

For Departmental Use Only



Beginner's Guide To GST

(Training Material for Induction Courses)

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

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, Lucknow has decided to prepare booklet on GST provisions. "Beginner's Guide to GST" is an attempt by NACIN, ZC, Lucknow to provide comprehensive training material for Induction trainee officers. This training material is prepared by the faculty of NACIN Zonal Campus, Lucknow. 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 11 topics right from Registration to Show Cause Notice. 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 "Beginner's guide to GST". Please send your suggestions to our official e-mail i.e. nacin.kanpur@gov.in

February, 8th, 2024

NACIN, Zonal Campus, Lucknow

MESSAGE FROM PR. ADDITIONAL DIRECTOR GENERAL, NACIN, ZC,
LUCKNOW



It gives me great pleasure to introduce this book “Beginner’s Guide to GST” to all the newly joined officers of the department. In this book efforts have been made to explain important topics related to GST in simple language. It is expected that it will help departmental officers in their day-to-day work. The matter in this book is based on variety of sources including material freely available on Internet/Websites. The purpose of this e-Book is primarily for education and training. This book has been prepared with active assistance and contribution of in-house faculty of NACIN, Lucknow, namely Shri Rajnikant Mishra (Additional Director), Shri Vinay Misra (Deputy Director), Shri A.H. Siddiqui, (Assistant Director), Shri Arun Singh (Assistant Director), Shri Navendu Kumar Das (Assistant Director) and Shri Sushil Kumar Srivastava (Assistant Director). I appreciate their participation and willingness to prepare the book so as to help fellow departmental officers in capacity building and upgrading their knowledge.

Sd/-

(Ved Prakash Shukla)

Pr. Additional Director General

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INDEX

Sl. No.	Topic	Page No.
1	Registration under GST	5-10
2	GST Composite Levy	11-15
3	Levy & Collection of Tax	16-20
4	Input Tax Credit	21-27
5	Audit Under GST	28-31
6	Notes on Sections (CGST)	32-44
7	Notes on Sections (IGST)	45-47
8	E-Way bills	48-50
9	Scrutiny under GST	51-53
10	Grant of Rewards	54-63
11	Show Cause Notices	64-69

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.

REGISTRATION UNDER GST

Introduction

Registration is the most fundamental requirement for identification of taxpayers 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:

- (a) He is legally recognized as supplier of goods or services;
- (b) 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;
- (c) He can claim Input Tax Credit of taxes paid on his purchases / procurements and can utilize the same for payment of taxes due on supply of goods or services;
- (d) 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 Annual Turnover below ` 40 Lakh (in case of goods ` 20 Lakh if business is in Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura and Uttarakhand) and ` 20 Lakh (in case of services) (` 10 Lakh if business is in Assam, Arunachal Pradesh, Himachal Pradesh, Manipur, Mizoram, Sikkim, Meghalaya, Nagaland, Tripura and Uttarakhand) need not register. The small businesses, having turnover below the threshold limit can, however, voluntarily opt to register.

The Aggregate Annual 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 i.e. where total tax is payable by the recipient of the goods and / or services, there is no requirement for such a supplier to register in light of Notification No. 05/2017-Central Tax dated 19.06.2017. In GST, if the supplier supplies outside the State, he is required to take registration irrespective of the size of his turnover. However, this compulsion is relaxed for certain categories of suppliers like supplier of handicraft goods, supplier of services, supplier of job work services. If the turnover of the supplier of handicraft goods is less than specified limit, they will not be required to register, even if they supply such goods outside the State. In such cases they will also not be required to obtain registration as a casual taxable person in other States for making supply of the handicraft goods. Also, small Suppliers of services, including job-workers (except in relation to jewelry, goldsmiths' and silversmiths' wares) whose Aggregate Annual Turnover is less than ` 20/10 Lakh are exempted from registration, even if they supply services outside the State. Furthermore, persons supplying

services through e-commerce operators are also entitled to avail the ` 20/10 Lakh threshold exemption for registration (Notification No. 65/2017-Central tax dated 15.11.2017).

