uniformity in international trade, and aiding in the effective implementation of taxation systems such as GST.

How to choose and calculate HSN code for your product

- **Understand the basics:**

HSN Code Structure: The HSN code is a numerical system with different levels of classification.

- a) First 2 digits: Chapter (Broad category)
- b) Next 2 digits: Heading (Specific category)
- c) Next 2 digits: Sub-heading (Detailed description)
- d) Last 2 digits: Further classification (Product variant)

- **Identify your product:**

Chapter: Determine the broad category your product falls under. For example, electronics, chemicals, textiles, etc.

Heading: Specify the more detailed category within your broader category. For instance, if it's electronics, is it a computer, a television, or a smartphone?

Sub-heading: Get even more specific about your product. If it's a smartphone, does it fall under the category of high-end smartphones, budget smartphones, etc.?

Last 2 digits: These add extra specificity. For example, a specific model or variant of a smartphone.

- **Refer to HSN code lists:**

Each country usually has an official list of HSN codes. You can find these lists online or through other resources.

- **Consider your business turnover:**

- From the initial phase of GST Regime (w.e.f. 01/07/2017) till 31/03/2021, the Taxpayers whose turnovers were up to 1.5 cr were no need to mention their HSN code in the returns of outward supply (GSTR-1)
- However, after 01.04.2021, HSN is mandatory for each and every taxpayer, regardless of turnover.

- **Accuracy matters:**

Choosing the right HSN code is crucial for accurate tax calculation and compliance. Inaccuracy may lead to complications during customs procedures and financial audits.

Remember, the HSN code system is designed to bring uniformity and clarity to the classification of goods. Taking the time to correctly identify and apply the appropriate code for your product ensures smoother business operations and compliance with taxation regulations.

Example of HSN code

Example: LED Television (HSN Code: 85 28 12 11)

- **The first two digits (85):** This represents the chapter under HSN codes, which broadly categorizes the product.
- **The next two digits (28):** These indicate the heading under the chapter, providing a more specific classification.
- **Next 2 digits (12):** These indicate the sub-heading, offering further details about the product. The 6-digit HSN code is generally accepted worldwide for standard classification.
- **The last 2 digits (11):** This sub-classifies the product tariff heading during the import and export of supply. It provides additional specificity to identify the particular type or variant of the product.

In this example, the HSN code **85 28 12 11** would be associated with LED Televisions in international trade. This systematic classification allows for a standardized understanding of the product, facilitating trade and taxation processes. Businesses involved in the production, sale, or import/export of LED televisions

would use this HSN code to ensure accurate and uniform classification in their transactions.

General Interpretative Rule -

Rule 1: - Most goods are classifiable under the Rule 1. It provides that the classification is determined principally by the terms of the headings and the relative section or chapter notes.

Example: (i) Dentist Chair 94.02
(ii) Drawing Chalk 96.09

Rule 2: - This rule has 2 clauses as follows,

2 (a) applies to the classification of goods which are incomplete or unfinished but have the essential character of the complete or finished article.

Example :- Import of unassembled cars.

2 (b) provides that each heading which relates to a particular material or substance shall also apply to the mixtures and combinations consisting of that material or substance.

Example: Although the leather jacket has a cotton lining and metal buttons, this rule allows it to be classified under heading 4203 as a leather jacket.

When the goods consisting of several materials are classifiable under two or more headings, Rule 3 applies.

Rule 3: - It applies when the goods are classifiable under two or more headings. Points (a), (b) and (c) of the Rule 3 shall be applied sequentially.

3 (a) states that the heading which provides the most specific description shall be preferred.

Example: - Mint Tea – 09.02

3 (b) applies to the classification of mixtures or sets in respect of the material or component which gives them their essential character.

Example: - Oats with mix flavor

3 (c) is used when the goods cannot be classified by reference to 3 (a) or (b). Such goods shall be classified under the heading that occurs last in numerical order among those which equally merit consideration.

Example: - Socks – 61.15

Rule 4 :- Rarely applied, mostly to new technologies. It provides that the goods shall be classified under the heading appropriate to the goods to which they are most akin. Most commonly referred to as “kinship rule”.

Rule 5: - It is applicable to the classification of cases and containers, specially shaped or fitted to contain a specific article or set of articles.

Example: Musical instruments, binoculars, ornaments.

It doesn't apply to containers suitable for repetitive use i.e. LPG cylinder.

Rule 6: - Rule 6 applies after the heading has been determined. It states that the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes.

- *This is Prepared by Induction trainee officers - Divya Sehgal, Pradeep Lodhi, Kumar Sourabh, Devesh Singh Chauhan, Vinod Kumar Meena, Ajay Singh, Aditya Srivastava, under the guidance of CA Shri Mrinal Garg, Guest Faculty, NACIN Bhopal.*

9. INPUT TAX CREDIT (ITC) IN GST

Uninterrupted and seamless chain of input tax credit (hereinafter referred to as, "ITC") is one of the key features of Goods and Services Tax. Under GST entire supply chain would be subject to GST to be levied by Central and State Government concurrently. As the tax charged by the Central or the State Governments would be part of the same tax regime, the credit of tax paid at every stage would be available as set-off for payment of tax at every subsequent stage

However, Under the pre-GST taxation system, credit of taxes being levied by Central Government is not available as set-off for payment of taxes levied by State Governments and vice versa.

ITC is a mechanism to avoid cascading of taxes. Cascading of taxes, in simple language, is 'tax on tax'.

Cascading of Taxation

Let us understand how 'cascading' of taxes takes place in the erstwhile regime. Central excise duty charged on inputs used for manufacturing of final product can be availed as credit for payment of central excise duty on the final product. For example, to manufacture a pen, the manufacturer requires, plastic granules, refill tube, metal clip, etc. All these 'inputs' are chargeable to central excise duty. Once a 'pen' is manufactured by using these inputs, the pen is also chargeable to central excise duty. Let us assume that the cost of all the above-mentioned inputs is say, Rs.10/- on which central excise duty @10% is paid, means Re.1. The cost of the manufactured pen is say Rs.20/-, the central excise duty payable on the pen @10% will be Rs.2/-. Now the manufacturer of the pen can use the duty paid on inputs, i.e. Re.1/- for payment of duty on the pen. So, he will use Re.1 paid on inputs and he will pay Re.1/- through cash (1+1=2), the price of the pen becomes Rs. 22/-. In effect, he actually pays duty on the 'value added' over and above the cost of the inputs. This mechanism eliminates cascading of taxes.

However, when the pen is sold by the manufacturer to a trader, he is required to levy VAT on such sale. But under the erstwhile system, the manufacturer cannot use the credit of central excise duty paid on the pen for payment of VAT, as the two levies are being levied by Central and State government respectively with no statutory linkage between the two. Hence, he is required to pay VAT on the entire value of the pen, i.e. Rs.22/-, which actually includes the central excise duty to the tune of Rs.2/-. This is cascading of taxes or tax on tax, so VAT was not only paid on the value of pen i.e. Rs.20/- but also on tax i.e. Rs.2/-.

Statutory Provisions

Input tax credit has been defined in section 2 of the GST Act. "Input tax" in relation to a registered person is define as GST (CGST, SGST, IGST & UTGST)

charged on any supply of goods or services or both made to him. It also includes tax charged on import of goods; tax paid under Reverse Charge Mechanism (RCM). But it does not include the tax paid under the composition levy.

Pre-requisite for availing ITC by a registered person: -

- (1) He is in possession of tax invoice or any other specified tax paying document.
- (2) he has received the goods or services or both.
- (3) Tax is actually paid by the supplier.
- (4) He has furnished the return.
- (5) If the inputs are received in lots, he will be eligible to avail the credit only when the last lot of the inputs is received.
- (6) He should pay the supplier, the value of the goods or services along with the tax within 180 days from the date of issue of invoice, In case part payment has been made, proportionate credit would be allowed.

Documents on the basis of which ITC can be availed: -

- Invoice issued by a supplier of goods or services or both.
- Invoice issued by recipient along with proof of payment of tax
- A debit note issued by supplier
- Bill of entry or similar document prescribed under Customs Act
- Revised invoice
- Document issued by Input Service Distributor

Circumstances under which ITC is not available: -

- No ITC beyond September of the following FY to which invoice pertains or date of filing of annual return, whichever is earlier
- Taxpayer has not paid value of goods/ services along with GST to the supplier within 180 days from the date of issuance of invoice. However, taxpayer is eligible for ITC once the payment is made.
- Works contract services when supplied for construction of immovable property, other than plant & machinery, except where it is an input service for further supply of works contract
- Goods or services received for construction of immovable property, other than plant & machinery, even when used in course or furtherance of business;
- Goods and/or services on which tax has been paid under composition scheme.
- Goods and/or services used for private or personal consumption.
- Goods lost, stolen, destroyed, written off, gifted, or free samples;
- Any tax paid due to short payment on account of fraud, suppression, mis-declaration, seizure, detention
- ITC is not available on motor vehicles and other conveyance except under specified circumstances.

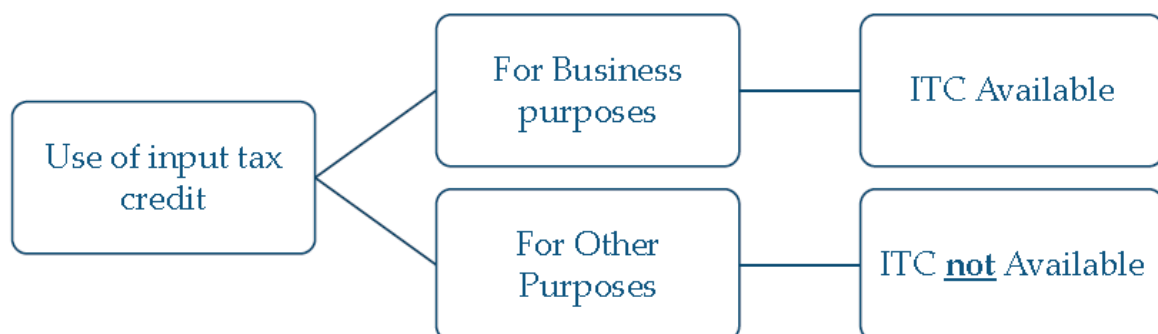
- Goods and/ or services specified in section 17(5) of the GST act such as food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, membership of a club, Health and fitness center, Rent a cab, life insurance, health insurance, travel benefits extended to employees on vacation such as leave or home travel concession.

Circumstances under which ITC is available: -

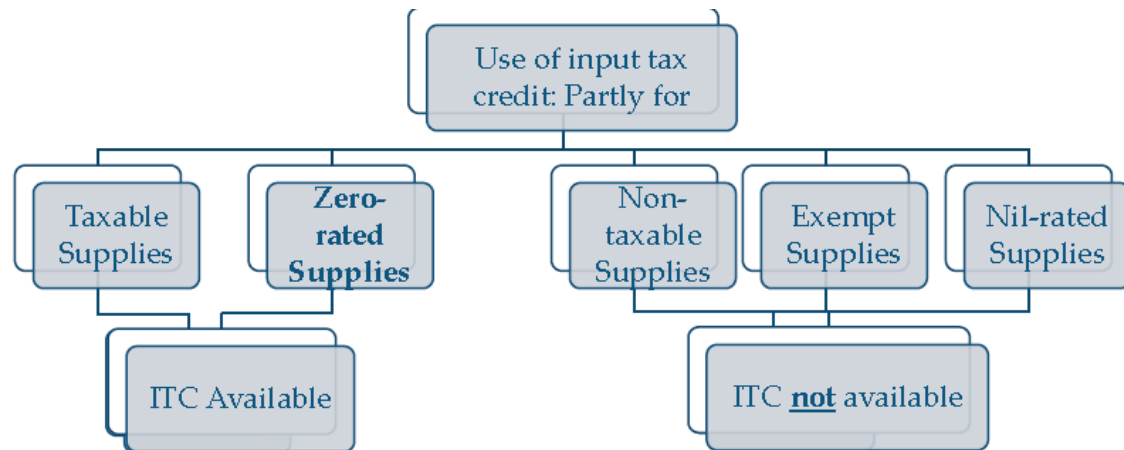
- A person who has applied for registration within 30 days of becoming liable for registration is entitled to ITC of input tax in respect of goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax.
- A person switching over to normal scheme from composition scheme is entitled to ITC in respect of goods held in stock and capital goods on the day immediately preceding the date from which he becomes liable to pay tax.
- A person who has taken voluntary registration under section 23(3) of the CGST Act, 2017 is entitled to ITC of input tax in respect of goods held in stock on the day, immediately preceding the date of registration.
- Where an exempt supply of goods or services or both become taxable, the person making such supplies shall be entitled to take ITC in respect of goods held in stock relatable to exempt supplies.
- In case of change of constitution of a registered person on account of sale, merger, demerger etc, the unutilized ITC shall be transferred to the transferee.

Apportionment of credits

- i. Where goods and/or services are partly used for business and non-business purposes, the ITC is available proportionately.



- ii. Where goods and/ or services are partly used for taxable (including zero-rated) supplies and partly for exempt supplies, the ITC is available proportionately.



- This is Prepared by Induction trainee officers – Deepak Sharma, Kirti, Sourabh Singh, Deepak Kumar Meena, Rishabh Sharma, Sourabh Singh Rana, Anuj Pathak, under the guidance of Superintendent Shri Arun Chouhan, CGST Bhopal & Superintendent Shri Sanat Kumar Panda, NACIN Raipur.

10. REFUNDS UNDER GST

GST is all about a smooth flow of funds and compliances till the end. To facilitate such a smooth flow, it is imperative for the Government to provide for a hassle-free refund process. The provisions pertaining to refund contained in the GST law aim to streamline and standardise the refund procedures. The claim and sanctioning procedure is primarily online and time bound, which is a marked departure from the earlier time consuming and cumbersome procedure. This facilitates trade through the release of blocked funds for working capital, expansion and modernisation of existing business.

Refund

GST paid is more than the GST liability a situation of claiming GST refund arises. Under GST the process of claiming a refund is standardized & online and time limits have also been set for the same. Chapter XI - Refunds [Sections 54 to 58] of the CGST Act, 2017 and Chapter X – Refund [Rule 89 to 97A] of the CGST Rules, 2017 stipulates the provisions relating to refunds.

Situations Leading to Refund Claims

A claim for refund may arise on account of:

1. Export of goods or services
2. Supplies to SEZs units and developers
3. Deemed exports
4. Refund of excess tax paid in advance by casual tax payer
5. Refund of CGST & SGST paid by treating the supply as intra- State supply which is subsequently held as interstate supply and vice versa
6. Refund on account of issuance of refund vouchers for taxes paid on advances against which, goods or services have not been supplied
7. Refund arising on account of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court
8. Finalization of provisional assessment
9. Refund of accumulated Input Tax Credit on account of inverted duty structure
10. Refund of pre-deposit
11. Refunds to International tourists of GST paid on goods in India and carried abroad at the time of their departure from India
12. Refund of taxes on purchase made by UN or embassies.

Time Limit

Refund claim needs to be filed within two years from relevant date. Refund of unutilized input tax credit can be claimed at the end of any tax period.

Relevant Date

As per explanation to Sec. 54 of CGST Act, 2017, “relevant date” means –

- a) In the case of goods exported out of India
 - i. *if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India; or*
 - ii. *if the goods are exported by land, the date on which such goods pass the frontier; or*
 - iii. *if the goods are exported by post, the date of despatch of goods by the Post Office concerned to a place outside India;*

- b) in the case of supply of goods regarded as deemed exports
The date on which the return relating to such deemed exports is furnished;

- c) in the case of services exported out of India
 - i. *receipt of payment in convertible foreign exchange, where the supply of services had been completed prior to the receipt of such payment.*
 - ii. *issue of invoice, where payment for the services had been received in advance prior to the date of issue of invoice.*

- d) In case where the tax becomes refundable as a consequence of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court
The date of communication of such judgment, decree, order or direction.

- e) In the case of refund of unutilized input tax credit on account of inverted duty structure,
The end of the financial year in which such claim for refund arises.

- f) In the case where tax is paid provisionally under this Act or the rules made there under
The date of adjustment of tax after the final assessment.

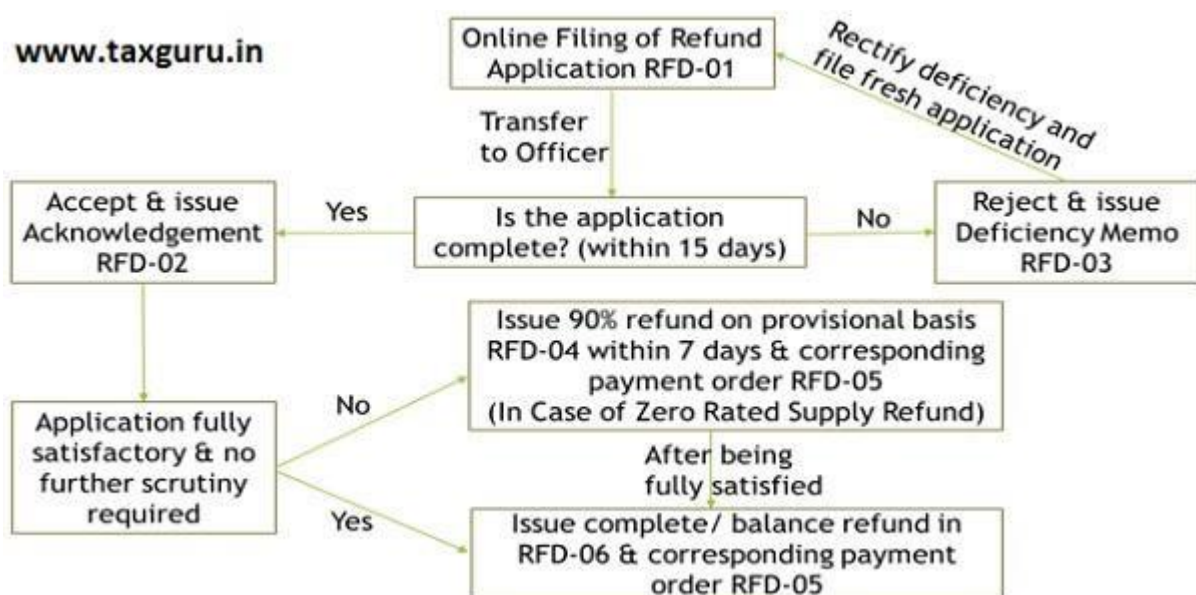
- g) in the case of a person, other than the supplier,
the date of receipt of goods or services or both by such person and

- h) in any other case,
the date of payment of tax.

Standardisation of procedure: (General Procedure)

The GST laws contains standardised provisions for making a refund claim. Every claim, except for claim on account of integrated tax paid on export of goods and refund under section 55 of the CGST Act, 2017, has to be filed online in FORM GST RFD-01. The application will be assigned by the system to the proper officer who shall, within a period of fifteen days of filing of the said application, scrutinize the application for its completeness and where the application is found to be complete in all terms, an acknowledgement in FORM GST RFD-02 is made available to the applicant through the common portal electronically. The proper officer has to convey deficiencies, if any, in the refund claimed within 15 days and in such cases the claim will be sent back to the applicant along with the notified deficiencies. The refund claim filed post rectification of deficiencies shall be treated as fresh refund claim. The time period from the date of filing of refund claim to the date of issuance of deficiency memo in Form GST RFD-03 would be excluded for computation of time period of 2 years for filing of refund claim under sub-section (1) of section 54 of the CGST Act, 2017. The claim, if in order, is sanctioned in FORM GST RFD-06 within a period of 60 days from the date of receipt of the application if claim is complete in all respects. If this mandatory period is exceeded, interest at the rate of 6% (9% in case of refund made on order passed by an adjudicating authority or Appellate Tribunal or court which has attained finality) becomes payable along with refund from the expiry of 60 days till the date of payment of refund. However, if the refund claim is on account of pre-deposit made before any appellate authority, the interest becomes payable from the date of making such payment.

General procedure



Interest on delayed refunds

If any tax ordered to be refunded is not refunded within 60 days from the date of receipt of application for refund claim, interest at such rate not exceeding 6% shall be payable to the applicant by government from the date immediately after the expiry of 60 days from the date of receipt of application under the said subsection till the date of refund of such tax. In case of refund arises from an order passed by an adjudicating authority or Appellate Authority or Appellate Tribunal or court which has attained finality and the same is not refunded within sixty days from the date of receipt of application filed consequent to such order, interest at such rate not exceeding 9% shall be payable in respect of such refund from the date immediately after the expiry of 60 days from the date of receipt of application till the date of refund.

Procedure for refund claim:

A. Export of goods with the payment of IGST

1. The shipping bill filed by an exporter shall be deemed to be an application for refund of integrated tax paid on goods exported out of India. No separate application is required to be filed as shipping bill itself will be treated as application for refund.
2. The application shall be deemed to have been filed only when Export Manifest or Export Report is filed and the applicant has furnished a valid return in FORM GSTR-3 or FORM GSTR-3B.
3. Upon the receipt of the information regarding the furnishing of a valid return in FORM GSTR-3 or FORM GSTR-3B, as the case may be from the common portal, the system designated by the Customs shall process the claim for refund and an amount equal to the integrated tax paid in respect of each shipping bill or bill of export shall be electronically credited to the bank account of the applicant mentioned in his registration particulars and as intimated to the Customs authorities.
4. Where the goods are not exported within 90 days the time specified in sub-rule (1) and the registered person fails to pay the amount mentioned in the said sub-rule, the export as allowed under bond or Letter of Undertaking shall be withdrawn forthwith and the said amount shall be recovered from the registered person in accordance with the provisions of section 79.
5. Any order regarding withholding of such refund or its further sanction respectively in PART-B of FORM GST RFD-07 or FORM GST RFD-06 shall be done manually till the refund module is operational on the common portal.