Features 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. Area upto 12 nautical miles in the sea is considered part of the nearest coastal State. Area beyond 12 nautical miles and upto 200 nautical miles, which is not covered under any Union Territory is considered as a separate Union Territory for the GST law. A person registered in one State is considered 'unregistered person' outside the State. If a person has unit in SEZ and also unit in domestic tariff Area (i.e. outside the SEZ) in the same State, then he has to take separate registration for his SEZ unit as a separate business vertical of him. If a supplier also wants to distribute credit to his same-PAN entities, then he will take separate registration as 'input service distributor' in addition to his registration as 'supplier'. Unlike service tax regime, the GST law does not have the facility of centralized registration for units located across multiple States.

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 cess.

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 a person having multiple places of business in a State or Union Territory may be granted a separate registration for each such place of business. Further a unit in SEZ or a SEZ developer needs to necessarily obtain separate registration. Every registered person is required to display his certificate of registration in a prominent location at his principal place of business and at every additional place of business. He is also required to display his GSTIN on the name board exhibited at the said places.

Generally, the liability to register under GST arises when a person is a "supplier" within the meaning of the term, and also if his Aggregate Annual Turnover in the financial year is above the specified exemption threshold. 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 specified threshold exemption, as the case may be, is not available to them. Some of such suppliers who need to register compulsorily irrespective of the quantum of their turnover are

- (i) **inter-state suppliers:** Persons making an inter-state taxable supply of goods or services are required to take registration under section 24 (i), regardless of the threshold limit.
- (ii) **Reverse Charge Mechanism:** Persons who are liable to pay tax under the reverse charge mechanism on inward supplies of goods or services are required to take registration under section 24 (iii), regardless of the threshold limit.
- (iii) **Casual Taxable Persons:** a casual taxable person making taxable supply;

- (iv) person who are required to pay tax under sub-section (5) of section 9;
- (v) persons who are required to deduct tax under section 51,
- (vi) persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise
- (vii) **Input Service Distributor:** They need to separately register as ISD regardless of the turnover.
- (viii) every electronic commerce operator [who is required to collect tax at source under section 52
- (ix) every person supplying online information and database access or retrieval services from a place outside India to a person in India, other than a registered person

Physical verification in connection with registration:

Where the Proper Officer is satisfied that the physical verification of the place of business of a person is required due to failure of Aadhaar authentication or due to not opting for Aadhaar authentication before the grant of registration, or due to any other reason after the grant of registration, he may get such verification of the place of business, in the presence of the said person, done and the verification report along with the other documents, including photographs, shall be uploaded in FORM GST REG-30 on the common portal within a period of fifteen working days following the date of such verification.

Authentication of Aadhaar number under the GST Act:

With effect from 21st August, 2020, an applicant who opts for authentication of Aadhaar number, while submitting the application in PART B of FORM GST REG-02, has to undergo authentication of Aadhaar number and the date of submission of the application in such cases shall be the date of authentication of the Aadhaar number, or fifteen days from the submission of the application in PART B of FORM GST REG-01, whichever is earlier.

If a person does not undergo Aadhaar authentication or does not opt for authentication of Aadhaar number, then registration will be granted only after physical verification of principal place of business within 30 days from date of application.

The provisions of Aadhaar authentication is not applicable to a persons who is:

- (a) not a citizen of India; or
- (b) a department or establishment of Central or State Government; or
- (c) a local authority; or
- (d) a statutory body; or
- (e) a PSU; or
- (f) a person applying for registration under section 25 (9) of the CGST Act.

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 address of the principal place of business or additional place of business, addition, deletion or retirement of partners or directors, Karta, Managing Committee, Board of Trustees, Chief Executive

Officer or equivalent, responsible for the day-to-day affairs of the 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. A functionality to update email and mobile number of the authorised signatory is available in the GST system. The taxpayers can get it done by the concerned jurisdictional tax authority.

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 preceding to 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.

Till 23rd January, 2018 the voluntary registration taken despite not being liable for obtaining registration could not be cancelled until expiry of one year. However, the rule has now been amended to allow voluntary registration to be cancelled any time. In all the aforesaid cases of cancellation, the Proper Officer, if satisfied, has to cancel the registration in FORM GST REG-19 within 30 days from the date of application or the date of reply to notice (if issued, when rejection is approved by the Proper Officer).