B. Claim of unutilized ITC on account of Export of goods and services without payment of IGST

1. The application for refund of unutilized input tax credit on inputs or input services used in making such zero-rated supplies shall be filed in FORM GST RFD- 01A on the common portal.
2. The amount claimed as refund shall get debited in the electronic credit ledger to the extent of the claim.
3. The print out of FORM GST RFD-01A to the jurisdictional proper officer along with the documents-
 - A statement containing the number and date of shipping bills or bills of export and the number and the date of the relevant export invoices, in a case where the refund is on account of export of goods;
 - A statement containing the number and date of invoices and the relevant Bank Realization Certificates or Foreign Inward Remittance Certificates, as the case may be, in a case where the refund is on account of the export of services;
4. No refund of unutilized input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty.

C. Zero Rated Supplies to SEZ unit / Developers with payment of IGST

1. Application for refund is required to be filed in FORM GST RFD-01A by the supplier on the common portal.
2. A print out of the said form shall be submitted before the jurisdictional proper officer along with
 - a statement containing the number and date of invoices as provided in rule 46 along with the evidence regarding the endorsement by the specified officer of the zone
 - a declaration to the effect that the Special Economic Zone unit or the Special Economic Zone developer has not availed the input tax credit of the tax paid by the supplier of goods or services or both,

D. Claim of unutilized ITC on account of Zero rated supplied to SEZ Unit/Developers without payment of IGST

1. The application for refund of unutilized input tax credit on inputs or input services used in making such zero-rated supplies shall be filed in FORM GST RFD- 01A on the common portal.
2. The amount claimed as refund shall get debited in the electronic credit ledger to the extent of the claim.
3. Following documents shall be submitted :-
 - The print out of FORM GST RFD-01A to the jurisdictional proper officer.
 - Statement containing the number and date of invoices as provided in rule 46 along with the evidence regarding the endorsement by the specified officer of the zone and

- A declaration to the effect that the Special Economic Zone unit or the Special Economic Zone developer has not availed the input tax credit of the tax paid by the supplier of goods or services or both,

E. Supplies regarded as deemed export

The application in form RFD-01 through portal may be filed by, -

- a) the recipient of deemed export supplies or
- b) the supplier of deemed export supplies in cases where the recipient does not avail of input tax credit on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund.

Following documents are required to be submitted by a registered person who have made deemed export:-

1. Copy of Form A i.e. intimation for procurement of supplies from the registered person by Export Oriented Unit (EOU)/Electronic Hardware Technology Park (EHTP) Unit/ Software Technology Park (STP) unit/ Bio-Technology Parks (BTP) Unit, submitted by receiver of deem export to o the registered supplier; o the jurisdictional GST officer in charge of such registered supplier; o its jurisdictional GST officer.
2. A statement containing the number and date of invoices
3. Copies of endorsed tax invoices by the recipient of deemed export as a proof of deemed export supplies by the registered person to EOU/EHIP/STP/BTP unit.
4. Acknowledgment by the jurisdictional Tax officer of the Advance Authorization holder or Export Promotion Capital Goods Authorization holder, as the case may be, that the said deemed export supplies have been received by the said Advance Authorization or Export Promotion Capital Goods Authorization holder, or a copy of the tax invoice under which such supplies have been made by the supplier, duly signed by the recipient Export Oriented Unit that said deemed export supplies have been received by it.
5. An undertaking by the recipient of deemed export supplies that no input tax credit on such supplies has been availed of by him.
6. An undertaking by the recipient of deemed export supplies that he shall not claim there fund in respect of such supplies and the supplier may claim the refund.

F. Refund on account of CGST & SGST paid by treating the supply as intra-State supply which is subsequently held as inter-State supply and vice versa

Application for refund required to be filed in FORM GST RFD-01 by the supplier on the common portal along with a statement showing the details of transactions considered as intra-State supply but which is subsequently held to be interstate supply;

G. Refund on account of excess tax paid

Application for refund required to be filed in FORM GST RFD-01 by the supplier on the common portal along with a statement showing the details of the amount of claim on account of excess payment of tax; A declaration to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person, in a case where the amount of refund claimed does not exceed two lakh rupees and Certificate by CA in prescribed format provided as Annexure 2 of FORM GST RFD-01 for the same.

H. Refund on account of issuance of refund vouchers for taxes paid on advances against which, goods or services have not been supplied Refund of account of excess tax paid

Application for refund required to be filed in FORM GST RFD-01 by the supplier on the common portal along with a statement showing the details of the amount of claim on account of issuance of refund vouchers for taxes paid on advances against which, goods or services have not been supplied

I. Claim of amount by casual tax payer on account of excess tax paid in advance

As per Sec. 27 of CGST Act, 2017, a casual tax payer is required to deposit an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought in advance. A claim can be made of any amount, after adjusting the tax payable by the applicant out of the advance tax deposited by him in the last return required to be furnished by him. Application for refund is required to be filed in FORM GST RFD-01 by the supplier on the common portal and should be submitted with a declaration by the registered person and Certificate by CA or CMA to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person, in a case where the amount of refund claimed does not exceed two lakh rupees.

J. Refund arising on account of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court

Application for refund required to be filed in FORM GST RFD-01 by the supplier on the common portal along with

1. The reference number of the order and a copy of the order passed by the proper officer or an appellate authority or Appellate Tribunal or court resulting in such refund
2. reference number of the payment of the amount (pre-deposit)

A declaration by registered person and certificate from CA or CMA to the effect that the incidence of tax, interest or any other amount claimed as refund has

not been passed on to any other person, in a case where the amount of refund claimed does not exceed two lakh rupees

K. Refund of accumulated Input Tax Credit on account of inverted duty structure

As per Sub-section 3 of Section 54 of CGST Act, 2017 refund of unutilized input tax credit shall be allowed in cases where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council.

Application for refund required to be filed in FORM GST RFD-01 by the supplier on the common portal along with a statement containing the number and the date of the invoices received and issued during a tax period.

Declaration of unjust enrichment is not required to be submitted in case of such refund claims.

Circular

Circular No. 197/09/2023-GST issued by the Central Board of Indirect Taxes & Customs (CBIC) addresses various refund-related issues under the Goods and Services Tax (GST) regime. The circular provides clarifications to ensure uniformity in the implementation of refund provisions across field formations. It covers topics such as the refund of accumulated input tax credit, requirements of the undertaking in FORM RFD 01, calculation of adjusted total turnover, and admissibility of refunds for exporters complying with sub-rule (1) of rule 96A.

Conclusion

To summarize, GST law envisages a simplified, time bound and technology driven refund procedure with minimal human interface between the taxpayer and tax authorities.

- *This is Prepared by Induction trainee officers – Shiv Dutt Sharma, Abhishek Singh, Shailendra Singh Chouhan, Aman Jain, Shivanshu Pathak, Aman Mishra, under the guidance of Superintendent Shri Arun Kumar, Customs Indore & Superintendent Shri Aditya Singh, CGST Jabalpur.*

11. INSPECTION, SEARCH, SEIZURE & ARREST IN GST

The provisions for Inspection, Search, Seizure and Arrest are provided to protect the interest of genuine tax payers and as a deterrent for tax evasion. These provisions are also required to safeguard Government's legitimate dues.

Chapter XIV- Inspection, Search, Seizure and Arrest (Section 67 to 72) of the CGST Act deals with the provisions relating to Inspection, Search, Seizure and Arrest. State GST laws also prescribe identical provisions in relation to these. Provisions of Inspection, Search, Seizure and Arrest under CGST Act have also been made applicable to IGST Act vide section 20 of the IGST Act.

i. Inspection under GST

'Inspection' is a new provision under the Act. It is a softer provision than search to enable officers to access any place of business of a taxable person and also any place of business of a person engaged in transporting goods or who is an owner or an operator of a warehouse or godown.

Circumstances for carrying out Inspection

As per section 67 (1) of CGST Act, the Proper Officer, not below the rank of Joint Commissioner can authorize in writing any other officer of central tax to inspect if he has reasons to believe that –

- a) A taxable person has
 - a. suppressed any transaction relating to supply of goods or services or both;
 - b. suppressed the stock of goods in hand;
 - c. claimed input tax credit in excess of his entitlement under this Act
 - d. indulged in contravention of any of the provisions of this Act to evade tax.
- 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 or goods in such a manner as is likely to cause evasion of tax payable under this Act.

Reason to believe

'Reason to believe' is to have knowledge of facts which, although not amounting to direct knowledge, would cause a reasonable person, knowing the same facts, to reasonably conclude the same thing. As per Section 26 of the IPC, 1860, "A person is said to have 'reason to believe' a thing, if he has sufficient cause to believe that thing but not otherwise." 'Reason to believe' contemplates an objective determination based on intelligent care and evaluation as distinguished

from a purely subjective consideration. It has to be and must be that of an honest and reasonable person based on relevant material and circumstances.

Inspection of goods in movement (section 68)

Inspection can also be done of the conveyance, carrying a consignment of value exceeding specified limit. The person in charge of the conveyance has to produce prescribed documents/devices for verification and allow inspection. E-way Bill has been prescribed for the said purpose.

ii. Search and Seizure under GST

'Search' involves an attempt to find something. Search, in tax/legal parlance, is an action of a government official (a tax officer or a police officer, depending on the case) to go and look through or examine carefully a place, person, object etc. in order to find something concealed or to discover evidence of a crime. The search can only be done under the proper and valid authority of law.

'Seizure' has not been specifically defined in GST. In legal parlance, seizure is the act of taking over something or someone by force through legal process, such as the seizure of evidence found at the scene of a crime. It generally implies taking possession forcibly against the wishes of the owner.

Who can order for Search and Seizure under the Act and when?

As per section 67 (2) of CGST Act, Where the proper officer, not below the rank of Joint Commissioner, either pursuant to an inspection carried out under section 67(1) or 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 authorize 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. Seized documents or books or things 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.

If it is not practicable to seize any such goods, the proper officer, or any officer authorized by him, may serve on the owner or 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.

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 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 [section 67 (5)].

The instruction /Guidelines regarding procedures to be followed during search operation has been issued by CBIC Instruction No.01/2020-21 [GST-Investigation] dated 02.02.2021.

Confiscation of Goods

As per section 130 of the CGST Act, any person—

- supplies or receives any goods in contravention of any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax;
- does not account for any goods on which he is liable to pay tax under this Act;
- supplies any goods liable to tax under this Act without having applied for registration;
- contravenes any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax;
- uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of this Act or the rules made thereunder 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

Powers of the officer authorized to search

An officer carrying out a search has the power to search for and seize goods and documents/books/things from the premises searched. During search, The officer authorized 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 [section 67(4)].

Safeguards provided for in respect of Search or Seizure

- The documents, books or things 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 thirty days of the issue of the said notice [section 67 (3)].

- If notice is not issued within six months (extendable by 6 more months on sufficient cause being shown) of the seizing the goods, they will be returned [section 67 (7)].
- The Government can issue a list of hazardous or perishable goods which can be disposed of by the proper officer in such manner as may be prescribed as soon as they are seized [section 67 (8)].
- Those goods specified under section 67 8), have been seized by a proper officer, or any officer authorized by him, he shall prepare an inventory of such goods in such manner as may be prescribed [section 67(9)].
- The provisions of the Code of Criminal Procedure, 1973, relating to search and seizure, shall apply. However, one important modification is in relation to sub-section (5) of section 165 of the said Code shall have effect as if for the word “Magistrate”, wherever it occurs, the word “Commissioner” was substituted [section 67(10)].
- 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 [section 67(11)].

iii. **Arrest under GST**

The term ‘Arrest’ has not been defined in GST. However, as per judicial pronouncements, it denotes ‘the taking into custody of a person under some lawful command or authority’. In other words, a person is said to be arrested when he is taken and restrained of his liberty by power or color of lawful warrant.

As per section 69 (1), If the Commissioner has reasons to believe that a person has committed an offence u/s 132, he may, by order, authorize any officer of central tax to arrest such person.

The arrested person will be informed about the grounds of his arrest. He will appear before the magistrate within 24 hours in case of cognizable offence [section 69(2)].

The guidelines arrest and bail in relation to offences punishable under the CGST Act, 2017 has been issued by CBIC Instruction No.02/2022-23 [GST- Investigation] dated 17.08.2022.

Offences u/s 132 where the arrest provisions become applicable

Offences where arrest provisions become applicable when any person-

- 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 [section 132 (1) (a)];
- 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 thereunder leading to wrongful availment or utilization of input tax credit or refund of tax [section 132 (1) (b)];
- avails input tax credit using such invoice or bill referred to in clause (b) of section 132 (1);
- 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 [section 132 (1) (d)];
- convicted of an offence under this section is again convicted of an offence under this section, then, he shall be punishable for the second and for every subsequent offence with imprisonment for a term which may extend to five years and with fine [section 132 (2)].

where the amount of tax evaded or the amount of input tax credit wrongly availed or utilized or the amount of refund wrongly taken exceeds five hundred lakh rupees, with imprisonment for a term which may extend to five years and with fine [section 132 (1) (i)]

Cognizable and a non-cognizable offence

- As per section 132(5), The offences specified in clause (a) or clause (b) or clause (c) or clause (d) of section 132 (1) and punishable under clause
- iii. of section 132 (1) shall be cognizable and non-bailable.
- As per section 132 (4), Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act, except the offences referred to in section 132(5) shall be non-cognizable and bailable.

Power to summon persons for evidence (Section 70)

The proper officer under this 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 provided in the case of a civil court under the provisions of the Code of Civil Procedure, 1908.

The guidelines on issuance of summons under section 70 of the CGST Act, 2017 has been issued by CBIC Instruction No.03/2022-23 [GST-Investigation] dated 17.08.2022.

Access to business premises (section 71)

Any officer under this Act, authorized by the proper officer not below the rank of Joint Commissioner, shall have access to any place of business of a registered

person to inspect books of account, documents, computers, 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 checks as may be necessary to safeguard the interest of revenue.

Officers to assist proper officers (Section 72)

- a) 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.
- b) 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.

- *This is Prepared by Induction trainee officers – Shubham Tiwari, Alok Choukiker, Sachin Singh, Ankit Singh, Himanshu, Gajendra Saini, Gourav Pandey, under the guidance of AAD Shri Bharat Kumar Tamrakar, NACIN Bhopal.*

12. E-WAY BILL UNDER GST

Background of e-way bill provisions-

On introduction of GST w.e.f. 01.07.2017 many states have removed the physical barriers at State border for transport of goods by road. This has speed up movement of goods to some extent.

In absence of physical restrictions on movement of goods, some control is essential to ensure that goods are not clandestinely removed and sold. Hence, a system of e-way bill has been introduced.

What is an E-Way bill

E-way Bill (Form GST EWB-01) is an electronic document generated on the common portal evidencing movement of goods of consignment value more than Rs.50,000/-. It has two component- Part-A comprising of details of GSTIN of supplier & recipient, place of delivery (indicating PIN code also), document no (Tax invoice, Bill of supply, Delivery Challan) and date, value of goods, HSN code and reasons for transportation and Part- B comprising of transport details- transport document no. (Goods receipts number) and vehicle number for road.

The provision pertaining to E-way bill under GST is given under Section 129 of the CGST Act to be read with CGST Rule 138.

When Should E-Way bill be issued

E-Way bill will be generated when there is a movement of goods in a vehicle/ conveyance of value more than Rs. 50,000 (either each Invoice or in aggregate of all invoices in a vehicle/conveyance) –

- In relation to a 'supply'
- For reasons other than a 'supply' (say a return)
- Due to inward 'supply' from an unregistered person
- For this purpose, a supply may be either of the following:
 - A supply made for a consideration (payment) in the course of business
 - A supply made for a consideration (payment) which may not be in the course of business
 - A supply without consideration (without payment)In simpler terms, the term 'supply' usually means a:
 - Sale – sale of goods and payment made
 - Transfer – branch transfers for instance
 - Barter/Exchange – where the payment is by goods instead of in money
 - Inter-State movement of Goods by the Principal to the Job-worker by Principal/ registered Job-worker

Therefore, E-Way Bills must be generated on the common portal for all these types of movements. For certain specified Goods, the E-way bill needs to be generated mandatorily even if the value of the consignment of Goods is less than Rs. 50,000:

Inter-State Transport of Handicraft goods by a dealer exempted from GST registration

Who should Generate an E-Way bill

E-way bill is to be generated by the **consignor or consignee** himself (if the transportation is being done in own/hired conveyance or by railways by air or by vessel) or the **transporter** (if the goods are handed over to a transporter for transportation by road). Where neither the consigner nor consignee generates the e-way bill and the value of goods is more than Rs. 50,000/-, it shall be the responsibility of the transporter to generate it.

- In case the goods to be transported are supplied through an e-commerce operator, the information in part-A may be furnished by such e-commerce operator.
- E-way bill can be generated by unregistered person by using 'citizen' option on e-way bill portal- FAQ on GST Chapter 13.3 issued by CBI&C on 15.12.2018.

Unregistered Persons – Unregistered persons are also required to generate e-Way Bill. However, where a supply is made by an unregistered person to a registered person, the receiver will have to ensure all the compliances are met as if they were the supplier.

Cases when E-Way bill is Not Required

Please see Rule 138(14) of CGST Rule,2017.

Note: Part B of e-Way Bill is not required to be filled where the distance between the consigner or consignee and the transporter is less than 50 Kms and transport is within the same state.

State-wise E-Way bill Rules and Limits

Reliefs have been provided to people of few States by way of exempting them from E-way bill generation in case of monetary limits falling below threshold amount or certain specified items. For Instance, Tamil Nadu has exempted people of its State from the generation of E-waybill if the monetary limit of the items falls below Rs. One Lakh.

- Madhya Pradesh- As per Commercial Tax department Notification No.FA3-08/201881/V(18) dated 23.3.2022. **No E-way bill** for
 - I. intra-district movement of all goods of any value
 - II. Intra-district movement of all goods of value not exceeding Rs. 1 lakh, except medicines and surgical goods of any value.
 - III. Intra-state movement of tobacco products where value does not exceed Rs.50,000/-.

Validity of E-Way bill

Upto 200 KM-one day

- I. One day for every 200 km or part after first 200 km (Rule 138 (10) of CGST Rules amended on 1.1.2021. Earlier, the validity period was 100 KM per day).
- II. Commissioner can extend validity

The validity of e-way bill may be extend within 8 hours on or before form the time of its expiry reason like due to vehicle breakdown, Natural calamity, Law and order issue, Accident of conveyance etc.

Changes in procedures in April-19-

- i. Auto calculation of distance based on PIN codes in generation of e-way bill
- ii. Knowing distance places with two PIN Codes
- iii. Blocking generation of 2 e-way bill on one invoice/document
- iv. Extension of e-way bill in case consignment is in transit/movement
- v. Report on list of e-way bills about to expire
 - E-way bill can not be generated if returns were not filed by supplier or registration of supplier was suspended w.e.f. 18.5.2021

Frequently Asked Questions

1. Can the e-way bill be cancelled if the goods are not transported after generation of e-way bill ?

Ans- Yes, with in 24 hour of generation of the e-way bill.

However, if the e-way bill has been verified in transit in accordance with the provisions of rule 138 (9) of the CGST Rules,2017 the same cannot be cancelled.

Q.2. What happen if the conveyance is changed en-route?

Ans. The consigner or the recipient who fill part-A or the transporter may update the details of conveyance in the e-way bill on the common portal in Form GST EWB-01.

Q.3 What is consignment value ?

Ans. The consignment value of goods shall be the value, determined in accordance with the provision of section 15 of the CGST Act,2017, declared in an invoice, a bill of supply, delivery challan issued in respect of the said consignment and also include tax and cess, if any. (Explanation 2 to Rule 138(1) of CGST Rule,2017.

Q.4 Whether an unregistered transporter need to compulsorily enroll on the e-way bill system ?

Ans- Yes, in terms of Rule 58 of CGST Rule, 2017 read with section 35(2) of the CGST Act,2017 a transporter and operator of godown or warehouse shall have to

enroll. The unregistered transporter gets a transporter ID when he enroll on the system.

Q.5. Can the e-way bill be cancelled if the goods are not transported after generation of e-way bill ?

Ans- Yes, with in 24 hour of generation of the e-way bill.

However, if the e-way bill has been verified in transit in accordance with the provisions of rule 138 (9) of the CGST Rules,2017 the same can not be cancelled.

Q.6. What happen if the conveyance is changed en-route?

Ans. The consigner or the recipient who fill part-A or the transporter may update the details of conveyance in the e-way bill on the common portal in Form GST EWB-01.

Q.7. Can an e-way bill be modified ?

Ans. NO, Part-A of an e-way bill once generated, cannot be modified. However, Part-B can be updated as many times as the transport vehicle is changed the overall validity period.

Q.8. What are the documents to be carried by the person in charge of a conveyance while transporting goods ?

Ans. a. the invoice or bill of supply or delivery challan, as the case may be

b. a copy of E-way bill or the e-way bill number, either physically or mapped to a Radio Frequency Identification Device (RFID) embedded on to the conveyance.

Road checks and verification of documents and conveyances

- CBIC has issued details circular No.41/15/2018-GST dated 13.4.2018 for interception of conveyance for inspection and conveyance.
- The commissioner or an officer empowered by him in this behalf may authorized the proper officer to intercept any conveyance to verify documents.
- A summary report of every inspection of goods in transit shall be recorded online by the proper officer in Part-A of Form GST EWB-03 within 24 hours of inspection and the final report in Part-B of form GST EWB-03 shall be recorded within 03 days of such inspection.
- Commissioner or any other officer authorized by him can extend the period of 03 days by further 03 days.
- The period of 24 hours or 03 days shall be counted from midnight of the date on which the vehicle is intercepted.
- No further verification in state if once verification done.
- If proper officer intends to undertake inspection, he should first record the statement of person in charge of conveyance (normally driver) in form GST

MOV-01. In addition, the proper officer shall issue order of physical verification in form GST MOV-02. Within 24 hours of issue of such order, the proper officer shall prepare a report in Part-a of form GST EWB-03 and upload the same on common portal.

- Within 03 days from order in form GST MOV-02, the proper officer shall conclude inspection proceedings. This period can be extended by ADC/JC by issuing order in form GST MOV-03. Copy of that order shall be served on the person in charge of the conveyance.

- The final report shall be prepared in form GST MOV-04. Its copy will be served on person in charge of conveyance. The final report shall be uploaded in part-B of the GST EWB-03.
- If no discrepancy was found, release order shall be issued in form GST MOV-05. If discrepancy is noticed, order of detention shall be served in form GST MOV-06 and a notice in form GST MOV-07, specifying tax and payable.
- If tax and penalty is paid as per provision of Section 129 of CGST Act, 2017, goods and conveyance will be released by issuing order in form GST MOV-05. The order in form GST MOV-09 will be uploaded on common portal, demand will be added in electronic liability register an amount will be debited from electronic cash ledger of the concerned person.
- If the person in charge refuse to pay the tax and penalty, the goods and conveyance shall be released on receipt of bond in form GST MOV-08 and security in form of bank guarantee equal to amount specified in Section 129 of CGST Act, 2017.
- If objection is raised, personal hearing shall be given and speaking order shall be passed in form GST Mov-09, quantifying tax and penalty payable. On payment of such amount release order shall be issued in form GST MOV-05 and uploaded.
- In case the proposed tax and penalty are not paid within 07 days from the date of issue of the order action of detention in form GST MOV-06, action under section 130 of the CGST Act shall be initiated by serving a notice in form GST MOV-10. Further An order of confiscation of goods shall be passed in Form GST MOV-11.

Other important provisions-

- Police can detain to seize goods which they believe are being transported in violation of any law. However, subsequently, they should hand over goods to concerned department which is empowered to enforce law.
- Disposal of perishable, hazardous and depreciable seized goods- as per Notification No. 27/2018-CT dated 13.06.2018.
- E-way Bill system integrated with Fasttag and Vahan & RFID, even Movement of vehicles can be checked on the map by using mobile app.
- HSN code when material sent for job work, instruction dated 17.3.2021
- The provision of e-way bill have been made effective from 1.4.2018 all over India for inter-state movement of goods.

- In case of movement of goods within the states, the provision were implemented in stage. However, it is stated that by 3.6.2018, inter-state movement of goods in all states will become mandatory.

S.no	Form No.	Description
1	GST MOV-01	Statement of the owner/Driver/person in charge of the goods and conveyance
2	GST MOV-02	Order for physical verification/Inspection of the conveyance, goods and documents
3	GST MOV-03	Order of extension of time for inspection beyond three working days
4	GST MOV-04	Physical verification report
5	GST MOV-05	Release order
6	GST MOV-06	Order of detention under Section 129(1) of CGST/SGST Act, 2017 and Section 20 IGST Act,2017.
7	GST MOV-07	Notice under Section 129(3) of CGST/SGST Act, 2017 and Section 20 IGST Act,2017.
8	GST MOV-08	Bond for provisional release of goods and conveyance
9	GST MOV-09	Order of demand of tax and penalty
10	GST MOV-10	Notice for confiscation of goods or conveyance and levy of penalty under Section 130 of CGST/SGST Act, 2017
11	GST MOV-11	Order of confiscation of goods and conveyance and demand of tax fine and penalty

Compiled by
Bharat Kumar Tamrakar
AAD, NACIN Bhopal

13. RETURNS UNDER GST

GST Return is a document containing details of all purchases, sales, output GST (on sales) and input tax credit (GST paid on purchases) to calculate a registered taxpayers (GSTIN's) GST liability for a particular tax period.

There are 13 returns under GST. They are the GSTR-1, GSTR-3B, GSTR-4, GSTR-5, GSTR-5A, GSTR-6, GSTR-7, GSTR-8, GSTR-9, GSTR-10, GSTR-11, CMP-08, and ITC-04. However, all returns do not apply to all taxpayers. Taxpayers file returns based on the type of taxpayer/type of registration obtained. Eligible taxpayers, i.e. with a turnover exceeding Rs.5 crore are also required to file a self-certified reconciliation statement in Form GSTR-9C.

Besides the GST returns that are required to be filed, there are statements of input tax credit available to taxpayers, namely GSTR-2A (dynamic) and GSTR-2B (static). There is also an Invoice Furnishing Facility (IFF) available to small taxpayers who are registered under the QRMP scheme to furnish their Business to Business (B2B) sales for the first two months of the quarter. These small taxpayers will still need to pay taxes on a monthly basis using Form PMT-06.

Types of GST Returns and Due dates

GSTR-1

GSTR-1 is the return to be furnished for reporting details of all outward supplies of goods and services made. In other words, it contains the invoices and debit-credit notes raised on the sales transactions for a tax period. GSTR-1 is to be filed by all normal taxpayers who are registered under GST, including casual taxable persons.

Any amendments to sales invoices made, even pertaining to previous tax periods, must be reported in the GSTR-1 return by all the suppliers or sellers registered under GST.

The filing frequency of GSTR-1 is currently as follows:

(a) Monthly, by 11th* of every month- If the business either has an annual aggregate turnover of more than Rs.5 crore or has not opted into the QRMP scheme.

(b) Quarterly, by 13th** of the month following every quarter- If the business has opted into the QRMP scheme.

*Till September 2018, the due date was the 10th of every month.

**Till December 2020, was the end of the month succeeding the quarter.

GSTR-2

GSTR-2 is currently a suspended GST return, that applied to registered buyers to report the inward supplies of goods and services, i.e. the purchases made during a tax period.

The details in the GSTR-2 return had to be auto-populated from the GSTR-2A. Unlike GSTR-2A, the GSTR-2 return can be edited. GSTR-2 is to be filed by all normal taxpayers registered under GST. However, the filing of the same has been suspended ever since September 2017.

GSTR-3

GSTR-3 is again currently a suspended GST return. It was a monthly summary return for furnishing summarized details of all outward supplies made, inward supplies received and input tax credit claimed, along with details of the tax liability and taxes paid.

This return would have got auto-generated on the basis of the GSTR-1 and GSTR-2 returns filed. GSTR-3 is to be filed by all normal taxpayers registered under GST, however, the filing of the same has been suspended since September 2017.

GSTR-2A

GSTR-2A is a view-only dynamic GST return relevant for the recipient or buyer of goods and services. It contains the details of all inward supplies of goods and services i.e., purchases made from GST registered suppliers during a tax period.

The data is auto-populated based on data filed by the corresponding suppliers in their GSTR-1 returns. Further, data filed in the Invoice Furnishing Facility (IFF) by the QRMP taxpayer, also get auto-filled.

Since GSTR-2A is a read-only return, no action can be taken in it. However, it is referred by the buyers to claim an accurate Input Tax Credit (ITC) for every financial year, across multiple tax periods. In case any invoice is missing, the buyer can communicate with the seller to upload it in their GSTR-1 on a timely basis.

It was used frequently for claiming ITC for every tax period until August 2020. Thereafter, the buyers are required to refer to the GSTR-2B, a static return, to claim the input tax credit for every tax period. However, some taxpayers still find referring to the GSTR-2A beneficial at the time of filing the annual GST return.

GSTR-2B

The GSTR-2B is again a view-only static GST return important for the recipient or buyer of goods and services. It is available every month, starting in August 2020 and contains constant ITC data for a period whenever checked back.

ITC details will be covered from the date of filing GSTR-1 for the preceding month (M-1) up to the date of filing GSTR-1 for the current month (M). The return is made available on the 12th of every month, giving sufficient time before filing GSTR-3B, where the ITC is declared.

The GSTR-2B provides the action to be taken against every invoice reported, such as to be reversed, ineligible, subject to reverse charge, references to the table numbers in GSTR-3B.

GSTR-3B

GSTR-3B is a monthly self-declaration to be filed, for furnishing summarised details of all outward supplies made, input tax credit claimed, tax liability ascertained and taxes paid.

GSTR-3B is to be filed by all normal taxpayers registered under GST. The sales and input tax credit details must be reconciled with GSTR-1 and GSTR-2B every tax period before filing GSTR-3B. GST reconciliation is crucial to identify mismatches in data, that may lead to GST notices in future or suspension of GST registration as well.

The filing frequency of GSTR-3B is currently as follows:

(a) Monthly, 20th* of the succeeding month- For taxpayers with an aggregate turnover in the previous financial year of more than Rs.5 crore or have been otherwise eligible but still opted out of the QRMP scheme.

(b) Quarterly, 22nd of the month following the quarter for 'X'** category of States and 24th of the month following the quarter for 'Y'** category of States- For the taxpayers with aggregate turnover equal to or below Rs.5 crore, eligible and remain opted into the QRMP scheme.

* Effective from January 2021 tax period onwards.

** 'X' category States/UT – Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh or the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep.

'Y' category States/UT- Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or the Union Territories of Jammu and Kashmir, Ladakh, Chandigarh and New Delhi.

GSTR-4

GSTR-4 is the annual return that was to be filed by the composition taxable persons under GST, by 30th April of the year following the relevant financial year. It has replaced the erstwhile GSTR-9A (annual return) from FY 2019-20 onwards.

Prior to FY 2019-20, this return had to be filed on a quarterly basis. Thereafter, a simple challan in form CMP-08 filed by 18th of the month succeeding every quarter replaced it.

The composition scheme is a system in which taxpayers dealing with goods and having a turnover up to Rs.1.5 crores can opt into and pay taxes at a fixed rate on the turnover declared. Further, the service providers can avail a similar scheme as per CGST (Rate) Notification 2/2019 dated 7th March 2019 if their turnover is up to Rs.50 lakh.

GSTR-5

GSTR-5 is the return to be filed by non-resident foreign taxpayers, who are registered under GST and carry out business transactions in India. The return contains details of all outward supplies made, inward supplies received, credit/debit notes, tax liability and taxes paid.

The GSTR-5 return is to be filed monthly by the 13th of each month under GSTIN that the taxpayer is registered in India.

GSTR-5A

GSTR-5A refers to a summary return for reporting the outward taxable supplies and tax payable by Online Information and Database Access or Retrieval Services (OIDAR) provider under GST.

The due date to file GSTR-5A is the 20th of every month.

GSTR-6

GSTR-6 is a monthly return to be filed by an Input Service Distributor (ISD). It contains details of input tax credit received and distributed by the ISD. It will further contain details of all documents issued for the distribution of input credit and the manner of distribution.

The due date to file GSTR-6 is the 13th of every month.

GSTR-7

GSTR-7 is a monthly return to be filed by persons required to deduct TDS (Tax deducted at source) under GST. This return will contain details of TDS deducted, the TDS liability payable and paid and TDS refund claimed if any.

The due date to file GSTR-7 is the 10th of every month.

GSTR-8

GSTR-8 is a monthly return to be filed by e-commerce operators registered under the GST who are required to collect tax at source (TCS). It contains details of all supplies made through the e-commerce platform, and the TCS collected on the same.

The GSTR-8 return is to be filed on a monthly basis by the 10th of every month.

GSTR-9

GSTR-9 is the annual return to be filed by taxpayers registered under GST. It is due by 31st December of the year following the relevant financial year, as per the GST law. It contains the details of all outward supplies made, inward supplies received during the relevant financial year under different tax heads i.e. CGST, SGST & IGST and a summary value of supplies reported under every HSN code, along with details of taxes payable and paid.

It is a consolidation of all the monthly or quarterly returns (GSTR-1, GSTR-2A, GSTR-3B) filed during that financial year. GSTR-9 is required to be filed by all taxpayers registered under GST. However, there are few exceptions such as taxpayers who have opted for the composition scheme, casual taxable persons, input service distributors, non-resident taxable persons and persons paying TDS under section 51 of the CGST Act.

Note: As per the CGST notification no. 47/2019, later amended, the annual return under GST for taxpayers having an aggregate turnover that does not exceed Rs.2 crore has been made optional for FY 2017-18, FY 2018-19 and FY 2019-20.

GSTR-9A

GSTR-9A is currently a suspended annual return earlier required to be filed by composition taxpayers. It had a consolidation of all the quarterly returns filed during that financial year.

Ever since GSTR-4 (annual return) was introduced from FY 2019-20, this return stands scrapped. Prior to that, GSTR-9A filing for composition taxpayers had been waived off for FY 2017-18 and FY 2018-19.

GSTR-9C

GSTR-9C is a self-certified reconciliation statement between the books of accounts and the GSTR-9 that is to be filed by every registered person under GST whose turnover during a financial year exceeds the prescribed limit of Rs.5 crore. The deadline to file this statement is the same as the due date prescribed for GSTR-9, i.e., 31st December of the year following the relevant financial year.

GSTR-9C is to be filed for every GSTIN, hence, one PAN can have multiple GSTR-9C forms being filed.

GSTR-10

GSTR-10 is to be filed by a taxable person whose registration has been cancelled or surrendered. This return is also called a final return and has to be filed within three months from the date of cancellation or cancellation order, whichever is earlier.

GSTR-11

GSTR-11 is the return to be filed by persons who have been issued a Unique Identity Number (UIN) in order to get a refund under GST for the goods and services purchased by them in India. UIN is a classification made for foreign diplomatic missions and embassies not liable to tax in India, for the purpose of getting a refund of taxes. GSTR-11 will contain details of inward supplies received and refund claimed.

Here is a list of all the returns to be filed as prescribed under the GST Law along with the due dates.

Return Form	Description	Frequency	Due Date
GSTR-1	Details of outward supplies of taxable goods and/or services affected.	Monthly	11th of the next month.
		Quarterly (If opted under the QRMP scheme)	13th of the month succeeding the quarter.
IFF (Optional by taxpayers under the QRMP scheme)	Details of B2B supplies of taxable goods and/or services affected.	Monthly (for the first two months of the quarter)	13th of the next month.

GSTR-3B	Summary return of outward supplies and input tax credit claimed, along with payment of tax by the taxpayer.	Monthly	20th of the next month.
		Quarterly (For taxpayers under the QRMP scheme)	22nd or 24th of the month succeeding the quarter***
CMP-08	Statement-cum-challan to make a tax payment by a taxpayer registered under the composition scheme under Section 10 of the CGST Act.	Quarterly	18th of the month succeeding the quarter.
GSTR-4	Return for a taxpayer registered under the composition scheme under Section 10 of the CGST Act.	Annually	30th of the month succeeding a financial year.
GSTR-5	Return to be filed by a non-resident taxable person.	Monthly	13th of the next month.
GSTR-5A	Return to be filed by non-resident OIDAR service providers.	Monthly	20th of the next month.
GSTR-6	Return for an input service distributor to distribute the eligible input tax credit to its branches.	Monthly	13th of the next month.
GSTR-7	Return to be filed by registered persons deducting tax at source (TDS).	Monthly	10th of the next month.
GSTR-8	Return to be filed by e-commerce operators containing details of supplies effected and the amount of tax collected at source by them.	Monthly	10th of the next month.
GSTR-9	Annual return by a regular taxpayer.	Annually	31st December of the next financial year.
GSTR-9C	Self-certified reconciliation statement.	Annually	31st December of the next financial year.
GSTR-10	Final return to be filed by a taxpayer whose GST registration is cancelled.	Once, when the GST registration is cancelled or surrendered.	Within three months of the date of cancellation or date of cancellation order,

			whichever is later.
GSTR-11	Details of inward supplies to be furnished by a person having UIN and claiming a refund	Monthly	28th of the month following the month for which statement is filed.
ITC-04	Statement to be filed by a principal/job-worker about details of goods sent to/received from a job-worker	Annually (for AATO up to Rs.5 crore) Half-yearly (for AATO > Rs.5 crore)	25th April where AATO is up to Rs.5 crore. 25th October and 25th April where AATO exceeds Rs.5 crore. (AATO = Annual aggregate turnover)

***For the taxpayers with aggregate turnover equal to or below Rs 5 crore, eligible and remain opted into the QRMP scheme, 22nd of month next to the quarter for taxpayers in category X states/UTs and 24th of month next to the quarter for taxpayers in category Y states/UTs

Category X: Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh or the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep.

Category Y: Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or the Union Territories of Jammu and Kashmir, Ladakh, Chandigarh and New Delhi.

Late Fees for not Filing Return on Time

Return filing is mandatory under GST. Even if there is no transaction, you must file a Nil return. You cannot file a return if you do not file the previous month/quarter's return.

Hence, late filing of GST return will have a cascading effect leading to heavy fines and penalty.

The late filing fee of the GSTR-1 is populated in the liability ledger of GSTR-3B filed immediately after such delay. If GST returns are not filed within the specified time limits, you will be liable to pay interest and a late fee. Interest is charged at 18% per annum. It has to be calculated by the taxpayer on the amount of outstanding tax to be paid. It shall be calculated on the net tax liability identified in the ledger at the

time of payment. The time period will be from the next day of filing due date till the actual date of payment.

As per the CGST Act, the late fee is Rs.100 per day per Act. So, it is Rs.100 under CGST & Rs.100 under SGST. The total shall be Rs.200/day. However, there is a maximum levy of Rs.5,000 per Act. There is no late fee separately prescribed under the IGST Act. For GSTR-9/9C, the maximum late fee per Act is capped at 0.25% of turnover in the state or Union Territory. Please note that the amount of late fees can be reduced due to relief schemes provided by the government. From the month of/quarter ended June 2021, the maximum amount of late fees has been revised as below.

Taxpayer category	Late fee capped at
Taxpayers whose total amount of central tax payable is Nil	Rs.250 [^]
Taxpayers with an annual aggregate turnover up to Rs.1.5 crore in the previous financial year	Rs.1,000 [^]
Taxpayers with an annual aggregate turnover exceeding Rs.1.5 crore and up to Rs.5 crore in the previous financial year	Rs.2,500 [^]

Taxpayers should note that an equal penalty will apply under SGST. There are no late fees under IGST.

How are GST returns filed or submitted?

There are prescribed formats for each of the above GST returns. These forms need to be filed on the GST portal.

Does GST have to be paid monthly?

GST is to be paid monthly by regular taxpayers, even those who have opted for quarterly filing of returns, i.e. the QRMP scheme.

However, for small taxpayers, there is an option to choose the composition scheme under GST, if their annual aggregate turnover is up to Rs.1.5 crore for manufacturers/dealers and Rs.50 lakh for pure service providers. They can file a quarterly statement-cum-challan and pay taxes quarterly.

Compiled by
Pranesh Gupta
Additional Director
NACIN Bhopal

14. SCRUTINY OF RETURNS

Every GST registered person must file at least one or more statutory GST returns on time. On filing, if there happens to be any inconsistencies or errors in the information declared, the tax officers will conduct the scrutiny of these GST returns. With the implementation of automated return scrutiny module, registered persons must be more cautious of ensuring consistency between returns.

The provision pertaining to Scrutiny of returns under GST is given under **Section 61** of the CGST Act to be read with CGST **Rule 99**.

Note- Superintendent of Central Tax has been designated as “Proper Officer” for the purpose of scrutiny under Section-61- CBIC Circular No.3/3/2017-GST dated 05.07.2017.

What is a Scrutiny of returns under GST

A GST officer will thoroughly check the GST return of a particular registered person based on certain risk parameters, to verify its correctness. If he finds any errors, he will issue a scrutiny notice (ASMT-10) to the registered person demanding an explanation.

The registered person should admit the differential tax demanded with interest, if any and pay it before replying to the notice together with justification. If the reply (ASMT-11) satisfies the proper officer, the registered person is intimated and the proceedings are dropped without any further action in form ASMT-12 (an order of acceptance of reply). Otherwise, further action can be taken by the proper officer in the following circumstances:

- a. The registered person does not pay tax or provide an explanation
 - b. The registered person does not reply or rectify the discrepancy within 30 days of the issue of notice
 - c. The reply submitted is not satisfactory to the Proper officer
- The Proper officer can also take/propose the following actions in cases such as:
- a. Conduct a tax audit under section 65 of CGST Act, 0217
 - b. Conduct a special audit under section 66 of CGST Act, 0217
 - c. Survey/inspection under section 67 of CGST Act, 0217
 - d. Initiate demand and recovery provisions as per law.

GST Scrutiny Notice in ASMT-10: Forms, Timelines, Mode, and Contents

Form: A scrutiny notice is issued in Form ASMT-10 intimating discrepancies in GST return along with tax, interest and penalty if any. A reply should be submitted in Form ASMT-11.

Mode: Proper officer can send the notice via SMS or email or GST portal to the registered person.

Timelines: There is no time limit defined for receiving a scrutiny notice. However, a registered person should respond to such notice within 30 days from the date of issue, or request for an extension, not more than 15 days.

Contents: Contents of ASMT-10 are as follows:

Basic details: GSTIN, name, address and tax period.

Discrepancy Observed: Details of discrepancy if any and asking for an explanation.

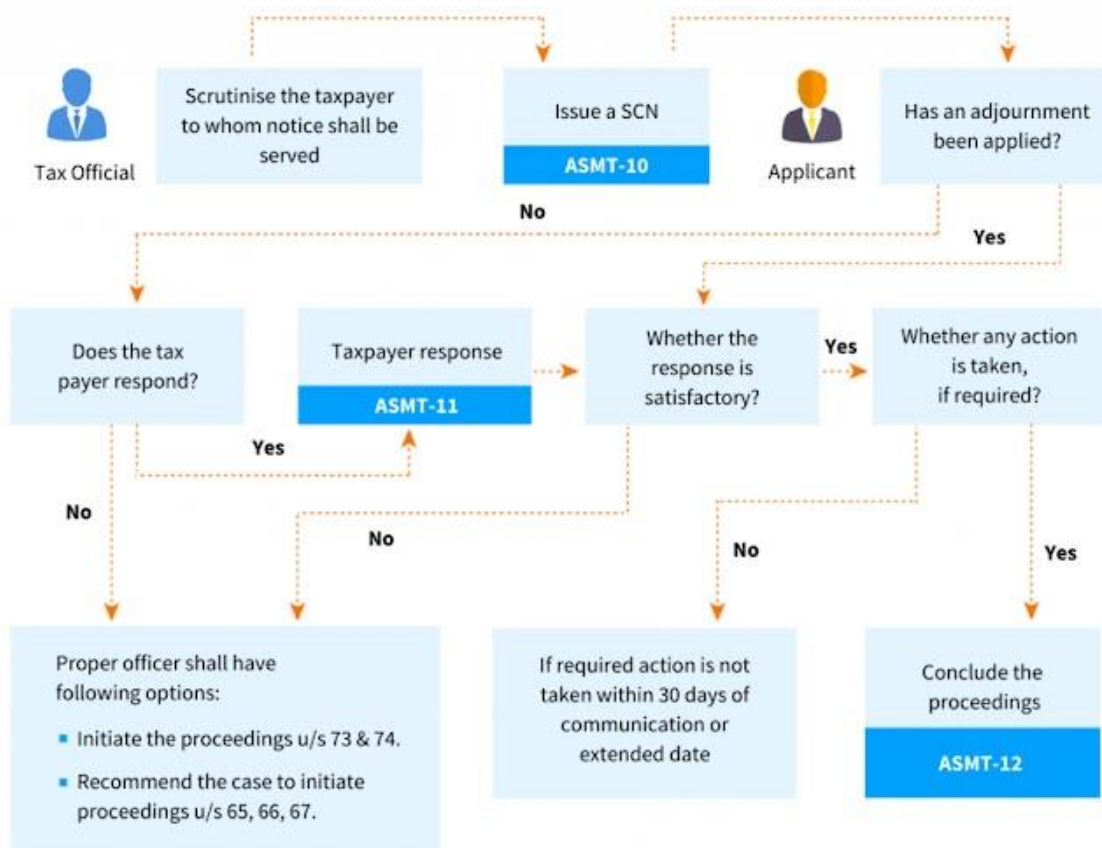
Particulars of the Proper officer: DIN, name, signature and designation of the tax official issuing notice.