Suspension of Registration:

- (a) where a registered person has applied for cancellation of registration, the registration shall be deemed to be suspended from the date of submission of the application or the date from which the cancellation is sought, whichever is later, pending the completion of proceedings for cancellation of registration.
- (b) where the Proper Officer has reasons to believe that the registration of a person is liable to be cancelled under Section 29, he may suspend the registration of such person with effect from a date to be determined by him, pending the completion of the proceedings for cancellation of registration.
- (c) where, a comparison of the returns furnished by a registered person with the details of outward supplies furnished in FORM GSTR-1, or the details of inward supplies derived based on the details of outward supplies furnished by his suppliers in their FORM GSTR-1, or such other analysis, as may be carried out on the recommendations of the Council, show that there are significant differences or anomalies indicating

contravention of the provisions of the Act or the Rules made thereunder, leading to cancellation of registration of the said person, his registration shall be suspended and the said person shall be intimated in FORM GST REG-31, electronically, on the common portal, or by sending a communication to his e-mail address, highlighting the said differences and anomalies and asking him to explain, within a period of thirty days, as to why his registration shall not be cancelled.

- (d) a registered person, whose registration has been suspended shall not make any taxable supply (i.e. not issue a tax invoice and, accordingly, not charge tax on supplies made by him) during the period of suspension and shall not be required to furnish any return under Section 39.
- (e) a registered person, whose registration has been suspended shall not be granted any refund during the period of suspension of his registration.
- (f) the suspension of registration shall be deemed to be revoked upon completion of the proceedings for cancellation of registration by the proper officer and such revocation shall be effective from the date on which the suspension had come into effect. However, the suspension of registration may be revoked by the Proper Officer, anytime during the pendency of the proceedings for cancellation, if he deems fit.
- (g) where any order having the effect of revocation of suspension of registration has been passed, the registered person has to issue a revised invoice within one month in respect of the supplies made during the period of suspension, and declare the same in the first return furnished by him after revocation of suspension of registration.

Revocation of Cancellation

- i. When the registration has been cancelled by the Proper Officer (Superintendent of Central Tax) on his own motion and not on the basis of an application by the registered person, then the registered person, whose registration has been cancelled, can submit an application for revocation of cancellation of registration, in FORM GST REG-21, to the Proper Officer (Assistant or Deputy Commissioners of Central Tax), within a period of thirty days from the date of the service of the order of cancellation of registration at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.
- ii. However, if the registration has been cancelled for failure to furnish returns, application for revocation shall be filed, only after such returns are furnished and any amount due as tax, in terms of such returns, has been paid along with any amount payable towards interest, penalty and late fee in respect of the said returns.
- iii. On examination of the application, if the Proper Officer (Assistant or Deputy Commissioners of Central Tax) is satisfied, for reasons to be recorded in writing, that there are sufficient grounds for revocation of cancellation of registration, then he shall revoke the

cancellation of registration by an order in FORM GST REG-22 within a period of thirty days from the date of the receipt of the application and communicate the same to the applicant.

iv. However, if on examination of the application for revocation, if the Proper Officer (Assistant or Deputy Commissioners of Central Tax) is not satisfied then he will issue a notice in FORM GST REG-23 requiring the applicant to show cause as to why the application submitted for revocation should not be rejected and the applicant has to furnish the reply within a period of seven working days from the date of the service of the notice in FORM GST REG-24.

v. Upon receipt of the information or clarification in FORM GST REG-24, the Proper Officer (Assistant or Deputy Commissioners of Central Tax) shall dispose of the application within a period of thirty days from the date of the receipt of such information or clarification from the applicant. In case the information or clarification provided is satisfactory, the Proper Officer (Assistant or Deputy Commissioners of Central Tax) shall dispose the application as per para (iii) above. In case it is not satisfactory the applicant will be mandatorily given an opportunity of being heard, after which the Proper Officer (Assistant or Deputy Commissioners of Central Tax) after recording the reasons in writing may by an order in FORM GST REG- 05, reject the application for revocation of cancellation of registration and communicate the same to the applicant.

vi. The revocation of cancellation of registration under the SGST Act or the UTGST Act, as the case may be, shall be deemed to be a revocation of cancellation of registration under CGST Act.

GST Composition Levy Scheme

Introduction:

The composition scheme under GST is an alternative method of levy of GST. This scheme may be seen as a facilitation measure devised for small taxpayers having small turnover upto a prescribed limit.

The objective of the scheme is to bring simplicity, ease the compliance burden and reduce cost of compliance for small taxpayers.

It is to be noted that the scheme is optional and applicable to only those small taxpayers who opt for the same.

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 GSTR-4**.