Procedure after replying to a Scrutiny Notice

After submitting a reply, if the Proper officer is satisfied with the reply, he will drop the proceeding by issuing an order intimating the same to the registered person . But, if the Proper officer is unsatisfied, he will issue an order, demanding tax, penalty and interest, as the case may be.

The following flowchart will explain the process of scrutiny at a glance:

Scrutiny under GST



Consequences of not responding to a Scrutiny Notice

If the registered person does not respond to the scrutiny notice, then the proper officer will take action under section 73 (non-fraudulent) and 74 (fraudulent). He can issue a show-cause notice in form DRC-01 demanding the tax dues, together with applicable interest and penalty. The amount of penalty will vary depending upon the grounds of the discrepancy found. Alternatively, the officer can recommend audits under section 65 or 66.

Standard Operating Procedure (SOP) for Security of returns

The CBIC has issued two SOP CGST Instruction **no. 02/2022-GST dated 22.03.2022** for Scrutiny of returns for FY 2017-18 and 2018-19 and Instruction No. **02/2023-GST dated 26.05.2023** for Scrutiny of Returns for FY 2019-20 onwards. It has detailed process of scrutiny starting from selection of returns to conduct of scrutiny and issue of notice in ASMT-10 to actions for failure to respond to notice.

Highpoints

- Selection of returns for scrutiny will be done by the Directorate General of Analytics and Risk Management (DGARM) based on various risk parameters identified by them.
- DGARM will select the GSTINs registered with the Central Tax authorities, whose returns are to be scrutinized for a financial year, based on identified risk parameters.
- Scrutiny of returns of one GSTIN shall mean scrutiny of all returns pertaining to a financial year for which the said GSTIN has been selected for scrutiny.
- It may be noted that at this stage, the proper officer is expected to rely upon the information available with him on records.
- As far as possible, scrutiny of return should have minimal interface between the proper officer and the registered person and, there should normally not be any need for seeking documents/records from the registered persons before issuance of FORM GST ASMT-10.
- The payments thus made through FORM DRC-03 may also be taken into consideration while communicating discrepancies to the registered person in FORM GST ASMT-10.
- The notice in FORM GST ASMT-10, issued by the proper officer through scrutiny functionality on ACES-GST application, shall be communicated by the system to the concerned registered person on the common portal.
- Therefore, there will be no need for sending any manual communication of notice in FORM GST ASMT-10 by the proper officer to the registered person separately.
- While issuing such notice, the proper officer may, as far as possible, quantify the amount of tax, interest and any other amount payable in relation to such discrepancies.

- It may also be ensured that the discrepancies so communicated should, as far as possible, be specific in nature and not vague or general.
- The proper officer shall mention the parameter-wise details of the discrepancies noticed by him in FORM GST ASMT-10 and shall also upload the worksheets and supporting document(s)/annexures, if any.
- Scrutiny of returns is to be conducted in a time bound manner, so that the cases may be taken to their logical conclusion and that too expeditiously.
- Scrutiny register should be maintained and monthly progress report should be submitted in prescribed form.

Cases where ASMT-10 are being issued

- Mismatch of ITC in GSTR-3B with GSTR-2A/2B
- Mismatch of Outward Supply as per GSTR-1 with GSTR-3B
- Availing of ITC on Blocked Credit Items
- Difference of Liability as per E-Way Bills & GSTR 3B
- Reversal of ITC due to fake invoices
- Returns reflecting exempted supplies

Compiled by
Bharat Kumar Tamrakar
AAD, NACIN Bhopal

15. AUDIT UNDER GST

Introduction

Audit of records of taxpayers is the bed rock for the proper functioning of a self-assessment - based tax system. This provision provides for audit of the business transactions of any registered person. It is an important tool in the tax administration to ensure compliance of law and prevent revenue leakage.

In terms of section 2(13) of the CGST Act, 2017, “audit” means the examination of records, returns and other documents maintained or furnished by the registered person under this Act or the rules made thereunder or under any other law for the time being in force to verify the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed, and to assess his compliance with the provisions of this Act or the rules made thereunder.

Types of Audit:

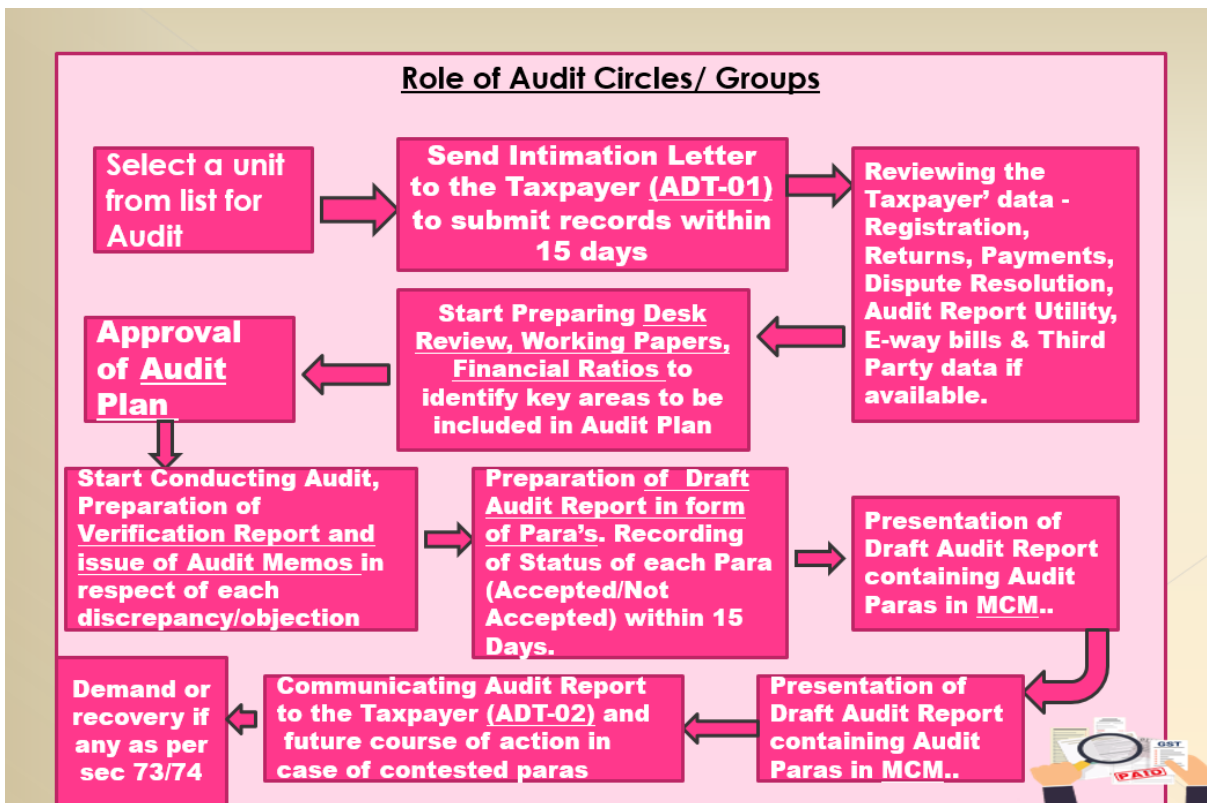
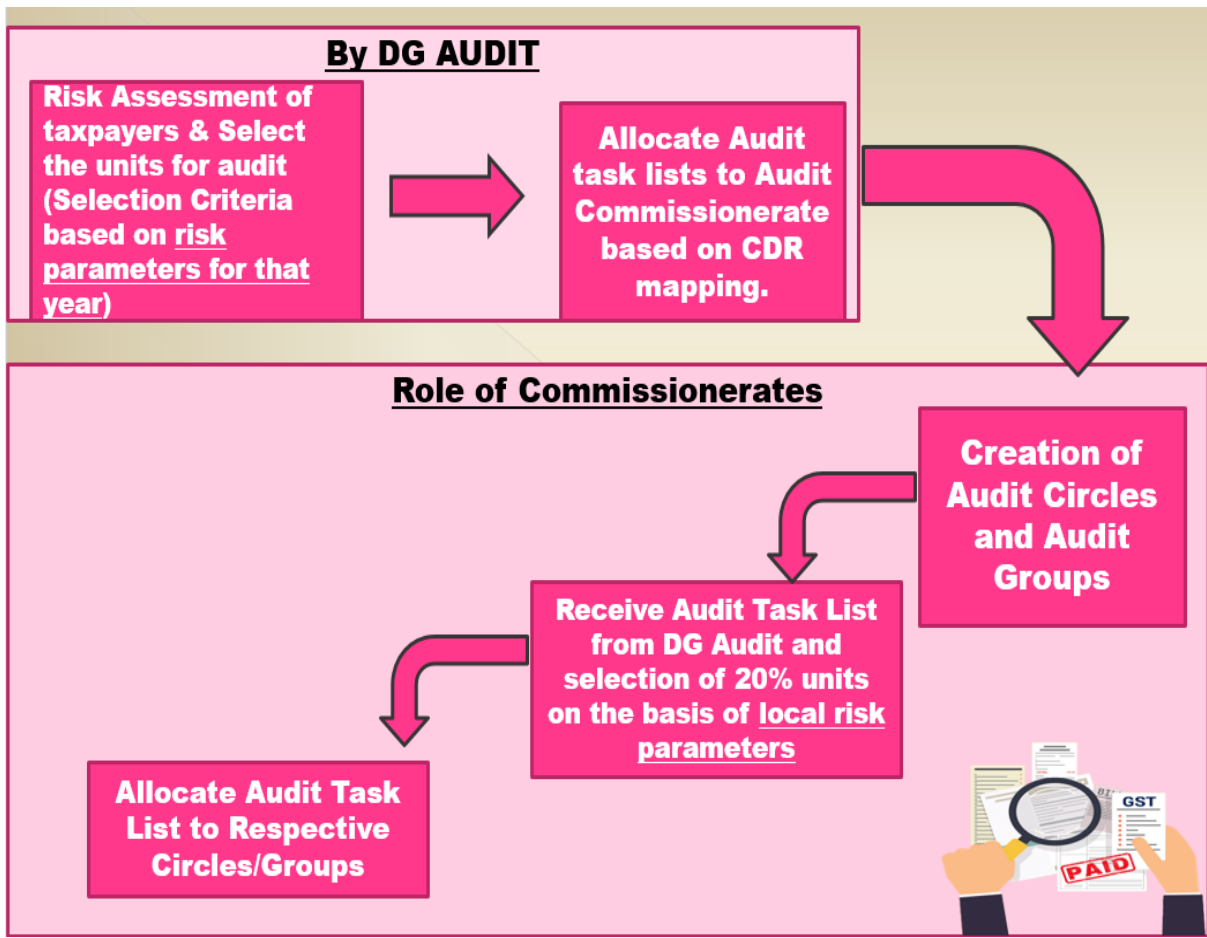
- Audit is to be done by the Commissioner or any officer authorized by him in terms of Section 65 of the CGST Act, 2017 read with Rule 101.
- Special Audit and is to be conducted under the mandate of Section 66 of CGST Act, 2017 read with Rule 102 of CGST Rules, 2017.
- Section 35(5) of CGST Act, 2017-That every registered person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant and shall submit a copy of the audited annual accounts, the reconciliation statement under sub-section (2) of section 44 and such other documents in such form and manner as may be prescribed.

In audit, examination is done to verify the correctness of:

1. Turnover declared by the Supplier,
2. Taxes Paid by the Supplier,
3. Refund claimed by the Supplier
4. Input Tax credit availed by the Supplier, and
5. Classification of Goods or Service by the Supplier.
6. In audit, examination is also done to assess the compliance with the provisions of this Act or rules.

Selection Process of Taxpayers for Audit:

By DGARM on Risk Parameters who send the pool to DG Audit-



GST Audit Process:

The GST Audit process includes the following steps:

1. The auditee is formally notified of an upcoming audit through the prescribed format (FORM GST ADT-01) along with documents at least 15 working days prior to the conduct of audit.
2. The audit will officially commence when the auditor accepts the documents submitted by the auditee or initiates verification of the business premises, whichever is later.
3. On completion of the audit verification, Auditee/taxpayer receives the preliminary findings, and his views/comments are recorded to finalize the observations.
4. Final observation should be present in the form of draft audit report (DAR) before MCM (Monitoring Committee Meeting).
5. On finalization of observations, the results are sent to the Auditee/taxpayer in the form of Final Audit Report (Form GST ADT-02) within 30 days.
6. The Auditee/taxpayer is given the option to make the payment of tax short paid / not paid with waiver of show cause notice.
7. The entire audit process is to be completed within 3 months from the date of commencement, with the provision of further 6-month extension if necessary.
8. Audits verification may be conducted at the place of business of the registered taxpayer or at the office of the authorized officer.

B. Section 71 of CGST Act, 2017

This provides for access to business premises and records of taxpayer for Audit, by the officers. The section also describes the major documents required to be submitted by the taxpayer such as trial balance or its equivalent; statements of annual financial accounts, duly audited, wherever required; cost audit report, if any, under Section 148 of the Companies Act, 2013; the income-tax audit report, if any, under Section 44AB of the Income-Tax Act, 1961; and any other relevant record.

List of documents, other than as available on GSTN, required to be furnished by the Taxpayer :

1. The Taxpayer will be required to furnish: Copies of Balance Sheet, Profit & Loss Accounts with all complete schedules.
2. Annual returns submitted to the Registrar of Companies, Income Tax Returns along with the Annexures and Income Tax audit report, if any, under Section 44AB of the Income-tax Act, 1961.
3. Directors/Auditors Report.
4. Cost audit report, if any, under Section 148 of the Companies Act, 2013.
5. Form 26 AS.

6. Details of Anti-Evasion/ Preventive/ DGGSTI cases booked, if any and copy of SCN issued thereof.
7. List of major input supplies with specific mention of HSN Code and applicable rate of GST.

Frequent issues detected during audit:

- Non-payment/ short payment of Tax.
- Wrong classification of Goods/Services
- Short payment of Tax due to improper calculation/ accounting.
- Collecting Tax from the customers but not paying the same to the Government.
- Wrong availment of ITC on ineligible document.
- Tax not paid on advance in case of services.
- Reverse Charge Mechanism liability.
- And many more

Benefits of Audit to Taxpayers

Participating in GST Audits offers several benefits for the tax compliant auditee:

1. **Enhanced Compliance:** Taxpayer gain a better understanding of tax laws and procedures, making compliance smoother.
2. **Precision in Returns:** Taxpayer's GST returns and Self-assessments are prepared accurately, with a sharper focus on correctness and completeness.
3. **Improved Accounting:** Audits can help taxpayers in spotting and rectifying deficiencies in their accounting and internal control systems.
4. **Fewer Hassles:** With thorough audits, the chances of disputes and legal proceedings decrease significantly.

Timelines prescribed for Audit

1. A notice is sent to the auditee at least 15 days prior to Audit. (ADT-01)
2. The entire audit process is to be completed within 3 months from the date of commencement of the audit.
3. The jurisdictional Commissioner CGST, Audit can extend the audit period for a further 6 months with reasons recorded in writing.

Salient features of the Audit Process adopted by the department are:

- a) Intimation to the Taxpayer regarding the conduct of audit in the form of a letter (ADT-01);
- b) Reviewing the taxpayer data- the officer reviews the information contained in the data provided by the taxpayer to the department and conducting desk review in the office;
- c) Preparing the audit plan based on the finding of Desk Review;
- d) Carrying out audit verification as per the Audit Plan;
- e) Conveying the preliminary findings of the audit to the taxpayer and recording his response;
- f) Preparing the draft audit report for the Monitoring Committee Meeting (MCM) held by the Commissioner. Examining the audit paras in MCM;
- g) Preparing the final audit report and communicating the final audit report to taxpayer in the FORM GST ADT-02;
- h) Communicating to the Taxpayer the future course of action in case of contested paras.

C. Special Audit (Section 66 read with rule 102)

- i. Availing the services of the expert be it a Chartered Accountant or Cost Accountant is permitted by this section only when the officer (considering the nature & complexity of the business and in the interest of revenue) is of the opinion that: -Value has not been correctly declared; or -Credit availed is not within the normal limits.
- ii. An Assistant Commissioner who nurses an opinion on the above two aspects, after commencement and before completion of any scrutiny, enquiry, investigation or any other proceedings under the Act, may direct a registered person to get his books of accounts audited by an expert. Such direction is to be issued in accordance with the provision of Rule 102(1) in FORM GST ADT-03.
- iii. The Assistant Commissioner needs to obtain prior permission of the Commissioner to issue such direction to the taxable person.
- iv. Identifying that the expert is not left to be appointed by the registered person whose audit is to be conducted but the expert is to be nominated by the Commissioner.
- v. The remuneration to the expert is to be determined and paid by the Commissioner whose decision will be final.

- *This is Prepared by Induction trainee officers – Ashutosh Sahu, Ashish Garg, Shubham Kumar Lodhi, Akash Chaturvedi, Reetesh Kushwaha, Vinod Kumar Meena, Harsh Gupta, under the guidance of Supdt. Smt. Kavita Tandon, CGST Audit Bhopal.*

16. READING FINANCIAL STATEMENTS

When we talk of reading and understanding financial accounts and financial statements of a person registered under Goods and Services Tax (GST), the very first question that arises is – as to why we should go into alien terrain of accounting when GST law has its own sufficiently elaborated provisions for maintenance of records? At the end of this write-up, we will find that learning to read financial statements is integral part of our endeavour to understand and administer GST law. We will also find such learning is within reach of every such person who has ability to read!

2. GST: A trust-based taxation: Goods and Services Tax is a trust-based taxation system where, the registered person himself makes assessment of his tax liability and eligible input tax credit (ITC) and pays tax while filing return of a tax period. The compliance mechanism under GST is information technology (IT) driven, therefore, there must be some system in place to check the level of compliance by a taxpayer.

3. Scrutiny, Audit and Enforcement: Checks for compliance of law and procedure: For checking whether the taxpayer is fully complying with the legal provisions and paying the tax correctly, there are three mechanisms for compliance assurance under GST. Starting with least intrusive mechanism of scrutiny of returns¹, then there is audit which envisages a very systematic examination of records, returns and documents maintained or furnished by the registered person and finally, there is intelligence-based enforcement action which may involve inspection, search, seizure of goods and/or documents.

Whether it is scrutiny, audit and enforcement, one thing is common to all that the proper officer must find out inconsistencies and anomalies, if any, in the returns, records and documents furnished or maintained by the concerned persons.

4. “Account” and “Books of account”: Every registered person is required to keep and maintain **true and correct account** of production or manufacture of goods, inward and outward supply of goods or services or both, stock of goods, input tax credit availed, output tax payable and paid, and many more² along with the relevant documents, including invoices, bills of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers and refund vouchers. The word “account” used in the phrase “true and correct account” above (as well as in section 35 of the CGST Act and rule 56 of the CGST Rules) as detailed above, means description or details. But “books of account” is phrase which has been used

¹. In para 5.3 of Instruction No. 02/2023-GST dated 26.05.2023, it instructed that at stage the stage of scrutiny, the proper officer is expected to rely upon the information available with him on records and, there should normally not be any need for seeking documents/ records from the registered persons before issuance of and FORM GST ASMT-10.

². See section 35 of the CGST Act, 2017 and Rule 56 of the CGST Rules, 2017

more than 20 times in various sections of the CGST Act and rule 56 also prescribes that every registered person shall keep the **books of account** at the principal place of business and **books of account** relating to additional place of business mentioned in his certificate of registration and such **books of account** shall include any electronic form of data stored on any electronic device. The term “books of account” has not been defined in the CGST Act or the CGST Rules, but its inclusive definition have been given As : “*“books or books of account” includes ledgers, day-books, cash books, account-books and other books, whether kept in the written form or as print-outs of data stored in a floppy, disc, tape or any other form of electro-magnetic data storage device;*” in clause (12A) of section 2 of the Income Tax Act, 1961.

4.1. Sub-rule (3) of rule 101 of the CGST Rules stipulates: “*The proper officer authorised to conduct audit of the records and the books of account of the registered person shall, with the assistance of the team of officers and officials accompanying him, verify the documents on the basis of which the books of account are maintained and the returns and statements furnished under the provisions of the Act and the rules made thereunder, the correctness of the turnover, exemptions and deductions claimed, the rate of tax applied in respect of the supply of goods or services or both, the input tax credit availed and utilised ,refund claimed, and other relevant issues and record the observations in his audit notes.*”

5. Annual Financial Statement: Section 44 of the CGST Act stipulates filing of annual return electronically by every registered person [*with certain exceptions*] and this return has to include a self-certified reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year, with the **audited annual financial statement** for every financial year. It is pertinent to mention here that the Companies Act, 2013 stipulates that a signed copy of every financial statement of every company shall be issued, circulated or published along with copies of certain other documents³. Further, section 44AB of the Income Tax Act, 1961 also stipulates audit of accounts of certain persons by a chartered accountant and submission of report thereof.