Relevant Legal Provisions:

- Section 10 of the CGST Act, 2017 -composition levy
- Section 39 (2) of CGST Act, 2017- furnishing of return for Taxable Person under Composition levy.
- GST Composition Rules.

[Also refer to identical provisions in the State GST Act where the supplier is located]

Relevant Definitions: Term (Reference section)

- **Aggregate Turnover:** (Section 2(6) of CGST Act, 2017);
- **Turnover in state or turnover in UT** (Section 2 (112) of CGST Act, 2017)
- **Reverse Charge** (Section 2 (98) of the CGST Act, 2017)
- **Exempt Supply** (Section 2 (47) of the CGST Act, 2017)
- **Non-taxable supply** (Section 2 (78) of the CGST Act, 2017)

Rate of Tax under the scheme:

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

- (a) 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.
- (b) 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.
- (c) 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.
- (d) 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.

Other tax liability to be discharged:

- Any supply of goods/services on which tax is to be paid on reverse charge basis by the recipient
(Ref: Section 9(3) of the CGST Act, 2017 read with Rule 2(d) of GST Composition Rules)
- Any supply of goods/services received from non-registered supplier (Ref: Section 9(4) of the CGST Act, 2017 read with Rule 2(d) of GST Composition Rules)

Other Key Conditions for Availing Composition Scheme:

- He is neither a casual taxable person nor a non-resident taxable person; (Ref: Rule 3(1)(a) of composition Rules)
- If migrating from existing scheme, the goods held in stock by him on the appointed day have not been purchased in the course of inter-State trade/ commerce or imported from a place outside India or received from his branch situated outside the State or from his agent or principal outside the State. (Ref: Rule 3(1)(b) of composition Rules)
- The goods held in stock by him have not been purchased from an unregistered person and where purchased, he pays the tax under reverse charge. (Ref: Rule 3(1)(c) of composition Rules)
- He shall mention the words "composition taxable person" on every notice or signboard displayed at a prominent place at his principal place of business and at every additional place or places of business. (Ref: Rule 3(1)(g) of composition Rules)
- He is not entitled to any Input tax credit (Ref: Section 10(4) of the CGST Act, 2017)
- He cannot collect any tax from the recipient on supplies made by him (Ref: Section 10(4) of the CGST Act, 2017)

Non-eligibility for Composition Scheme (Ref: Section 10 of CGST Act, 2017):

If taxable person,

- Engaged in supplies of services other than supply of goods, being food or any other article of human consumption or any drink (other than alcoholic liquor) {Ref: Clause (b) of Paragraph 6 of Schedule II of CGST Act, 2017} i.e. supplies other than restaurants, caterers not eligible (Ref: Section 10(2)(a) of the CGST Act,2017).
- Supply of goods not leviable to GST (Ref: Section 10(2)(b) of the CGST Act,2017).
- Making inter-state supplies of goods (Ref: Section 10(2) (c) of the CGST Act,2017).
- Making supplies through electronic commerce operator (Ref: Section 10(2)(d) of the CGST Act,2017).
- Being manufacturer of any notified goods (as may be notified by Government by issuing notification) (Ref: Section 10(2)(e) of the CGST Act,2017)

Filing of Intimation / Statement / Return:

- (a) The eligible existing registrants 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.
- (b) 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.

- (c) 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.
- (d) 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.

Issue of Bill of Supply:

- Bill of supply to be issued instead of tax invoice (*Ref: section 31(3)(c) of the CGST Act, 2017 and Rule 4 of Invoice Rules*).
- Bill of supply to carry words, namely, “**composition taxable person, not eligible to collect tax on supplies**” on the top. (*Ref: Rule 3(g) of GST Composition Rules*).

Payment of Tax

- Tax payable for each quarter to be paid by 18th day from the end of quarter (*Ref: Section 39(7) of the CGST Act, 2017*).
- Self-assessed tax can be paid after due date (late payment allowed up to 30 days) on payment of interest.
- Late payment of self-assessed tax by more than 30 days will result in imposition of penalty of 10% of tax amount (*Ref: Section 73(11) of the CGST Act, 2017*).
- Interest to be paid in case of late payment of self-assessed tax or short payment of tax. (*Ref: Section 50 of the CGST Act, 2017*).