6. Need for reading, understanding and analysing financial Statement: From the discussion so far, it has become very clear that audited annual financial statement is an integral part of GST compliance mechanism. Further, as furnishing of audited annual financial statement is mandated under the Companies Act as well as the Income Tax Act, it important to cross check the information submitted under GST law with that submitted under said Acts.

7. Analysing financial statements: As we have seen, financial statements are written records that convey the financial activities of a company. If analysed properly,

³. See section 134 (*Financial statement, Board’s report, etc.*) of the Companies Act, 2013.

they may prove a treasure trove in the GST compliance assurance mechanism. The Annual Report prepared by a company *inter alia* contains the following⁴:

- i) Director's Report
- ii) Statutory Auditor's Report
- iii) Balance sheet
- iv) Profit & Loss Account
- v) Financial statements of subsidiary companies, if any.

7.1 When we read and try to analyse financial statements or any other document for that matter, the very first step is to find out the internal inconsistencies and anomaly in the statement/ document itself. Then we can cross-check the data presented there with what information is available in other documents maintained or statements prepared or returns furnished. To find out any abnormal trend, similar periodic data of at least three sequential periods (which is generally a financial year) is compared and this can be done through ratio analysis. Such analysis may not give any conclusive results as it gives only an indication of some problem area. When such areas are identified, detailed examination of the relevant documents, vouchers, ledgers etc. is undertaken to find out the malaise.

8. Director's Report: This gives information like the overall financial results of the company, important happenings during the year and future plans of the company. Happenings like fire and loss of material in the company, details of new products/ services launched, change in the marketing pattern etc. reported in this report need to be examined critically as there may be ITC related issues in case of loss of goods in fire. Similarly, there can be tax implications due to classification or pricing of a new product or service.

9. Auditor's Report: These may be reports of Statutory auditor or Internal auditor or C & AG Audit. In the case of statutory audit, a separate report under CARO (Companies Auditor's Report Order, 2016/2020) is required to be given.

9.1 Nature of verification:

(i) The Auditor's Report should be studied to find out any qualified/adverse opinion given by the auditors which may have impact on GST liability. A report is said to

⁴. Inclusive definition of "financial statement" is given in clause (section 2 of the Companies Act, 2013:

(40) "financial statement" in relation to a company, includes—

(i) a balance sheet as at the end of the financial year;

(ii) a profit and loss account, or in the case of a company carrying on any activity not for profit, an income and expenditure account for the financial year;

(iii) cash flow statement for the financial year;

(iv) a statement of changes in equity, if applicable; and

(v) any explanatory note annexed to, or forming part of, any document referred to in sub-clause (i) to sub-clause (iv):

Provided that the financial statement, with respect to One Person Company, small company and dormant company, may not include the cash flow statement;

be qualified when clean chit is not given by the auditor, rather an opinion of truth and fairness of financial statements, subject to certain reservations or states anything negative. In case the report is qualified, it means there is high probability that the financial statements prepared and presented by the management of the entity are not representing the facts! For example, Auditor may report that goods meant for outward supply, available in stock were not reconciled or provision for obsolete items have not been made during the year. Tax auditor may like to examine such opinion in detail.

- ii) Company Auditor's Report Order (CARO) aims to enhance the overall quality of reporting by the company auditors and if the auditor gives some unfavourable or negative answer for any requirement, he has to state the basis for the same. For example, whether the fixed assets records have been maintained properly or whether physical verification of inward supplies and goods meant for outward supply was undertaken and whether any discrepancies were noticed on such verification or whether the company has maintained proper records for unserviceable or damaged goods, whether transactions with related parties are properly recorded or whether there is default in payment to creditors – these issues may have ITC implications.
- iii) CARO also shows disputed tax liabilities separately for Customs, Income Tax, GST etc. Cases booked under Income Tax may be examined to find out any implication on GST.

10. Profit & Loss Account:

10.1 Nature of the Account: The Profit and Loss Account summarizes the performance for an accounting period and shows major items of expenditure and income. This is one of the important documents used to find out the overall working of the unit. In the main body of the Profit & Loss Account, only major heads of expenditure and income are included and the constituents of these headings are given in a separate annexure. The said annexure should be studied in detail.

10.2 Types of verification:

- (i) Scrutiny of supplies: Supplies may include inter-state supplies, intra-state supplies, Zero rated supplies including supplies to SEZ. Study of the pattern of supplies will give an idea about the volume of indigenous/ internal market for the registered person's supplies. Also, if there will be accumulation of ITC due to exports under LUT.
- (ii) Other incomes like scrap, insurance claims receipt, profit on sale of fixed assets, commission received, erection and commissioning, freight and insurance recovered etc. may be examined in detail to find out the exact nature of such incomes and whether these have any bearing on the valuation or whether these

are liable for GST. The nature of other incomes may require proportionate reversal of common ITC.

- (iii) On the expenditure side, value of inward supplies on which GST is payable under Reverse Charge - Section 9(3) should be examined in detail. In case of advance paid on goods received under reverse charge mechanism, whether tax was paid at right time. Whether, ITC on supplies received from unregistered person was taken only after issue of invoice under section 31(3)(f).
- (iv) Notes given along with the said schedule should be studied carefully to find out cases of use of material for non-production activities.
- (v) The expenditure or income of the major heads should be compared with the previous year's amount in order to find out cases of major variations.
- (vi) In case of supply of services, true nature of service may be ascertained to find out whether the same has been obscured or disguised.
- (vi) Other incomes may be examined in detail to ascertain the true nature of the activity undertaken to ascertain tax liability or bearing on ITC utilisation.

11. Balance Sheet:

11.1 Nature of document: Balance sheet also known as the Statement of Financial Position, is a statement of assets and liabilities of a unit on a particular day. The overall financial health of a company can be determined from the study of a Balance sheet. It is called balance sheet because it is a statement of balances of ledger accounts that have not been transferred to trading and profit and loss account and are to be carried forward to the next year with the help of an opening entry made in the journal at the beginning of the next year.

11.2 Types of verification

- (i) We may study schedule of Share Capital which may reveal if the company is subsidiary company and if the company is holding company, in that case, the name of subsidiary company will be disclosed in the Schedule of Investment. If there are supplies between the holding company and subsidiary & vice versa, valuation aspects need to be examined in the light of CGST Rules.
- (ii) The study of fixed assets schedule may show additions and deductions to the fixed assets during the year. For the deductions made during the year, verification may be made as to whether appropriate GST has been paid.

12. Notes to the Accounts: These notes are part of the Profit & Loss Account and Balance Sheet. These notes may be inserted by the company as per the requirement of the Companies Act or may be added at the instance of Statutory auditor. These notes are very important to a Tax auditor as these reveal important transactions or the important accounting policies followed by the unit. Almost all

figures reported in the financial statements are affected by a company's accounting policies. A change in accounting policy can impact financial results. For example, changing revenue recognition policies could increase or decrease the reported amounts for revenue, net income and accounts receivable.

12.1 Nature of verification:

- (i) Notes of Significant Accounting Policies may be studied to find out the accounting policy in the areas like revenue recognition or determination of obsolete stock. We have to check whether, GST has been paid as per time of supply and is not deferred due to some accounting policy change.
- (ii) Notes on quantitative information on inward and outward supplies may reveal some interesting aspects. There may be cases of use of inputs for other purposes (not in the course of business or furtherance of business) which can be noticed from the study of such information. Adjustment for shortages, losses etc. may also be reported in the said information. No ITC on the quantity short received can be availed.
- (iii) Any important transaction/happening during the year like non-reconciliation of accounts of inputs lying with job worker, major expenditure on research and development, destruction of record and reconstruction of duplicate records may also be noticed from the study of such notes.
- (iv) As per the Accounting Standard issued by the Institute of Chartered Accountant of India, the specified companies are required to disclose transactions with the related parties under the Companies Act as part of the Notes to the Accounts. The said information gives all types of transactions, payments made or payments received from various related parties. Such information is very useful to find out the details of the related parties and the type of transactions made by them. However, the related parties as per the Companies Act may not be considered as 'related person' under the GST Law.

13. Trial Balance:

13.1 Nature of Document: Trial Balance is prepared to ensure the mathematical accuracy of the business transactions recorded in a company's ledgers. The trial balance formula is **total debits = total credits**. It is a statement showing the debit and credit balances of all accounts in the ledgers as on a particular date. In other words, it is a summary of the ledger account maintained by a Taxable person. The final accounts, namely, Profit & Loss account and Balance Sheet are prepared from the Trial Balance only. From the Trial Balance, similar accounts are grouped together and these are transferred to the Profit & Loss Account and Balance Sheet.

13.2 Types of verification:

- i) Familiarization with account coding system and understanding the grouping of sub account under main accounts for the purpose of summarization into Profit & Loss Accounts and Balance Sheet.
- ii) Main purpose is to select the accounts for further scrutiny as a part of audit plan. Accounts which have a prima facie relevance for GST payment or avilment of ITC need to be identified. There might be some ledger accounts whose exact nature may not be clear on reading of Trial Balance and these accounts may also be identified for further inquiry during the further course of audit.
- iii) Unusual ledger accounts like Loss of inputs or unusual income accounts may also be noticed in the Trial Balance. However, such accounts will not be reflected in the Profit & Loss Accounts as these accounts are adjusted against other accounts. Such account may be selected for finding of exact nature and detailed scrutiny.
- iv) Various income accounts (credit balances) available in the Trial Balance like Job Work Income Account, Erection and Commissioning Income Account, Commission Account, Recovery of Freight/Advertisement Charges Account Technical Consultation Income Account etc. should be selected to verify whether this income can be added to the assessable value for payment of GST or whether these are liable for payment of GST.

Major Accounting Terms and their treatment in financial statements:

Balance Sheet		Profit and Loss Account	
Assets	Liabilities	Expenses	Revenue
Fixed Assets	Capital	Purchases	Deferred Revenue
Current Assets	Current Liabilities	Direct Expenses	Sales
Intangible Assets	Sundry Creditors	Indirect Expenses	Direct Incomes
Debtors	Provisions	Financial Expenses	Indirect Incomes
Prepaid Expenses	Long Term Liabilities	Employee Benefits Expenses	Profit on Sale of Fixed Assets
	Contingent Liabilities	Depreciation	

Compiled by
Baljit Singh Khara
Assistant Director
NACIN Chandigarh

17. SHOW CAUSE NOTICE UNDER GST

What is Notice?

“Notice” is used in the sense of “observe” or “warning”, to bring someone to the attention of. o On the other hand, the word “Notification” is used in the sense of “announcement” o Whenever our Clients get notice, we have to refer the Notifications. o Notices under GST are communications by the GST Authorities. A notice so issued, depending upon the purpose or action required from the taxpayer, can be called by different names, such as, Show-cause notice (SCN), Scrutiny Notice or Demand Notice.

Concept of Show Cause Notice

In the erstwhile Central indirect tax laws, concept of cause notice was in existence. Accordingly, provisions have been made for issue of show cause notice for recovery of demand under the relevant act. (for example Section 11 of central Excise Act, Section 73 of Service tax law, Custom act etc. Therefore, it is not new for those who dealing in those acts. However, so far as State vat act it is new for the concerned. Of course, SCN being served on dealer before making ex-party assessment orders and for giving opportunity of being heard before taking any decision or order under vat acts. Show cause notice (in short SCN) has great significance in adjudication proceeding for mandatory compliance of principle of natural justice.

Show cause notice is mandatory requirement for raising any demand under GST act 2017 except payment of interest u/s 50 and assessment of non-filer of returns u/s 62 of the act. SCN is the foundation on which adjudicating authority has to build up case. It is the document served on the taxable person asking him to explain with reason as to why a particular course of action should not be taken against him. It must be speaking and well-reasoned. Issuance of show cause notice should be with open mind. Taxable person should be of clear view that it is only proposal and his reply will be considered before taking any decision.

Issue of SCN is not only to make aware taxable person against whom the action is intended to be taken but must contain brief facts of case and grounds relied upon for proposed action and language in precision, the reading of which makes person understand the case that he has to defend . It should not be issued on assumptions and presumptions.

Allegations and finding in SCN should be supported by documentary evidences.

In SCN there should be prima facie opinion and not final opinion or conclusions. Primary purpose of SCN is only to put aggrieved person on the notice of the facts and necessary ingredients of charge so as to enable him effectively meet

it. If adjudication order passed without issue of SCN order will be liable to set aside being contravention of statutory provisions and violation of principle of natural justice.

Reasons for GST notices

- (a) Delay in filing of GSTR-1 and GSTR-3B consecutively for more than six months;
- (b) Mismatch in details reported between GSTR-1 and GSTR-3B;
- (c) Mismatch declaration in GSTR-1 and E-way bill portal;
- (d) Liable but has failed to obtain GST registration;
- (e) Mismatch of ITC claims found between GSTR-3B & GSTR-2A/2B
- (f) Non-payment/ Short-payment of GST liability;
- (g) Wrong availment of ITC/ Refund wrongly claimed;
- (h) Anti-profiteering cases;
- (i) non-furnishing of information return, within the time limit specified.
- (j) Failure to raise E-invoicing
- (k) E-invoice and E-way bill amount does not tally and matched

Where SCN is required to be issued under CGST Act, 2017:

- (a) Section 10 – Wrongful availment of Composition scheme
- (b) Section 21 – recovery of credit distributed in excess by ISD
- (c) Section 35 – failure to record supply of goods or services
- (d) Section 50 – Interest on delayed payment
- (e) Section 51 – Tax deduction at source in default
- (f) Section 52 – Tax collection at source in default
- (g) Section 63 – Discrepancy found in scrutiny of returns
- (h) Section 65 – Detection of tax not paid or short paid during Audit
- (i) Section 66 – Detection of tax not paid or short paid during special Audit

List of cases where notices are issued

Sr. No.	Notice Form	Relating to	Action required
1	REG-03	Registration related information (New or amendment)	Reply in REG-04 within 7 working days
2	REG-17	SCN "why the registration not be cancelled"	Reply in REG-18 within 7 working days
3	REG-23	SCN for revocation of cancellation of registration	Reply in REG-24 within 7 working days
4	GSTR-3A	Default notice to non-filers of GST returns	File GST returns (1/3B/4/8) within 15 days
5	CMP-05	SCN non-eligibility to be a Composition dealer	Reply in CMP-06 within 15 days
6	RFD-08	SCN on rejection of GST refund made	Reply in RFD-09 within 15 days

7	PCT-03	SCN for misconduct by the GST Practitioner	Reply within SCN prescribed time limit
8	ASMT-02	Addl. Information for Provisional assessment	Reply in ASMT-03 within 15 days
9	ASMT-06	Addl. Information for final assessment	Reply in ASMT-03 within 15 days
10	ASMT-10	Intimation of discrepancy in GST return after scrutiny	Reply in ASMT-11 within SCN time or 30 days
11	ASMT-14	SCN – Assessment u/s.63 (BJ)	Personal appearance within 15 days
12	ADT-01	Notice for conducting Audit u/s.65	Attendance within time prescribed in the Notice
13	RVN-01	Notice by Revisional Authority	Reply or Appear, with DRC-03 before 7 working day
14	DRC-01	SCN for tax demand	Reply in DRC-06 within 30 days of the Notice
15	DRC-10	Notice for Auction of goods	Pay thro DRC-09 and appear as per the Notice

Specific provisions have been made to issue SCN before passing any adjudication order under GST act 2017.

The Proper Officer is required to issue SCN in the above referred proceedings under respective section in prescribed forms within prescribed time limit to start adjudication proceedings, on prima facie satisfaction of specified ingredients So far proceedings under section 73 or 74 it is mandatory to issue detailed SCN to person chargeable with tax along with summary of notice in FORM – GST -DRC-01.

It should contain brief facts of case, ground relied upon and amount of tax and interest. It should be issued within prescribed time limit u/s 73 (2) and 74 (2). It is clearly provided in section 75 (7) that amount of tax, interest and penalty demanded in the order shall not be in excess of amount specified in notice and no demand shall be confirmed on the grounds other than grounds specified in the notice. However, he has a discretion to reduce the amount of tax, interest on merit after considering representation to SCN.

Basic Features of a valid SCN

SCN is the foundation for Adjudication

- (a) SCN can be issued only after a proper enquiry
- (b) SCN should be in writing and unambiguous
- (c) Intimation of demand to precede SCN
- (d) Show Cause Notice must be a proper notice and not any communication
- (e) Proper Service of SCN

Validity and legality of the SCN:

SCN can only be issued electronically on the common portal – Shri Shyam Baba Edible Oils Vs CCE (MP High Court) 2020-TIOL-2016-HC-MP-GST

It is trite principle of law that when a particular procedure is prescribed to perform a particular act then all other procedures/modes except the one prescribed are excluded -This principle becomes all the more stringent when statutorily prescribed.

DIN to be quoted on all communications (including emails): To be treated as invalid and deemed to have never been issued – Circular No. 122/ 2019 & Circular No. 128/ 2019.Pre- communication of the demand under Rule 142 – Similar to Pre-SCN consultation under the erstwhile laws – Amadeus India Pvt. Ltd – Del HC & Back Office IT Solutions; Notice must be clear and specific, vague allegations without containing all the details cannot be a valid notice – Brindavan Beverages 2007 (213) E.L.T. 487 (S.C.)

“The show cause notice is the foundation on which the department has to build up its case. If the allegations in the show cause notice are not specific and are on the contrary vague, lack details and/or unintelligible that is sufficient to hold that the notice was not given proper opportunity to meet the allegations indicated in the show cause notice.”

Service of Notice:

SECTION 169. Service of notice in certain circumstances. —

(1) Any decision, order, summons, notice or other communication under this Act or the rules made thereunder shall be served by any one of the following methods, namely :—

- a. by giving or tendering it directly or by a messenger including a courier to the addressee or the taxable person or to his manager or authorised representative or an advocate or a tax practitioner holding authority to appear in the proceedings on behalf of the taxable person or to a person regularly employed by him in connection with the business, or to any adult member of family residing with the taxable person; or
- b. by registered post or speed post or courier with acknowledgement due, to the person for whom it is intended or his authorised representative, if any, at his last known place of business or residence; or
- c. by sending a communication to his e-mail address provided at the time of registration or as amended from time to time; or

- d. by making it available on the common portal; or
- e. by publication in a newspaper circulating in the locality in which the taxable person or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain; or
- f. if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence and if such mode is not practicable for any reason, then by affixing a copy thereof on the notice board of the office of the concerned officer or authority who or which passed such decision or order or issued such summons or notice.

(2) Every decision, order, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed in the manner provided in sub-section (1).

(3) When such decision, order, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved. Service of Notice

Rule 142 –

(1) The proper officer shall serve, along with the

- notice issued under section 52 or section 73 or section 74 or section 76 or section 122 or section 123 or sec 124 or section 125 or section 127 or section 129 or section 130, a summary thereof electronically in FORM GSTDRC-01,
- statement under sub-section (3) of section 73 or sub-section (3) of section 74, a summary thereof electronically in FORM GST DRC-02, specifying therein the details of the amount payable.

(5) A summary of the order issued under section 52 or section 62 or section 63 or section 64 or section 73 or section 74 or section 75 or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130 shall be uploaded electronically in FORM GST DRC-07*, specifying therein the amount of tax, interest and penalty payable by the person chargeable with tax.

(a) M/s Shri Shyam Baba Edible Oils vs The Chief Commissioner and another (W.P. No. 16131/2020)

6.1 A bare perusal of the aforesaid provision reveals that the only mode prescribed for communicating the show cause notice/order is by way of uploading the same on website of the revenue.

.....

8. It is trite principle of law that when a particular procedure is prescribed to perform a particular act then all other procedures/modes except the one prescribed are excluded. This principle becomes all the more stringent when statutorily prescribed as is the case herein.

Penalties under various section:

Section 122 for any reason other the reason of fraud or any willful misstatement or suppression of facts to evade tax, liable for penalty Rs.10000/- or 10% the dues

Section 123 penalty for failure to furnish information return (section 150) Rs.100 per day max 5000/=

Section 124 fine for failure to furnish statistics to the department up to 10000/- continues 100 per day subject to max Rs,25000/-

Section 125 contravening any provisions of the Act max Rs.25000/-

Section 126 general disciplines related to penalty (where the minor breach) less than 5000/-no penalty

Section 127 power to impose penalty in certain cases (where the PO is if the view that penalty is warranted but it is not covered under section 62,63,64,73,74,129, and 130) he can levy penalty after giving reasonable opportunity no outer limit

Section 128 power to waive penalty(the government may by NN waive in part or full referred in 122, 123, 125, or any late fees referred in section 47

Show Cause Notice and Natural Justice:

- (b) Audi alteram partem (listen to other side)
- (c) Nemo judex in re sua – the authority passing the orders should be free from bias and prejudice.
- (d) Nemo judex in cause sua – No one should judge his own case (with rested interest)
- (e) Proper Notice – contain time, authority, place and nature of hearing Proper hearing and not mere formality
- (f) The affected parties should have right to scrutinize the documentary evidence collected.

Adjudication

- (g) Adjudication should be proper, reasoned and not passed in hasty Adjudication should be proper, reasoned and not passed in haste

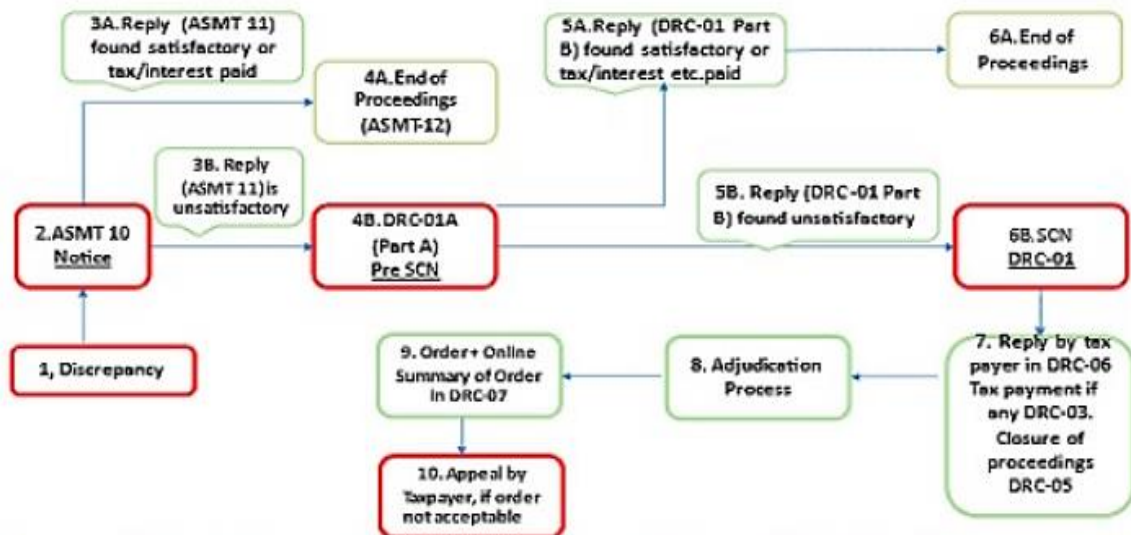
- (h) Adjudication beyond show cause notice, not sustainable
- (i) Adjudication should be an independent application of mind
- (j) Recording of reasons must in Adjudication
- (k) Delay in hearing and passing of order
- (l) Pre-Consultation before issuance of SCN – Master Circular on 10th March,2017
- (m) SCN can be quashed in certain cases by HC

Skills Required Litigation in GST (By GSTP's)/Tax payers

Law aids the vigilant and not the dormant or laws aid/assist those who are vigilant, not those who sleep upon/over their rights – often noted by Court in cases of disallowing condonations.

- (n) Presume Nothing
- (o) Substantive and procedural law – Complete Knowledge
- (p) Strong writing and oratory skills
- (q) Reasoning – both Analytical and logical are important
- (r) Handling legal and factual materials – Quantum as well complication
- (s) Interpersonal skills – With team and with client
- (t) Legal research Resources and Techniques – Knowledge and application
- (u) Client's development and retention. Quick decision making.

Scrutiny of Returns– Graphical presentation



Appropriation of Payment –DRC-03 Acknowledgment of voluntary tax Payment–DRC-04 Closure of Proceedings if tax paid pursuant to SCN-DRC-05

Instruction No. 02/2022-GST dated 22nd March 2022

CBIC Instructions No. 02/2022-GST dated 22nd March 2022 – Extract

- (v) Standard Operating Procedure (SOP) for Scrutiny of returns for FY 2017-18 and 2018-19
- (w) Interim SOP
- (x) Directorate General of Analytics and Risk Management (DGARM) to select the GSTINs registered with Central tax authorities, whose returns are to be scrutinized
- (y) DGARM would provide some relevant data (along with likely revenue implication) pertaining to the returns to be scrutinized
- (z) Proper officer? Scrutiny of returns of a taxpayer may be conducted by Superintendent of

Central Tax in-charge of the jurisdictional range of the said taxpayer.

The proper officer shall conduct scrutiny of returns pertaining to minimum of 3 GSTINs per month.

- a) Scrutiny of returns of one GSTIN shall mean scrutiny of all returns pertaining to a financial year for which the said GSTIN has been identified for scrutiny
- b) Payments made through FORM GST DRC-03 may also be taken into consideration while communicating discrepancies to the taxpayer in FORM GST ASMT-10
- c) For proceeding under section 73 or section 74, monetary limits as specified in Circular No.

31/05/2018-GST dated 9th February 2018 shall be adhered to (Who can issue SCN?)

If the proper officer is of the opinion that the matter needs to be pursued further through audit or investigation to determine the correct liability of the said registered person, then he may refer the matter to the jurisdictional Principal Commissioner/Commissioner through the divisional Assistant/ Deputy Commissioner, for the decision whether the matter needs to be referred to Audit Commissionerate or Anti-evasion Wing of the Commissionerate, as the case may be

- a) Likely Discrepancies
- b) Taxable Supply as per R-1 > Taxable Supply as per 3-B
- c) Forward charge ITC as per 3B is not matching with ITC as per 2A – Whether mandatory till 09/10/2019?
- d) IGST availed on Import (3B/GSTR-9) not matching with 2A (courier bill of entry?)
- e) 16(4) violation- Suppliers have filed Return after due date of filing Return of September of Next FY (Is this fair?)
- f) RCM liability as per 3B not matching GSTR-2A. (TOS???)

- g) Delayed payment interest not paid (Net liability, ITC availed and not utilized)
- h) Blocked Credits availed and not reversed
- i) Other ITC Reversal not carried out (Rule 42/43).

Likely Discrepancies:

- a) ITC claim – Registration of vendor cancelled retrospectively.
- b) ITC claim – supplier has not furnished Form GSTR-3B
- c) Outward supply in R-1 vs Outward supply in EWB
- d) Turnover in GSTR-9 vs 26AS statement vs ITR
- e) ISD ITC availed in Table 4A.4 vs appearing in 2A
- f) Value of outward supply declared in 3B < Value of TDS and TCS furnished by the corresponding deductors or E-Commerce Operators in their Form GSTR- 7 (Supply vs payment).

Non reflection in GSTR-2A/2B – Whether ITC to be reversed?

No mechanism to rectify defects –No Online ledger confirmation

- Madras High Court in D.Y. Beathel Enterprises v. STO
- Hon'ble Madras High Court held that first the recovery action should be initiated against the seller and only in exceptional cases (e.g missing dealer, closure of business by the seller or the seller not having adequate assets etc.) department should proceed against the purchasers for reversal of credit availed. [2021] 127 taxmann.com 80/86 GST 400 (Mad.)
- Allahabad High Court in Jai Maa Jwalamukhi Iron Scrap Supplier Vs State of U.P Hon'ble Allahabad High court held that the invoice is primary evidence of the transaction.
- Unless the revenue authority disputes its genuineness, it cannot be lightly overlooked.
- Further, Hon'ble court observed that mere existence of some discrepancies may not have ever led the revenue authority to the conclusion that tax had been evaded or the transaction had not been disclosed. [2021] 127 taxmann.com 474 (Allahabad).

Non reflection in GSTR-2A /2B– Whether ITC to be reversed?

Chhattisgarh High Court, in Bharat Aluminum Company Ltd (BALCO) vs. Union of India Ors. – Interim Order Hon'ble Chhattisgarh High Court has granted interim stay on Recovery Order denying Input Tax Credit (ITC) due to mismatch

GSTR-2A and Form GSTR3B, on a condition of deposit of 5% of the demand by the company

Sahil Enterprises v. Union of India [2021] 129 taxmann.com 233 (Tripura) Petitioner contended that after paying taxes to the seller at the time of purchases, the Petitioner has no control over the seller to ensure that such tax is deposited with the Government. Denying ITC to the Petitioner where they have already paid tax would amount to double taxation. The Hon'ble High Court held that the issue needs consideration and notice was issued to the Union of India.

Non reflection in GSTR-2A /2B– Whether ITC to be reversed.

Bharti Airtel (SC) It is imperative upon a registered person to maintain records regarding transactions between suppliers and the recipients based on their agreements, invoices and books of accounts, either manually or electronically.

Registered person has been provided with a common electronic portal or tax electronic portal, which is only an enabler and a facilitator in bringing on board all the registered persons which include the supplier, recipient, registered person and other recipients. The efficacy of common electronic portal or so to say malfunctioning thereof, does not extricate the registered person from the primary obligation of self-assessment of tax liability as predicated.

Pre-Show Cause Notice – Legal provisions.

Liability, he may make such submission Rule 142(1A)/(2A) : Similar to Pre SCN (Excise and Service Tax) Inserted w.e.f 9th Oct 2019

- a) R.142(1A) – Obligation of Proper Officer to issue Pre SCN
- b) The proper officer may (shall), before service of notice to the person chargeable with tax, interest and penalty, under sub-section (1) of section 73 or sub-section (1) of section 74, as the case may be, shall communicate the details of any tax, interest and penalty as ascertained by the said officer, in Part A of FORM GST DRC-01A.
- c) Rule 142(2A) – Reply by taxpayer
- d) Where the person referred to in sub-rule (1A) has made partial payment of the amount communicated to him or desires to file any submissions against the proposed liability, he may make such submission in Part B of FORM GST DRC-01A. (online).

Show Cause Notice – what is Fine line of difference? - Mens rea

Section 73(1) – Normal SCN	Section 74(1) – Fraud/Suppression SCN
Where it appears to the proper officer that <ul style="list-style-type: none"> any tax has not been paid or any tax has been short paid or any tax has been erroneously refunded, or where input tax credit has been wrongly availed or where input tax credit has been wrongly utilised for any reason, <u>other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax</u>	Where it appears to the proper officer that <ul style="list-style-type: none"> any tax has not been paid or any tax has been short paid or any tax has been erroneously refunded, or where input tax credit has been wrongly availed or where input tax credit has been wrongly utilised <u>by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax</u>

Particulars	When there is no fraud (Section 73)	When there is a fraud (Section 74)	Comments
Show cause notice	Yes	Yes	—
Max. time limit	3 years	5 years	Time is calculated from the due date of filing the annual return for the year to which the demand relates or date of refund.
The time limit for SCN	3 months before the expiry of 3 years	6 months before the expiry of 5 years	Hence, 3 or 5 years, as the case may be, is the maximum time limit for issuing the order of GST demand payment.
Penalty	10% of tax	25% of tax	—

Time-limit for issuance of Show Cause Notice & Order

Section 73 – Normal Cases

Proper officer shall issue the notice at least 3 months prior to the time limit specified for issuance of order;

Proper officer shall issue order within:

3 years from the due date for furnishing of annual return for the financial year to which the tax relates; or

3 years from the date of erroneous refund.

Sec 74 – Cases involving fraud etc.

Proper officer shall issue the notice at least 6 months prior to the time limit specified for issuance of order;

Proper officer shall issue order within:

5 years from the due date for furnishing of annual return for the financial year to which the tax relates; or

5 years from the date of erroneous refund.

Financial year	Normal cases	Cases involving fraud etc
2017-18	Nov 05, 2022	Aug 9, 2024
2018-19	Sep 30, 2023	June 30, 2025
2019-20	Dec 21, 2023	Sep 30, 2025

Time barring date for issue of SCN/orders – Normal SCN

	Nature of Case	Time limit for issuance of Notice	Time limit for issuance of Adjudication Order
1	Normal Cases	<p><u>For tax not paid or short paid or ITC wrongly availed or utilized</u> Within 2 years and 9 months from the due date of filing of Annual Return for the financial year to which such or ITC relates (excl period of stay)</p> <p><u>For Erroneous Refund</u> Within 2 years and 9 months from date of erroneous refund. Section 73(2) CGST Act</p>	<p><u>For tax not paid or short paid or ITC wrongly availed or utilized</u> Within 3 (Three) years from the due date of filing of Annual Return for the financial year to which such tax or ITC relates (excl period of stay)</p> <p><u>For Erroneous Refund</u> Within 3 (Three) years from the date of erroneous refund. Section 73(10) CGST Act</p>

Time barring date for Issue of SCN/Orders – Fraud, Suppression etc

Nature of Case	Time limit for issuance of Notice	Time limit for issuance of Adjudication Order
Fraud/Suppression Cases	<p><u>For tax not paid or short paid or ITC wrongly availed or Utilized</u></p> <p>Within 4 years and 6 months from the due date of filing of Annual Return for the Financial Year to which such Tax or ITC relates (excl period of stay)</p> <p>For Erroneous Refund Within 4 years and 6 months from date of erroneous refund.</p> <p>Section 74(2) CGST</p>	<p><u>For tax not paid or short paid or ITC wrongly availed or Utilized</u></p> <p>Within 5 (Five) years from the due date of filing of Annual Return for the Financial Year to which such Tax or ITC relates (excl period of stay)</p> <p>For Erroneous Refund Within 5 (Five) years from the date of erroneous refund.</p> <p>Section 74(10) CGST</p>

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SCN for new issue – Section 73(1) RELEVANT FORMS TO BE ISSUED:

R.142(1)(a) – The proper officer shall serve, along with the Notice issued under section 52 or section 73 or section 74 or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130, a summary thereof electronically in FORM GST DRC-01.

SCN for recurring issues/periodical SCN –

S.73(3) – Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized for such periods other than those covered under sub-section(1), on the person chargeable with tax.

S.73(4) – The service of such statement shall be deemed to be service of notice on such person under sub-section (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.

R.142(1)(b) – The proper officer shall serve, along with the Notice statement under sub-section (3) of section 73 or sub-section (3) of section 74, a summary thereof electronically in FORM GST DRC-02, specifying therein the details of the amount payable.

Reply to Show Cause Notice:

S.73(9) – The proper officer shall, after considering the representation, if any, made by person chargeable with tax, determine the amount of tax, interest and a penalty equivalent to ten per cent. of tax or ten thousand rupees, whichever is higher, due from such person and issue an order.

S.74(9) The proper officer shall, after considering the representation, if any, made by the person chargeable with tax, determine the amount of tax, interest and penalty due from such person and issue an order

R.142(4) The representation referred to in sub-section (9) of section 73 or sub-section (9) of section 74 or sub- section (3) of section 76 or the reply to any notice issued under any section whose summary has been uploaded electronically in FORM GST DRC-01 under sub-rule (1) shall be furnished in FORM GST DRC- 06.

Time limit to reply SCN: Generally, 30 days

DRC-06: Reply to the Show Cause Notice (online).

Full / Part Payment pursuant to SCN:

73(8) – Where any person chargeable with tax under sub-section (1) or sub-section

(3) pays the said tax along with the interest payable under section 50 within thirty days of issue of show cause notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded.

S.74(8) – Where any person chargeable with tax under sub-section (1) pays the said tax along with interest payable under section 50 and a penalty equivalent to twenty-five per cent. of such tax within thirty days of issue of the notice, all proceedings in respect of the said notice shall be deemed to be concluded.

R.142(3) – Where the person chargeable with tax makes payment of tax and interest under sub-section (8) of section 73 or, as the case may be, tax, interest and penalty under sub-section (8) of section 74 within thirty days of the service of a notice under sub-rule (1), or, he shall intimate the proper officer of such payment in FORM GST DRC-03 and the proper officer shall issue an order in FORM GST DRC- 05 concluding the proceedings in respect of the said notice. Form DRC-05: Intimation of conclusion of proceedings.

Time limit Adjudication/Order:

73(10) – The proper officer shall issue the order under sub-section (9) within three years from the due date for furnishing of annual return for the financial year to which

the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund.

S.74(10) – The proper officer shall issue the order under sub-section (9) within a period of five years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous refund.

R.142(5) – A summary of the order issued under section 52 or section 62 or section 63 or section 64 or section 73 or section 74 or section 75 or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130 shall be uploaded electronically in FORM GST DRC-07, specifying therein the amount of tax, interest and penalty payable by the person chargeable with tax.

142(6) – The order referred to in sub-rule (5) shall be treated as the notice for recovery.

FORM GST DRC-07 : Summary of the Order.

Rectification of Order/Notice etc.

161. Rectification of errors apparent on the face of record. —

any authority, who has passed or issued any decision or order or notice or certificate or any other document, may rectify

- (a) any error which is apparent on the face of record in such decision or order or notice or certificate or any other document
- (b) either on its own motion or where such error is brought to its notice by any officer or by the affected person
- (c) within a period of three months from the date of issue of such decision or order or notice or certificate or any other document
- (d) Provided, no such rectification shall be done after a period of six months from the date of issue of such decision or order or notice or certificate or any other document
- (e) said period of six months shall not apply where the rectification is purely in the nature of correction of a clerical or arithmetical error, arising from any accidental slip or omission:
- (f) For adverse rectification, principles of natural justice shall be followed by the authority carrying out such rectification.
- (g) 142(7) – Where a rectification of the order has been passed in accordance with the provisions of section 161 or where an order uploaded on the system has been withdrawn, a summary of the rectification order or of the withdrawal order shall be uploaded electronically by the proper officer in FORM GST DRC-08.
- (h) What if Tribunal/Court takes a view against Extended period SCN?

- (i) 75(2). Where any Appellate Authority or Appellate Tribunal or court concludes that the notice issued under sub-section (1) of section 74 is not sustainable for the reason that the charges of fraud or any wilful- misstatement or suppression of facts to evade tax has not been established against the person to whom the notice was issued, the proper officer shall determine the tax payable by such person, deeming as if the notice were issued under sub-section (1) of section 73.
- (j) Demand can be raised for normal period SCN within 2 years from receipt of such order

Summons – Legal Provision.

- (a) The proper officer under this 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 provided in the case of a civil court under the provisions of the Code of Civil Procedure, 1908.
- (b) Every such inquiry referred to in sub-section (1) shall be deemed to be a “judicial proceeding” within the meaning of section 193 and section 228 of the Indian Penal

Who is Proper Officer?

Circular No. 3/3/2017-GST dated July 05, 2017, Superintendent of Central Team is the PO under sub-section (1) of Section 70 of the CGST Act.

NN 14/2017 Central Tax dated 01.07.2017 Senior Intelligence Officer, GST Intelligence or Superintendent, GST Audit.

Summons – CBIC Guidelines

Obligation of Person so summoned

- (a) A person who is summoned, legally bound to attend either in person or by an authorized representative
- (b) He is bound to state the truth on the subject matter of examination and to produce such documents and other things as may be required

Guidelines for issue of summons: [CBIC FAQ’s and F. No. 207/07/2014- CX-6 dated January 20, 2015]

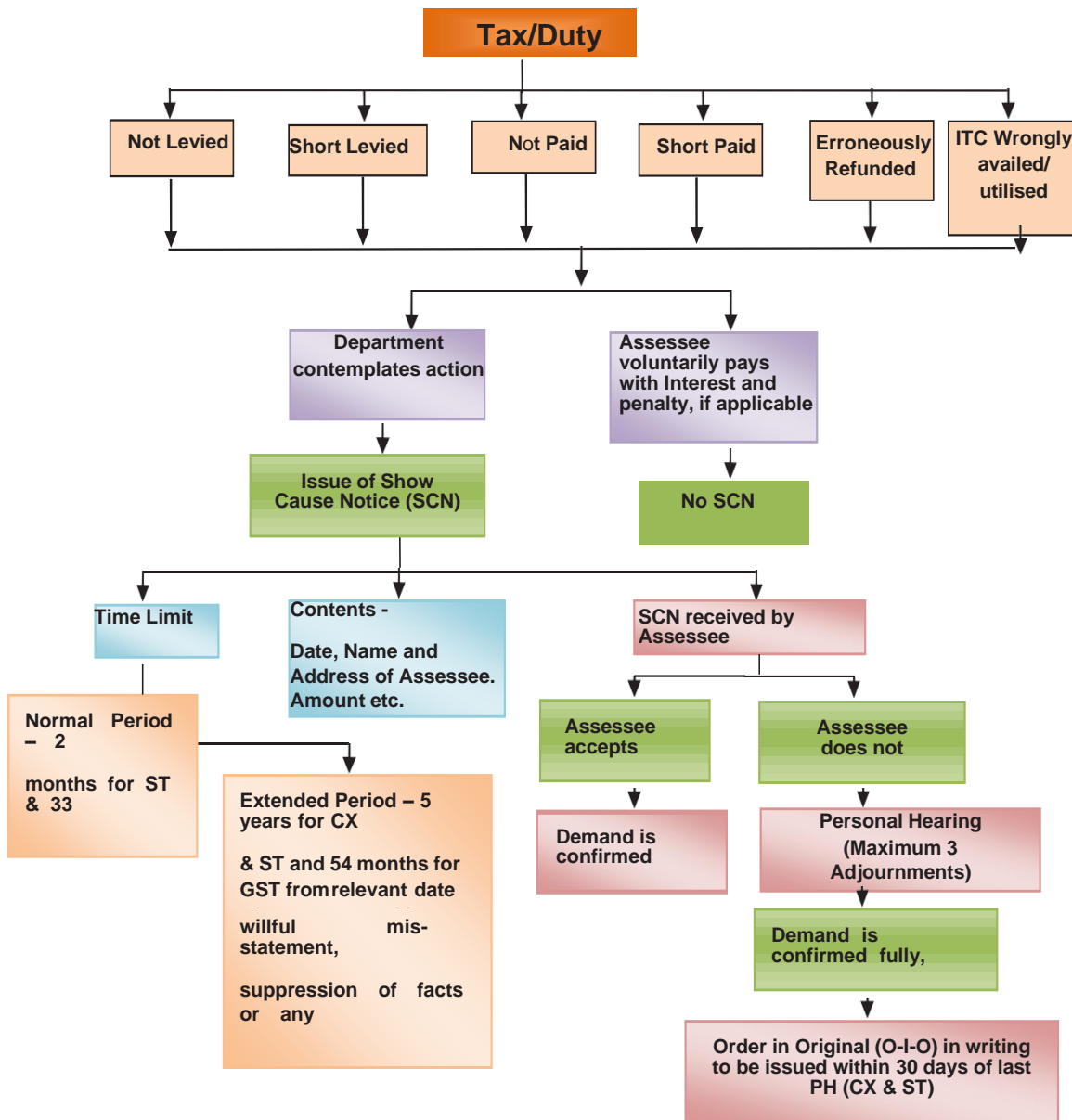
- (a) Summon is to be issued as a last resort where assesses are not co-operating;
- (b) Language of the summons should not be harsh and legal which causes unnecessary mental stress and embarrassment to the receiver;

(c) Summons by Superintendents should be issued only after obtaining prior written permission from an officer not below the rank of Assistant Commissioner with the reasons for issuance of summons to be recorded in writing:

How to view GST Notices in the Portal and reply through online:

steps to reply to a scrutiny notice:

Step 1: Select the 'Replies' tab on the case details page to view all the replies filed with the tax department. To add a reply, click 'Notice'.



Compiled by
Sanjay Goel
AAD, NACIN Bhopal

18. APPEAL UNDER GST

Any person aggrieved with the order passed by an adjudicating authority can file an appeal in GST before the First Appellate Authority.

Adjudicating Authority – Sec. 2(4) of CGST Act, 2017

any authority, appointed or authorised to pass any order or decision under this Act, but does not include

- the Central Board of Indirect Taxes and Customs,
- the Revisional Authority,
- the Authority for Advance Ruling,
- the Appellate Authority for Advance Ruling,
- the National Appellate Authority for Advance Ruling,
- the Appellate Authority,
- the Appellate Tribunal and
- the Authority referred to in sub-section (2) of section 171

Who is First Appellate Authority?