Exit from Composition Scheme:

- Taxable person availing composition scheme can anytime exit out of this scheme and opt for normal tax scheme with benefit of input tax credit subject to following the procedure prescribed in this regard. (*Ref: Rule 4(3) of GST composition rules*).
- Not furnishing returns for three consecutive tax periods may result in cancellation of registration by proper officer (*Ref: Section 29 (2) (b) of CGST Act, 2017*).

Offences and Penalty:

- For various offences and penalties (both civil or criminal), refer to the summary sheets on offences and penalties

Time of Exercising of option for Availing Composition Scheme (*Ref: Rule 1 of GST composition rules*)

- Option to avail scheme prior to appointed day or within 30 days from the appointed day
or
- Prior to the beginning of financial year
or
- At the time of first registration.

Comparison of Composition GST levy vs. Normal GST levy at a Glance

Subject area	Composition scheme	Normal scheme
Eligibility for Input tax credit	Not eligible	Eligible
Filing of return	Yearly	Monthly
Collection of taxes from Buyers	Not allowed to collect tax paid or to be paid from buyers.	Allowed to collect tax paid or to be paid from buyers.

Input tax credit by buyers	Not allowed	Allowed
Compliance	Low as only 5 return to be filed annually	High, as 37 returns to be filed annually
Inter-state supplies	Not allowed	Allowed
Supply of services	Not allowed except supply of food /Drinks (other than alcoholic drinks) i.e. only restaurant, caterer service allowed	No such restriction
Rate of GST payable	Prescribed % age of turnover as CGST and UTGST/SGST	As per rates of GST notified- CGST and SGST/UTGST in case of intra state supplies or IGST in case of inter-state supplies.
Document to be issued	Bill of supply	Tax Invoice

Other important Points:

- Government empowered to increase Rs. 50 lakhs limit to Rs. 1 crore on the recommendation of GST Council (*Ref: Proviso to Section 10 (1) of CGST Act, 2017*).
- Government empowered to notify manufacturer of goods not eligible for composition levy scheme (*Ref: Proviso to Section 10 (2)(e) of CGST Act, 2017*).
- In case of establishment being in more than one State/UT, all such establishments are required to avail composition scheme or to be under normal taxpaying scheme (*Ref: Proviso to Section 10 (2) of CGST Act, 2017*).
- On “**aggregate turnover**” exceeding Rs. 1.50 cr. at any point of time in FY, the taxpayer becomes ineligible for composition levy scheme and will be required to pay taxes under normal GST regime. (*Ref: Section 10 (3) of CGST Act, 2017*).

Procedure for Opting for Composition Scheme

- Procedure for opting for composition scheme provided in rule 1 and rule 2 of the GST Composition Rules.
- The assesses can be divided into following 3 categories:
 - Person registered under existing laws exercising the option from appointed date.
 - Person opting new registration by filing form GST REG-1.
 - Registered person opting for composition.

(A). Existing registered under Existing law exercising Option from Appointed Date: (*Ref: Rule 1(1) of GST composition Rules*).

- As per rule 1(1) of the Composition Rules, the person who has been granted registration on provisional basis and who opts to pay tax under section 10 shall electronically file intimation in form GST CMP-01 on common portal prior to the appointed day or within 30 days.

(B). Newly registered Person (not registered under Existing law) exercising option at the time of obtaining registration (*Ref: Rule 1(2) of GST composition Rules*).

- Any person who is not registered under the existing law, but intends to register either

from appointed date or subsequent to that will have to make application in form GST-REG-1. He shall indicate the option of availing benefit of section 10. Such exercising of option in form GST REG-1 shall be considered as intimation to pay tax under the said section as provided in rule 1(2) of GST Composition Rules.

(C). Registered Person opting u/s 10 after obtaining registration *(Ref: Rule 1(3) of GST Composition Rules).*

- Any other registered person who wants to opt for payment of tax under section 10 shall electronically file intimation in form GST CMP-02 duly signed in common portal prior to commencement of the financial year for which the option to pay tax under section is exercised.

Levy and Collection of Tax

1. Scope of Supply

Statutory Provisions: Section 7, Schedule I, Schedule II & Schedule III of CGST Act 2017

Relevant definitions:

- (i) Section 2 (52) of CGST Act 2017 "goods" means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply;
- (ii) Section 2 (102) of CGST Act 2017 "services" means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;
- (iii) Section 2(11) of IGST Act 2017 "import of services" means the supply of any service, where"
 - (i) the supplier of service is located outside India;
 - (ii) the recipient of service is located in India; and
 - (iii) the place of supply of service is in India;

Supply has been defined in section 7 of CGST Act 2017. Schedule I of the Act specify the activity which are considered as supply even when they are rendered without consideration. Schedule II of the Act specifies the matter which is to be considered as supply of goods or supply of services.