- (i) The first appellate authority would be Commissioner (Appeals) where the adjudicating authority is Additional or Joint Commissioner.
- (ii) The first appellate authority would be Joint Commissioner (Appeals) where the adjudicating authority is Deputy or Assistant Commissioner or Superintendent.

Steps of appeals under GST-

Appeal level	Orders passed by....	Appeal to —	Sections of Act
1st	Adjudicating Authority	First Appellate Authority	107
2nd	First Appellate Authority	Appellate Tribunal	109,110
3rd	Appellate Tribunal	High Court	111-116
4th	High Court	Supreme Court	117-118

Appealable Orders –

Following are the orders against which the aggrieved person may file an appeal-

- Enforcement Order
- Assessment, Provisional Assessment or Summary Assessment Order
- Demand Order
- Registration Order

- Cancellation or suspension of registration
- Rejection of application for revocation of cancellation of registration
- Refund Order
- Assessment Non-Demand Order
- Goods Detention Order/Goods Release Order

Where to File Appeal?

- (i) Any decision or order passed by the Adjudicating Authority of CGST: - Appeal /review/ revision/rectification against the order to be filed with Central GST Appellate Authority
- (ii) Any decision or order passed by the Adjudicating Authority of SGST: - Appeal /review/ revision/rectification against the order to be filed with State GST Appellate Authority

It implies that if a tax payer is aggrieved by the order for any transaction, he need not approach both the authorities of central and state tax.

Cross empowerment between CGST and SGST/UTGST officers-

The Act provides for cross-empowerment of powers between central and state tax officers. Accordingly, if a proper officer of CGST passes an order with respect to a transaction, he will also act as the proper officer of SGST/UTGST for the same transaction and issue the order with respect to both CGST and SGST/UTGST component of the same transaction. Similar is the case for orders passed by proper officer of SGST/UTGST and they can issue order with respect to CGST and IGST (section 4 of IGST). Most of the provisions of CGST are applicable in IGST (section 20).

Who can File Appeal under GST?

- Any person aggrieved by any decision or order passed
- The Commissioner may, on his own motion, or upon request from the Commissioner of State tax/UT tax

Filing of GST appeal –

An appeal shall be filed in Form GST APL-01, along with grounds of appeal and other relevant documents (provisional acknowledgement is issued immediately). Certified copy of the order or decision, appealed against, shall be submitted within seven days of filing appeal and in that case, date of filing appeal shall be considered the date of provisional acknowledgement. However, if the certified copy of the order or decision appealed against is not submitted within seven days, its actual date of submission shall be the date of filing appeal. Final acknowledgement shall be issued in Form APL-02.

Appeal and other documents shall be submitted electronically and digital signature certificate shall be verified as per provisions of IT Act, 2000 (Rule 26).

Major 'Technical/Legal' Grounds in Filing Appeal-

- Jurisdiction
- Limitation Period
- Opportunity of Being Heard
- Speaking Order
- Consideration of all Reply/Documents Submitted
- Challenge of 'Vires' – Act, Rule, Notification

'Limitation Period' for Filing Appeal-

A. Appeal by Any Person-

- Normal Period: within 3 months from the date on which the said decision or order is communicated to such person
- Condonation of Delay: Maximum one more month is allowed that to only after furnishing of a justified reason of delay along with suitable evidence.

B. Appeal by Commissioner (Department)-

- Normal Period: within 6 months from the date of communication of the said decision or order
- Condonation of Delay: Maximum one more month is allowed that to only after furnishing of a justified reason of delay along with suitable evidence.

Pre-Condition for Filing of Appeal Sec. 107(6)

- **100% of Admitted Demand-** No appeal shall be filed unless the appellant has paid in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him
- **10% of the remaining amount of tax in Dispute-** a sum equal to 10% of the remaining amount [25% in case of order u/s 129(3)] of tax in dispute arising from the said order, in relation to which the appeal has been filed (subject to maximum of 25 crore rupees under each act)

Stay of Demand Sec. 107(7)/ (8)

Automatic Stay- Where the appellant has paid the amount under sub-section (6), the recovery proceedings for the balance amount shall be deemed to be stayed

Opportunity of being heard-

The Appellate Authority shall have to give an opportunity to the appellant/respondent of being heard.

Adjournment of Hearing Sec. 107(9)

The Appellate Authority may, if sufficient cause is shown at any stage of hearing of an appeal, grant time to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing.

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal

Time Limit to decide an appeal –

Every appeal shall be decided within a period of one year from its filing, if it is possible to do so for the authority. Where the issuance of order is stayed by an order of a court or Tribunal, the period of such stay shall be excluded in computing the period of one year.

Want to add another ground of appeal at the time of hearing?

The Appellate Authority may, at the time of hearing of an appeal, allow an appellant to add any ground of appeal not specified in the grounds of appeal, if it is satisfied that the omission of that ground from the grounds of appeal was not willful or unreasonable.

Production of Additional Evidence Before the Appellate Authority or the Appellate Tribunal Rule 112(1) of CGST Rules,2017

The appellant shall not be allowed to produce before the Appellate Authority or the Appellate Tribunal any evidence, whether oral or documentary, other than the evidence produced by him during the course of the proceedings before the adjudicating authority or, as the case may be, the Appellate Authority except in the following circumstances, namely:

- where the adjudicating authority or, as the case may be, the Appellate Authority has refused to admit evidence which ought to have been admitted; or
- 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
- 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
- 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.

Admission of evidence

No evidence shall be admitted under rule 112(1) unless the Appellate Authority or the Appellate Tribunal records in writing the reasons for its admission.

Opportunity to ‘Adjudicating Authority’ mandatory

- to examine the evidence or document or to cross examine any witness produced by the appellant; or
- to produce any evidence or any witness in rebuttal of the evidence produced by the appellant under rule 112(1).

Power to call for any document or examination of any witness

Nothing contained in this rule shall affect the power of the Appellate Authority or the Appellate Tribunal to direct the production of any document, or the examination of any witness, to enable it to dispose of the appeal.

Orders in Appeal-

1. The Appellate Authority shall pass such order, as it thinks just and proper, confirming, modifying or annulling the decision or order appealed against, but shall not refer the case back to the adjudicating authority that passed the said decision or order.
2. An order enhancing any fee or penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund or input tax credit shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order.
3. Further, where the Appellate Authority is of the opinion that any tax has not been paid or short-paid or erroneously refunded, or where input tax credit has been wrongly availed or utilized, no order requiring the appellant to pay such tax or input tax credit shall be passed unless the appellant is given notice to show cause against the proposed order and the order is passed within the time limit specified under section 73 or section 74.
4. The order of the Appellate Authority shall be a speaking order stating in writing the points for determination, the decision thereon and the reasons for such decision.
5. The Appellate Authority shall communicate the order passed by it to the appellant, respondent and to the adjudicating authority.
6. A copy of the order shall also be sent to the jurisdictional CGST/SGST/UTGST Commissioner.
7. Subject to the provisions of section 108 (Revision) or section 112 (appeal to Appellate Tribunal) or section 117 (appeal to High Court) or section 118(appeal to Supreme Court), every order shall be final and binding on the parties.

Assessment proceedings, etc., not to be invalid on certain grounds-

Section 160(1)- No assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings done, accepted, made, issued, initiated, or purported to have been done, accepted, made, issued, initiated in pursuance of any of the provisions of this Act shall be invalid or deemed to be

invalid merely by reason of any mistake, defect or omission therein, if such assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings are in substance and effect in conformity with or according to the intents, purposes and requirements of this Act or any existing law.

Service of Notice in Certain Circumstances-

A. Section 169(1)- Any decision, order, summons, notice or other communication under this Act or the rules made thereunder shall be served by any one of the following methods, namely: -

(a) by giving or tendering it directly or by a messenger including a courier to the addressee or the taxable person or to his manager or authorised representative or an advocate or a tax practitioner holding authority to appear in the proceedings on behalf of the taxable person or to a person regularly employed by him in connection with the business, or to any adult member of family residing with the taxable person; or

(b) by registered post or speed post or courier with acknowledgement due, to the person for whom it is intended or his authorised representative, if any, at his last known place of business or residence; or

(c) by sending a communication to his e-mail address provided at the time of registration or as amended from time to time; or

(d) by making it available on the common portal; or

(e) by publication in a newspaper circulating in the locality in which the taxable person or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain; or

(f) if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence and if such mode is not practicable for any reason, then by affixing a copy thereof on the notice board of the office of the concerned officer or authority who or which passed such decision or order or issued such summons or notice

B. Section 160(2)- The service of any notice, order or communication shall not be called in question, if the notice, order or communication, as the case may be, has already been acted upon by the person to whom it is issued or where such service has not been called in question at or in the earlier proceedings commenced, continued or finalised pursuant to such notice, order or communication.

Refund of Pre-Deposit-

Where the pre-deposit is liable to be refunded in pursuance of appellate authority's order, the taxpayer may file a refund application then the amount of pre-deposit shall

be refunded along with interest from the date of payment of such amount till the date of refund.

Not satisfied with the order of First Appellate Authority?

A person unhappy with any decision or order passed against him under GST by an adjudicating authority can appeal to the First Appellate Authority.



If they are not happy with the decision of the First Appellate Authority they can appeal to the National Appellate Tribunal, then to High Court and finally Supreme Court.

Bar on Jurisdiction of Civil Courts

CGST Act, 2017, Section 162: Save as provided in sections 117 (Appeal to High Court) and 118 (Appeal to Supreme Court), no civil court shall have jurisdiction to deal with or decide any question arising from or relating to anything done or purported to be done under this Act.

Can an authorised representative appear in court?

Yes. Any person required to appear before a GST Officer/First Appellate Authority/Appellate Tribunal can assign an authorised representative to appear on his behalf, unless he is required by the Act to appear personally. An authorised representative can be-

- a relative
- a regular employee
- a lawyer practising in any court in India
- any chartered accountant/cost accountant/company secretary, with a valid certificate of practice
- a retired officer of the Tax Department of any State Government or of the Excise Dept. whose rank was minimum Group-B gazetted officer
- any tax return preparer

Retired officers cannot appear in place of the concerned person within one year from the date of their retirement.

Appeal cannot be filed in certain cases-

The Board or the State Government may, on the recommendation of the Council, fix monetary limits for appeals by the GST officer to regulate the filing of appeal and avoid unnecessary litigation expenses

Can all decisions be appealed against?

No, Appeals cannot be made for the following decisions taken by a GST officer-

- An order to transfer the proceedings from one officer to another officer;
- An order to seize or retain books of account and other documents;
- An order sanctioning prosecution under the Act; or
- An order allowing payment of tax and other amount in instalments

Withdrawal of a GST appeal

In the 48th GST Council meeting, it was decided to provide an option of withdrawal of a GST appeal that has already been filed. This move was made with the intention of reducing the number of litigations that the appellate authorities have to deal with. In this regard, a new Rule 109C was inserted in the CGST Rules via Notification No.26/2022- Central Tax.

“FORM GST APL-01/03 W

[See rule 109C]

Application for Withdrawal of Appeal Application

1. GSTIN:
2. Name of Business (Legal) (in case appeal is filed under sub-section (1) of section 107)
3. Name and designation of the appellant (in case appeal is filed under sub-section (2) of section 107):
4. Order No.& Date:
5. ARN of the Appeal & Date:
6. Reasons for Withdrawal:
 - i. Acceptance of order of the adjudicating authority.
 - ii. Acceptance of order of a Higher Appellate Authority/ Court on similar subject matter
 - iii. Need to file appeal again after rectification of mistakes/omission in the filed appeal
 - iv. Amount involved in appeal is less than the monetary limit fixed for Appeal by the Board/Commissioner
 - v. Any other reason

7. Declaration (applicable in case appeal is filed under sub-section (1) of section 107):

I/We <Taxpayer Name> hereby solemnly affirm and declare that the information given herein is true and correct to the best of my/ our knowledge and belief and nothing has been concealed therefrom.

Place:

Signature

Date:

Name of Applicant /Applicant Officer
Designation/ Status.”

Rule 109C states that the applicant can file an application for withdrawal of an appeal at any time before the show cause notice or order under Section 107(11) is issued, whichever is earlier. This is in respect of any appeal filed in Form GST APL-01 or Form GST APL-03. The application for withdrawal of the appeal will need to be submitted using the new Form GST APL-01/03W.

It is important to note here that in cases where the final acknowledgment in Form GST APL-02 has been issued, then the withdrawal of the said appeal will require the approval of the appellate authority. The appellate authority must make a decision on the application for withdrawal of the appeal within seven days of the applicant filing the same. Any fresh appeal filed by an appellant after such withdrawal should be within the time limits specified under Section 107.

‘Appeal’ by Department – 107(2)/ (3)

The Commissioner may, on his own motion, or upon request from the Commissioner of SGST/UTGST, call for and examine the record of any proceedings in which an adjudicating authority has passed any decision or order under this Act or SGST/UTGST, for 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 six months from the date of communication of the said decision or order for the determination of relevant points arising out of the said decision or order.

The authorised officer making an application in Form APL-03 to the Appellate Authority shall be treated as an appellant and the provisions of this Act relating to appeals shall apply to such application.

Compiled by
Pranesh Gupta
Additional Director
NACIN Bhopal

19. DATA ANALYTICS IN GST

Introduction

Information is not knowledge, knowledge is not wisdom, and wisdom is not foresight. Each grows out of the other, and we need them all. Today is the era of information and there is no dearth in availability of data however making this data useful requires careful planning and specific tools. Data analysis helps us derive meaning out of raw data and gives us actionable insights. It navigates through vast datasets, extracting meaningful information to cultivate knowledge. It helps understand facts, patterns, and trends, leading to smarter decisions. This process helps in gaining knowledge and wisdom, guiding better choices and improvements in tax administration.

Data analytics, within the context of taxation systems, refers to the systematic utilisation of advanced computational techniques, statistical methodologies, and technological innovations to analyse vast arrays of financial information. This approach enables tax authorities to derive actionable insights, identify patterns, and make informed decisions that drive not only compliance but also policy formulation and revenue optimization.

The integration of data analytics within taxation systems has ushered in a paradigm shift, offering multifaceted benefits. By harnessing diverse data sources – including transactional records, economic indicators, demographic information, and more – tax authorities can gain a comprehensive understanding of taxpayers' behaviours, industries, and economic trends. Consequently, this facilitates the formulation of tailored strategies to curb tax evasion, ensure fair tax assessments, and optimise revenue collection.

What is Data?

Data refers to Raw facts, Figures, Observations and can be in the form of numbers, text, images, audio, or any other representation of information. Data collected from various domains like geography, culture, science, finance, and more encapsulates diverse information. This information, when organized and processed, forms specific datasets, offering insights relevant to their respective fields, enabling informed analysis and decision-making.

Data captured and available in GST System

The introduction of GST has led to the generation of vast amounts of data daily, stored within the system. When used appropriately this data serves as a valuable resource, capable of enhancing efficiency and effectiveness in indirect tax administration. The data gathered by the GSTN system falls into several categories such as:

- Demographic Information - Includes company names, proprietor/director details, Aadhar numbers, contact information (mobile number, email), addresses, and bank account specifics.
- Tax payments & Return-Related Data - Encompasses invoice particulars such as supplier details, dates, goods/services with HSN/SAC codes, quantities, amounts, and associated GST information.
- Registration-Related Data - In addition to demographic data, it involves information on traders/manufacturers, suppliers of goods/services, and the nature of the goods or services.
- Transportation Details - Comprising vehicle specifics like number and type, consignor and consignee details, addresses, and information regarding vehicle movements obtained from toll data.

Tools and Technologies for Data Analysis in GST System

The GST system in India is completely system driven eliminating the need for direct government-to-taxpayer interaction. Users generate gigabytes of information daily through diverse transactions recorded by the GST System. Several tools are accessible for field formations, aiding them in efficiently executing their functions, as detailed below.

- AIO (All in One System)
- E-way Bill System and E-way Bill Analytics
- GAIN / BIFA
- ADVAIT

The AIO System captures all the basic information related to a taxpayer such as its registration details, various returns filed such as GSTR1, GSTR2A, GSTR-3B, GSTR9 etc. and different ledger like ITC, Cash and other payment particulars.

The E- Waybill system captures information related to the movement of the goods such as, Consignor, Consignee, Location of supply, Vehicle used, Path taken by the vehicle from the Toll RFID system, HSN code of the supplied items, Quantity, Value, GST Charged etc. The E-Waybill analytics system provides higher features utilising the basic movement related data captured based on certain logic and performance indicators such as Tax payers newly registered but there is a spurt in supply, which may indicate a suspicion of fraudulent supply.

Business Intelligence and fraud Analytics (BIFA) is an advanced analytics platform aimed at leveraging data available to generate actionable insights, using a combination of BI tools and AI/ML based modelling, to help improve compliance, detect/prevent fraud, and support policymakers. BIFA makes it easy to gather system-based intelligence and plug revenue leakage. It provides different comparison chart for data analysis. Common Modus Operandi which can be identified through BIFA in System Analysis are Bogus Invoicing, Excess availment of

ITC (3B&2A diff), Misclassification, Non- reversal Under Rule 42, Suppression of Turnover (GSTR7/R1&3B/26AS) etc.

ADVAIT is a next generation integrated Business Intelligence (BI) system which uses the power of advanced analytics to extract better insights from data. ADVAIT makes it easier for CBIC officials to perform the following tasks:

- Enhancing indirect tax revenue through better mobilisation and compliance
- Increasing taxpayer base across GST and Customs
- Supporting formulation of data-driven tax policy

ADVAIT offers an array of features like MIS Reports, Analytical Reports, and Data Science Tools. Along with helping in system-based intelligence gathering these tools empower officers and policymakers, enhancing their effectiveness and efficiency in fulfilling their responsibilities. It also provides different comparison chart for data analysis. A tax officer can understand/ know about a particular taxpayer tax payment details etc. via “Know your taxpayer” tools.

Conclusion

In the era dominated by data, the practice of Data Analysis significantly contributes to decision-making, problem-solving, pattern recognition, trend identification, predictive modelling, and performance assessment. Specifically, within the GST framework, Data Analysis becomes instrumental in monitoring revenue trends, implementing measures for improvement, bolstering government revenue collection by addressing tax evasion, expanding the taxpayer base, and formulating tax policies rooted in data-driven insights. Recognizing the significance of data analysis, it becomes evident that possessing these tools alone holds little value unless actively employed. Officers must utilise these tools not only to fulfil their intended purposes but also to simplify their daily tasks, thereby enhancing their efficiency in everyday operations.

Compiled by
Sheeti Kantha Das
DD, DGGSTI BRU

20. TDS AND TCS UNDER GST

What is TDS

Tax Deducted at Source (TDS) is one of the ways to collect tax based on certain percentages on the amount payable by the receiver on goods/services. The collected tax is a revenue for the government.

The provision pertaining to TDS under GST is given under Section 51 of the CGST Act to be read with CGST Rule 66.

The provisions of GST TDS have been notified and made effective from 1.10.2018.

Who is liable to deduct TDS under GST

- A department or an establishment of the Central Government or State Government
- Local authority
- Governmental agencies
- Such persons or categories of persons as may be notified by the Government.
- An authority or a board or any other body which has been set up by Parliament or a State Legislature or by a government, with 51% equity (control) owned by the government.
- A society established by the Central or any State Government or a Local Authority and the society is registered under the Societies Registration Act, 1860.
- Public sector undertakings.

Liability to deduct TDS under GST and TDS rate-

TDS is to be deducted at the rate of 2% (1% CGST+ 1% SGST) on payments made to the supplier of taxable goods and/or services, where the total value of such supply, under an individual contract, exceeds Rs.2,50,000/-. No deduction of Tax is required when the location of supplier and place of supply is different from the State of the registration of the recipient.

What are the registration requirements for TDS deductors-

A person who is liable to deduct TDS has to compulsorily register and there is no threshold limit for this. The registration under GST can be obtained without a PAN and by using the existing Tax Deduction and Collection Account Number (TAN) issued under the Income Tax Act. Thus, it can be said having TAN is mandatory.

When TDS not required-

contract value >Rs.2.5 lakh for both taxable supply and exempted supply.

- Receipt of service which are exempted.
- Goods on which GST is not leviable.
- where the tax is to be paid on RCM.

where the payment relates to Cess etc.

Where the location of the supplier and place of supply is in a state which is different from the state where the deductor is registered.

When and to whom should the TDS be paid

TDS shall be paid within 10 days from the end of the month in which tax is deducted and filed in Form GSTR-7. The payment shall be made to the appropriate government which means:

The Central Government in the case of the IGST and the CGST

The State government in the case of the SGST

What are the provisions relating to the issue of TDS certificates under the GST

Similar to the Income Tax Law, the person deducting tax under GST has to issue the TDS certificate in form GSTR-7A to the concerned person within 5 days of depositing the tax to the government. The GST portal will automatically make GSTR-7A available to the deductee on the basis of the GSTR-7 filed.

How will the Value of supply on which TDS shall be deducted be considered

For the purpose of deduction of TDS, the value of supply is to be taken as the amount excluding the tax indicated on the invoice. This means TDS shall not be deducted on the CGST, SGST or IGST component of invoice.

For example- supplier A makes a supply worth Rs.5,000 to B. The rate of GST is 18%. When B pays A, he/she will pay Rs.5,000 (worth of Supply) + Rs.900 (GST) to A and Rs. 100 (RS. 5000*2%) as TDS to the government. So it can be said that TDS is not deducted on the tax element (GST) of a transaction.

Which form is required to file the TDS return

The person deducting tax is required to file a TDS return in form GSTR-7 within 10 days from the end of the month in which the tax has been deducted.

What is the benefit of TDS to the deductee (Supplier)?

As stated above, there will be an automatic reflection in the electronic ledger of the deductee (supplier). Once the deductor files his/her returns, the deductee can claim credit in their electronic cash ledger of this tax deducted and use it for payments of other taxes.

What is TCS

Tax Collected at Source (TCS) under GST means the tax collected by an e-commerce operator from the consideration received by it on behalf of the supplier of goods, or services who makes supplies through the operator's online platform. TCS will be charged as a percentage on the net taxable supplies. The provision of TCS under GST is dealt under Section 52 of the CGST Act.

Who is liable to collect TCS under GST

Certain operators who own, operate and manage e-commerce platforms are liable to collect TCS. TCS applies only if the operators collect the consideration from the customers on behalf of vendors or suppliers. In other words, when the e-commerce operators pay the consideration collected to the vendors they have to deduct an amount as TCS and pay the net amount.

Here are few exceptions to the TCS provisions for the services provided by an e-commerce platform:

- Hotel accommodation/clubs (unregistered suppliers)
- Transportation of passengers – radio taxi, motor cab or motorcycle
- Housekeeping services like plumbing, carpentry etc. (unregistered suppliers)

For example – M/s XYZ stores (a proprietorship) is selling garments through Flipkart. Flipkart, being an e-commerce operator, before it makes the payment of consideration collected on behalf of XYZ, will be liable to deduct TCS.

When will the liability of collecting TCS arise

TCS will be collected by e-commerce operators while making a payment to the vendor.

What is the rate applicable under TCS

The dealers or traders supplying goods and/or services through e-commerce operators will receive payment after deduction of TCS @ 1% (0.5% CGST and 0.5% SGST or 1% IGST). The rate is notified by the CBIC in Notification no. 52/2018 under CGST Act and 02/2018 under IGST Act.

This means for an intra-state supply TCS at 1% will be collected, i.e 0.5 % under CGST and 0.5% under SGST. Similarly, for a transaction between the states, the TCS rate will be 1%, i.e under the IGST Act.

Registration requirements under TCS provisions of GST

The e-commerce operators liable to collect TCS have to compulsorily register under GST and there is no threshold limit exemption for it. Also, the sellers supplying

goods through the online portal of e-commerce players are also mandatorily required to get registered under GST except for a few exceptions.

Due date for depositing TCS

TCS will be deducted during the month in which the supply is made. It will be deposited within 10 days from the end of the month of supply to the credit of the government.

Which form can one use to file TCS returns

e-Commerce operators have to file GSTR-8 by 10th of the next month in which the tax was collected.

The operator is also required to file an Annual statement in prescribed form by the 30th November following the end of every financial year.

Notice to operator-

An officer not below the rank of DC can issue notice to an operator, asking him to furnish details relating to volume of goods/services supplied, stock of goods lying in warehouse/godowns etc. the operator is required to furnish such details within 15 working day.

Compiled by
Bharat Kumar Tamrakar
AAD, NACIN Bhopal

21. GSTN BACK OFFICE

Introduction

The GSTN Back Office, also known as the Tax Officer domain, serves as a pivotal hub where tax officials nationwide to facilitate taxpayer. The revenue map of India comprises of both, officers belonging to state commercial tax offices in respect of states, and Central Board of Indirect Taxes across the country. The impending adoption of a uniform, user-friendly platform promises streamlined operations for officers countrywide. With swift data retrieval and minimal data loss, coupled with immediate data transfer, processing becomes more efficient and cohesive. Moreover, the platform continually evolves, integrating new features like e-invoice and e-way bills, with more innovations on the horizon. Seamless navigation further enhances the user experience, ensuring that tax officials can efficiently fulfil their duties while supporting the nation's economic framework.

Key Feature of GSTN Back Office: -

- It serves as a unified platform for all GST administrations in India including States and CBIC.
- It provides sufficient flexibility for each administration to function in accordance with statutory requirements given in the existing GST Framework.
- Data of Taxpayers & Back Office portal refers to the single source of truth i.e. single Data base leading to no data discrepancy.
- It conserves time as there is no need to integrate via separate API or develop BO services separately.
- GSTN Back Office provides access to all the Reports, MIS, Business Intelligence and Fraud Analytics.
- GSTN Back Office is capable of handling huge transactions and is highly scalable to handle the future requirements.
- GSTN Back Office provides online communication process with States for preliminary enquiry and follow-up of Enforcement cases

Introduction of various module in GSTN Back Office:

1. Tax Official Dashboard: -

Taxpayer profiles are accessible through various means on the GSTN platform, including the taxpayer's PAN or email ID. Within the dealer profile section, under "Get Taxpayers details," a ledger summary is available for scrutiny. Specific ledger details for a given period can be obtained by utilizing the calendar feature. To retrieve filed returns, the "Record Search (Return)" command comes into play. If a return has been filed, the associated ARN is highlighted in a green background; conversely, if no return has been filed, the ARN appears in red. For cases where the ARN is not applicable, it is displayed in grey. With the ARN at hand, any related work item can be easily

located and accessed. Furthermore, details regarding payments made by the taxpayer against any demand can be obtained by navigating to the taxpayer's profile and accessing the "Payment towards Demand" link. This structured approach facilitates efficient data retrieval and enhances transparency in taxpayer dealings.

2. HELP Section

An elaborate help section is available in the officer dashboard wherein under various tabs such as "Login with DSC," "Tax Official's Dashboard," "Processing Application," "Search Taxpayer Details," "Reassign Work-Item," "Assessment and Adjudication," "Appeal," "Refund," "Recovery," etc., FAQs and Step-by-Step User Manuals are readily accessible.

3. Administrative Task: -

After login the GST BO Portal using valid credentials, Tax Officers can navigate to Jurisdictional Admin and click on create & update record of Officials. To assign a new role to the official, click the **ADD NEW ROLE** button. In the role type drop down list, select the type to role of the user such as primary jurisdiction and click **ASSIGN** button to add new role. Similarly, to revoke the role of the tax official, select the **REVOKE** link. In the similar manner the records of the officers can also be updated.

To assign target to the tax officers, navigate to the **Internal/ Official** tab on the home page and click on **Target Allocation** and after filling necessary entries click **ASSIGN** button. To update the achievement against the targeted allocation, navigate to the **Internal/ Official** tab on the home page and click on **Target Allocation**, then click **view Target** and **Update Achievement Page** is displayed. Update the achievement against the allocated targets. Click the **SAVE & PROCEED** button.

4. Taxpayer Profile: -

Taxpayer profiles are accessible through various means on the GSTN platform, including the taxpayer's PAN or email ID. Within the dealer profile section, under "Get Taxpayers details," a ledger summary is available for scrutiny. Specific ledger details for a given period can be obtained by utilizing the calendar feature. To retrieve filed returns, the "Record Search (Return)" command comes into play. If a return has been filed, the associated ARN is highlighted in a green background; conversely, if no return has been filed, the ARN appears in red. For cases where the ARN is not applicable, it is displayed in grey. With the ARN at hand, any related work item can be easily located and accessed. Furthermore, details regarding payments made by the taxpayer against any demand can be obtained by navigating to the taxpayer's profile and accessing the "Payment towards Demand" link. This structured

approach facilitates efficient data retrieval and enhances transparency in taxpayer dealings.

5. MIS Report: -

To view the MIS report, one can click on the **MIS > Dashboard** link on the GST portal. Using the Dashboard drop down one can choose amongst the various reports such as Collection, Return, Registration, Refund, Enforcement, Appeals, Assessment etc wherein a vast variety of detailed report are available.

6. Registration Module: -

Following functionality is available in the registration module: - New Registration Application, Application of core filed Amendment, Application for surrender, Cancellation proceedings, E-KYC of Documents uploaded by Existing Taxpayer, Revocation of Cancelled Registration, Initiate Suo-Moto cancellation, drop proceeding, Cancel registration etc.

7. Enforcement Case Id: -

The Enforcement Case ID serves as a pivotal tool in addressing cases of tax evasion by taxpayers, enabling tax officials to initiate necessary proceedings. These IDs may be established based on recommendations from various enforcement officers or external sources, or initiated independently by tax officials. Prior to creating a Case ID for unregistered individuals, a Temporary ID must first be generated through back-office functions. Additionally, if a new case is initiated by Circle or Ward Enforcement Officers, approval from their immediate supervisory officer or higher authority is mandatory. Once created, the status of the case on the GST portal is marked as "Case pending," and the respective Case ID is listed under the "Pending Cases" section for the initiating officer. Upon completion of all proceedings, the Enforcement Officer has the authority to close the case. Closure notifications are then sent to the immediate supervisor of the Primary user via My Task. Furthermore, all relevant data pertaining to orders issued on closed cases is transmitted to relevant authorities through an Application Programming Interface (API), ensuring comprehensive documentation and compliance with regulatory protocols.

8. Demand & Collection Module: -

To initiate a new entry in the Demand and Collection Register (DCR) on the GST portal, Tax Officer should first navigate to the Statutory Functions section, followed by selecting the Demand and Collection Register option, and then choosing the Create New Entry in DCR option. Upon selection, the Create New Entry in DCR page will be displayed, where Tax Officers can input the necessary details and subsequently click the submit button to finalize the entry. To access the DCR for viewing purposes, Tax Officers can

again navigate to **Statutory Functions > Demand and Collection Register**, and this time select the View DCR option. This action directs Tax Officer to the DCR search page, where demands created within a financial year or associated with a particular financial year can be located using relevant search parameters. In order to update payment details against any demand within the DCR, Tax Officer should navigate to the Statutory Functions section, select Demand and Collection Register, and then choose the Update DCR option. Here, demands can be searched by entering specific identifiers such as Demand ID, GSTIN, Temporary ID, or the name of the taxpayer. After identifying the relevant demand, Tax Officer can input payment details including the Date of Payment, Challan No./Order No., and any pertinent remarks before updating the information accordingly.

9. Assessment & Adjudication Module: -

The assessment and adjudication module encompasses various functionalities aimed at ensuring tax compliance and addressing related matters efficiently. These include the determination of tax liabilities, whether arising from fraud or other reasons, scrutiny of returns, assessment of non-filers and unregistered persons, summary assessments, intimation of voluntary payments, and addressing cases of tax collection but non-deposit. Tax officials utilizing this module possess the authority to issue notices, reminders, adjournments, and orders as necessary to facilitate the assessment and adjudication process. To initiate a new proceeding for determining fresh tax liabilities under sections 73 and 74, the tax official navigates to the Statutory Functions section, followed by selecting the Assessment & Adjudication option, and then choosing the Determination of Tax (Fraud/Other) option. Here, after filling in the requisite details, the tax official creates an ARN or Case ID. With the Case ID established, the tax official gains access to a range of assessment and adjudication proceedings pertaining to the specific case. Tabs provided on the left-hand side of the page allow for the initiation of various actions, including intimations, notices, replies, proceedings, orders, and references, streamlining the process and enhancing procedural clarity.

10. Appeal Module: -

Within the GSTN Back Office (BO), several functionalities are provided to facilitate the management of appeals and related proceedings. These include the ability to search for appeals filed by taxpayers or the department, engage in revision proceedings, access cause lists, determine the effects of appeals, search for directions, view orders, and search for review proposals. Additionally, once an appeal is filed before the appellate authority, a range of tabs become available to track its progress and manage associated actions. These tabs include options such as appeal submission, admission of the

appeal, issuance of hearing notices, submission of replies, granting of adjournments, issuance of show cause notices (SCN), receipt of rectification requests, and the eventual passing of appeal orders. These functionalities provide tax officials with comprehensive tools to effectively manage appeals and ensure procedural transparency throughout the process.

11. Recovery Module: -

To access recovery cases within the GSTN Back Office, tax officers can navigate to the home page and select the Recovery option, followed by choosing the Recovery Cases tab. From this page, officers can manage the recovery process for specific cases by utilizing the tabs provided, which include options such as Recovery Details, Notices, Replies, Certificates/Orders, and References. Tax officers have the authority to initiate recovery proceedings against a taxpayer's outstanding demand by utilizing the funds available in the taxpayer's Cash/Credit ledger. Additionally, functionalities are available for the recovery of pre-GST liabilities, deferment of payments, installment-based payments, and communication with the liquidator in the event of a company's liquidation. These options empower tax officers to effectively execute recovery actions and manage the process in accordance with regulatory requirements.

CONCLUSION

In summary, the GSTN Back Office stands as a comprehensive and efficient platform, empowering tax officials nationwide with the necessary tools to manage taxpayer queries, enforcement cases, and recovery processes effectively. Its adoption of a unified, user-friendly interface promises streamlined operations and heightened transparency. With features like rapid data retrieval, minimal data loss, and instant data transfer, the platform ensures efficient processing and seamless operations. Furthermore, its continuous evolution and integration of new features such as e-invoice and e-way bills underscore a commitment to innovation and adaptability. The structured approach and intuitive navigation further enrich the user experience, facilitating swift data access and fostering transparency in taxpayer interactions. Overall, the GSTN Back Office plays a crucial role in bolstering India's tax administration framework, enabling tax officials to carry out their duties with efficacy and integrity while contributing to the nation's economic advancement.

Compiled by
Shivi Sangwan
Deputy Director
NACIN Raipur

22. MISCELLANEOUS FACTS AND MEANING

RCM (Reverse Charge Mechanism) -

The liability to pay tax by the person receiving goods or service or both instead of the supplier of such goods and services under Section 9(3) or 9(4) of CGST Act or Section 5(3) or 5(4) of ITCST Act.

Typically, the supplier of goods or services pays the tax on supply. But under the reverse charge mechanism, the recipient of goods or services becomes liable to pay the tax, i.e., the chargeability gets reversed.

The objective of shifting the burden of GST payments to the recipient is to widen the scope of levy of tax on various unorganized sectors, to exempt specific classes of suppliers, and to tax the import of services (since the supplier is based outside India).

Job Work-

Job work means processing or working on raw materials or semi-finished goods supplied by the principal manufacturer to the job worker. This is to complete a part or whole of the process which results in the manufacture or finishing of an article or any other essential operation. For example, big shoe manufacturers (principals) send out the half-made shoes (upper part) to smaller manufacturers (job workers) to fit in the soles.

The job workers send back the shoes to the principal manufacturer as per GST Act. Value of goods sent by the principal will not be included in the aggregate turnover of the registered job worker.

Credit Note-

A credit note is a legal document issued by the seller of goods and/or services to the buyer against a previously recorded invoice. It shows the amount of money owed by the seller to the buyer.

A credit note is issued when a seller locates a discrepancy in an existing invoice, for instance, by charging an incorrect amount or when a buyer returns the goods. It represents the amount that was paid in excess by the buyer and is due to be returned to them by the seller.

The issuance of a credit note shows decrease in tax liability.

Debit Note-

A debit note, also known as a debit memo, is issued from a buyer to their seller to request a return of funds due to incorrect or damaged goods, purchase cancellation, or other specified circumstances.

The issuance of a debit note or a supplementary invoice creates additional tax liability.

Detention-

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 released. Often detention is only by verbal instruction and goods can be release without any formality, if the documents etc. are found to be in order.

Seizure-

Goods are taken in custody by the department/Govt, but the property of goods remains with the owner.

Confiscation-

The goods become property of Govt and Govt can deal with it as it wants.

Zero Rated Supply-

Any supplies made by a registered dealer as an export (both goods or services) or supply to an SEZ qualifies for Zero Rated Supplies in GST. The rate of tax on such supplies is 'Zero' or we can say the supplies are tax-free. The supplies to a developer of an SEZ is also covered under Zero-Rated Supplies in GST as no tax is levied on these supplies as well. There are certain supplies on which there is no incidence of GST. It is important to understand the underlying difference among all such supply criterions:

Particulars	NIL Rated Supplies	Non-Taxable Supplies	Exempt Supplies	Zero-Rated Supplies
Meaning	Goods and services on which 0% GST is applicable	Goods and services on which GST is not levied at all	Supplies which are exempt from payment of GST	Goods or services which are exported or supplied to SEZ
Input credit availability	Not available	Not available	Not available	Available
GST applicability	Falls within GST ambit	Doesn't fall within GST ambit	Falls within GST ambit	Falls within GST ambit
Example	Hotel accommodation with tariff below Rs. 1,000	Supply of alcohol for human consumption	Inward supplies from unregistered dealers	Export of shoes to South Africa

Deemed Export-

Export of goods, in common parlance, means taking goods outside India. Such supplies are treated as zero-rated supplies under GST. However, the Central Government may notify certain categories of supplies of goods, which would be treated as deemed exports. This means that such supplies shall be treated as exports even if such goods are not taken outside India.

GTA-

Goods Transport Agency (GTA) means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called. This means, while others might also hire out vehicles for goods transportation, only those issuing a consignment note are considered as a GTA. Thus, a consignment note is an essential condition to be considered as a GTA.

Consignment note is a document issued by a goods transportation agency against the receipt of goods for the purpose of transporting the goods by road in a goods carriage. If a consignment note is not issued by the transporter, the service provider will not come within the ambit of the goods transport agency. If a consignment note is issued, it means that the lien on the goods has been transferred to the transporter. Now the transporter is responsible for the goods till its safe delivery to the consignee. In general terms we called consignment note as Bilty/ Lory receipts etc.

Inverted Duty Structure-

The term 'Inverted Tax Structure' refers to a situation where the rate of tax on inputs purchased is more than the rate of tax on outward supplies. That means Inverted Duty Structure arises when tax paid on Inward Supplies is higher than tax payable on outward supplies.

For example- In works contract of Cemented Road construction, as input the rate of tax on Cement is @28% while as supply of service the rate of work contract service is @18%.

Tax Invoice-

Tax invoice is an invoice issued for taxable supply of goods & services. Tax invoice broadly contains details like description, quantity, value of goods/service, HSN/SAC, tax charged thereon and other particulars as may be prescribed. Tax invoice is a primary evidence and legal documents for recipient to claim input tax credit of goods & service. The invoice shall be prepared in triplicate, in case of goods and in case of service, invoice shall be in duplicate.

The serial no of invoices issued during a tax period shall be furnished electronically in Form GSTR-1.

Govt. has been issued instructions that tax invoice shall have Quick Response (QR) code, with terms and conditions.

The provision pertaining to Tax invoice is given under Section 31 of the CGST Act to be read with CGST Rule 46 to 55.

E-invoice:

'E-Invoicing' or 'electronic invoicing' is a system in which B2B invoices and a few other documents are authenticated electronically by GSTN for further use on the common GST portal.

E-Invoicing does not imply the generation of invoices on the GST portal but it means submitting an already generated standard invoice on a common e invoice portal. Thus, it automates multi-purpose reporting with a one-time input of invoice details.

Under the electronic invoicing system, an identification number will be issued against every invoice by the Invoice Registration Portal (IRP), managed by the GST Network (GSTN). The National Informatics Centre launched the first IRP at einvoice1.gst.gov.in.

All invoice information gets transferred from this portal to both the GST portal and the e-way bill portal in real-time. Therefore, it eliminates the need for manual data entry while filing GSTR-1 returns and generation of part-A of the e-way bills, as the information is passed directly by the IRP to the GST portal.

E-invoice has been made mandatory w.e.f. 01.08.2023 for registered person whose aggregate turnover in a financial year exceeds Rs.5 crores.

'Rectification' under GST

Rectification of errors apparent on the face of record

Section-161

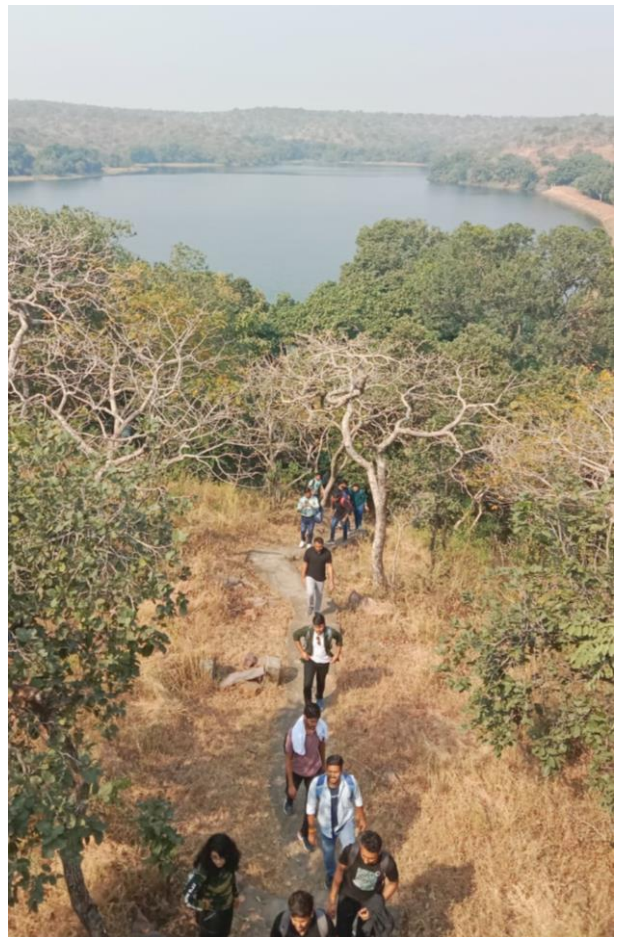
Without prejudice to the provisions of section 160, and notwithstanding anything contained in any other provisions of this Act, any authority, who has passed or issued any decision or order or notice or certificate or any other document, may rectify any error which is apparent on the face of record in such decision or order or notice or certificate or any other document, either on its own motion or where such error is brought to its notice by any officer appointed under this Act or an officer appointed under the State Goods and Services Tax Act or an officer appointed under the Union Territory Goods and Services Tax Act or by the affected person within a period of three months from the date of issue of such decision or order or notice or certificate or any other document, as the case may be:

Provided that no such rectification shall be done after a period of six months from the date of issue of such decision or order or notice or certificate or any other document:

Provided further that the said period of six months shall not apply in such cases where the rectification is purely in the nature of correction of a clerical or arithmetical error, arising from any accidental slip or omission:

Provided also that where such rectification adversely affects any person, the principles of natural justice shall be followed by the authority carrying out such rectification

Compiled by
Bharat Kumar Tamrakar
AAD, NACIN Bhopal



Life at NACIN Bhopal



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**National Academy of Customs, Indirect Taxes & Narcotics, Zonal Campus, 3rd, 4th & 5th Floor, Sagar Landmark,
Commercial Block, Ayodhya Bypass Road, Bhopal**