1. Definition of Supply:

As per **Section 7** of CGST Act 2017 "Supply" includes""

- (a) all forms of supply of goods or **services** or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a **consideration** by a person in the course or furtherance of business;
- (aa) the activities or transactions, by a **person**, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.

Explanation. "For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;]

- (b) import of services for a consideration whether or not in the course or furtherance of business; 2[and]
- (c) the activities specified in **Schedule I**, made or agreed to be made without a consideration;

(1A) where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in **Schedule II.**]

2. Supply without consideration:

Section 7(1)(c) speaks about the, the activities specified in Schedule I shall be considered as supply even when these are performed without consideration.

3. Activities either goods or services

Section 7(1A) provides that the activities of transaction listed in Schedule-II shall either be considered as goods or services as specified in the schedule.

4. Activities which are neither supply of goods nor supply of services

Section 7(2) of CGST Act 2017 provides that the

- (a) activities or transactions specified in **Schedule III**; or
- (b) such activities or transactions undertaken by the Central Government, a State Government or any **local authority** in which they are engaged as public authorities, **as may be notified** by the Government on the recommendations of the **Council**, shall be treated neither as a supply of goods nor a supply of services

5. Power to notify the activity as supply of goods or supply of service

Section 7 (3) provides power to Central or State Government on recommendation of council to specify by notification to consider any transaction as supply of goods or services or neither of them.

2. Composite and Mixed Supplies

Statutory Provisions: Section 8 of CGST Act 2017

Relevant definitions:

- (i) Section 2 (30) of CGST Act 2017 "**composite supply**" means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;

Illustration: Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply.

- (ii) Section 2 (74) of CGST Act 2017 "**mixed supply**" means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply;

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

- (iii) Section 2 (90) of CGST Act 2017 "**principal supply**" means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary;

Sometimes supply consists of two or more supply of goods or services or any combination thereof. These supplies are **naturally bundled** and supplied in conjunction with each other in the ordinary course of trade. Such supply is called **composite supply**.

The phrase **naturally bundled** has not been defined in GST law. CBEC Education guide provides some indicators of services being bundled in nature:

1. The perception of the consumer or the service receiver. If large number of service receivers of such bundle of services reasonably expect such services to be provided as a package, then such a package could be treated as naturally bundled in the ordinary course of business.
2. Majority of service providers in a particular area of business provide similar bundle of services. For example, bundle of catering on board and transport by air is a bundle offered by a majority of airlines.
3. The nature of the various services in a bundle of services will also help in determining whether the services are bundled in the ordinary course of business. If the nature of services is such that one of the services is the main service and the other services combined with such service are in the nature of incidental or ancillary services which help in better enjoyment of a main service.

Sometimes supply consists of two or more supply of goods or services or any combination thereof. These supplies are independent of each other and are not necessarily required to be sold together. Such supply is called mixed supply.

4. As per Section 8 of CGST Act 2017 the tax liability on a **composite** or a **mixed supply** shall be determined in the following manner, namely:"
 - (a) a **composite supply** comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such **principal supply**; and
 - (b) a mixed supply **comprising** two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.

3. Levy and Collection

Statutory Provisions: Section 9 of CGST Act 2017 and Section 5 of IGST Act 2017

Important Notifications: 01/2017, 11/2017, 13/2017 all CT (Rate), 1/2017, 8/2017, 10/2017 all IT (Rate), All dated 28.06.2017

Relevant definitions:

- (i) Section 2 (98) of CGST Act 2017 "**reverse charge**" means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (3) or sub-section (4) of section 9, or under sub-section (3) or subsection (4) of section 5 of the Integrated Goods and Services Tax Act;

- (ii) Section 2 (94) of CGST Act 2017 "**registered person**" means a person who is registered under section 25 but does not include a person having a Unique Identity Number;
- (iii) Section 2 (107) of CGST Act 2017 (107) "**taxable person**" means a person who is registered or liable to be registered under section 22 or section 24;
- (iv) Section 2 (108) of CGST Act 2017 "**taxable supply**" means a supply of goods or services or both which is leviable to tax under this Act;

The tax becomes payable when liability to pay tax arises and liability to pay tax arises when taxable event happened. In GST taxable event is supply of goods or services or both. There are two methods of charging of tax.

1. Forward charge, in which supplier is liable to pay tax (refer Section 9 (1) of CGST Act 2017)
2. Reverse charge, in which recipient is liable to pay tax (refer Section 9 (3) & 9(4) of CGST Act 2017)

Section 9 (1) : Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or **services** or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent., as may be notified by the **Government** on the recommendations of the **Council** and collected in such manner as may be **prescribed** and shall be paid by the **taxable person**.

Section 9 (3): The Government may, on the recommendations of the Council, by **notification**, specify categories of supply of goods or services or both, the tax on which shall be paid on **reverse charge** basis by the **recipient** of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the **person** liable for paying the tax in relation to the supply of such goods or services or both.

Section 9 (4) : The Government may, on the recommendations of the Council, by notification, specify a class of **registered persons** who shall, in respect of supply of specified categories of **goods** or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.]

Section 5(1) of IGST Act : Subject to the provisions of sub-section (2), there shall be levied a tax called the integrated goods and services tax on all inter-State supplies of goods or services or both; except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 of the Central Goods and Services Tax Act and at such rates, not exceeding forty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person:

Provided that the integrated tax on goods 2[other than the goods as may be notified by the Government on the recommendations of the Council] imported into India shall be levied and collected in accordance with the provisions of [section 3 of the Customs Tariff Act, 1975](#) on the value as determined under the said Act at the point when duties of customs are levied on the said goods under [section 12 of the Customs Act, 1962](#).

4. Power to grant exemption from tax

Statutory Provisions: Section 11 of CGST Act 2017 and Section 6 of IGST Act 2017

Important Notifications: 02/2017, 12/2017 all CT (Rate), 2/2017, 9/2017 all IT (Rate) All dated 28.06.2017

Section 11 of CGST Act, 2017 provides the power and flexibility to the Government to grant exemptions.

Section 11(1) of CGST Act, 2017 says, Where the **Government** is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the **Council**, by **notification**, exempt generally, either absolutely or subject to such conditions as may be specified therein, **goods** or services or both of any specified description from the whole or any part of the tax leviable thereon with effect from such date as may be specified in such notification.

Key Features of section 11(1):

1. Government is empowered to grant exemption from tax
2. If it is in public interest
3. On recommendation of GST Council
4. By issuance of notification
5. On goods, services or both
6. Exempt absolutely or subject to such conditions
7. It can be whole or part of tax leviable
8. Effective date may be specified in notification

(2) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by special order in each case, under circumstances of an exceptional nature to be stated in such order, exempt from payment of tax any goods or services or both on which tax is leviable.

(3) The Government may, if it considers necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2), insert an explanation in such notification or order, as the case may be, by notification at any time within one year of issue of the notification under sub-section (1) or order under sub-section (2), and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.

Key features of Section 11(3):

If explanation is inserted to Notification or Orders issued under section 11(1) or section 11(2) within one year, explanation of an exemption notification will have a retrospective effect from the date of exemption notification.

Explanation. "For the purposes of this section, where an exemption in respect of any goods or services or both from the whole or part of the tax leviable thereon has been granted absolutely, the **registered person** supplying such goods or services or both shall not collect the tax, in excess of the effective rate, on such supply of goods or services or both.

INPUT TAX CREDIT

The GST regime promises seamless credit on goods and services across the entire supply chain with some exceptions like supplies charged to tax under composition scheme and supply of exempted goods and/or services. Input tax credit (ITC) is considered to be the lifeline of the GST regime. In fact, it is the provisions of ITC, which essentially make GST a value added tax i.e., collection of tax at all points of supply chain after allowing credit of tax paid at earlier points.

1. Eligibility and conditions for taking input tax credit :

Statutory Provisions: Section 16

Relevant Rules: Rule 36 and Rule 37

Relevant definitions:

1. **Section 2 (59) "input"** means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business;
2. **Section 2 (62) "input tax"** in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes"
 - a. the integrated goods and services tax charged on import of goods;
 - b. the tax payable under the provisions of sub-sections (3) and (4) of section 9;
 - c. the tax payable under the provisions of sub-section (3) and (4) of section 5 of the Integrated Goods and Services Tax Act;
 - d. the tax payable under the provisions of sub-section (3) and sub-section (4) of section 9 of the respective State Goods and Services Tax Act; or
 - e. the tax payable under the provisions of sub-section (3) and sub-section (4) of section 7 of the Union Territory Goods and Services Tax Act,

but does not include the tax paid under the composition levy;
3. **Section 2 (63) "input tax credit"** means the credit of input tax;
4. **Section 2 (60) "input service"** means any service used or intended to be used by a supplier in the course or furtherance of business;
5. **Section 2 (19) "capital goods"** means goods, the value of which is capitalized in the books of account of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business;
6. **Section 2 (43) "electronic cash ledger"** means the electronic cash ledger referred to in subsection (1) of section 49;
7. **Section 2 (46) "electronic credit ledger"** means the electronic credit ledger referred to in subsection (2) of section 49;

Section 16(1) says Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are

used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.

Key Features: Eligibility for taking Input tax credit:

- (i) Person should be registered
- (ii) Goods or services or both supplied to them on payment of tax
- (iii) Goods or services or both supplied to them should be used or intended to be used in the course or furtherance of his business
- (iv) Amount shall be credited to the electronic credit ledger of such person

Section 16(2) says Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,”

a) He is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;

[(aa) the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37 (Inserted w. e. f. 1st January, 2022 vide Notification No. 39/2021- CT dated 21st December, 2021)]

b) he has received the goods or services or both.

[Explanation. - For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services-

(i) where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;

(ii) where the services are provided by the supplier to any person on the direction of and on account of such registered person.]

[(ba) the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted (Inserted w. e. f. 1st October, 2022 vide Notification No. 18/2022- CT dated 28.09.2022)]

c) Subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilization of input tax credit admissible in respect of the said supply; and

d) He has furnished the return under section 39:

Provided that where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment:

Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be [paid by him along with interest payable under section 50] , in such manner as may be prescribed:

Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him [to the supplier] of the amount towards the value of supply of goods or services or both along with tax payable thereon.

Section 16(3) says where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961, the input tax credit on the said tax component shall not be allowed.

Section 16(4) says A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the [thirtieth day of November] following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier.

Provided that the registered person shall be entitled to take input tax credit after the due date of furnishing of the return under section 39 for the month of September, 2018 till the due date of furnishing of the return under the said section for the month of March, 2019 in respect of any invoice or invoice relating to such debit note for supply of goods or services or both made during the financial year 2017-18, the details of which have been uploaded by the supplier under sub-section (1) of section 37 till the due date for furnishing the details under sub-section (1) of said section for the month of March, 2019.

Key features : Conditions for taking Input tax credit:

- (i) Possession of tax invoice
- (ii) Receipt of goods or services or both
- (iii) tax charged in respect of such supply has been actually paid to the Government
- (iv) He has furnished the return under section 39
- (v) Did not claim depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961
- (vi) Person shall not be entitled to take input tax credit in respect of any invoice or debit note after 30th November following the end of financial year to which such invoice or debit note pertains.
- (vii) Payment made to supplier within 180 days. Refer Rule 37
- (viii) The burden of proving such claim shall lie on such person (who has availed the ITC). Refer section 155

Documentary requirements for claiming input tax credit

Rule 36(1) says the input tax credit shall be availed by a registered person, including the Input Service Distributor, on the basis of any of the following documents, namely, -

- (a) an invoice issued by the supplier of goods or services or both in accordance with the provisions of section 31;
- (b) an invoice issued in accordance with the provisions of clause (f) of sub-section (3) of section 31; subject to the payment of tax; [RCM]
- (c) a debit note issued by a supplier in accordance with the provisions of section 34;
- (d) a bill of entry or any similar document prescribed under the Customs Act, 1962 or rules made there under for the assessment of integrated tax on imports;

(e) an Input Service Distributor invoice or Input Service Distributor credit note or any document issued by an Input Service Distributor in accordance with the provisions of sub-rule (1) of rule 54.

2. Apportionment of credit and blocked credits:

The fundamental principle of credit scheme under value added tax is that tax paid on inputs, input services and capital goods can be availed as credit only when the output is taxable. Thus, when tax is not payable on output, credit cannot be availed. Accordingly, ITC under GST can be availed and utilized for payment of tax on output supply. Consequently, ITC cannot be availed when tax is not payable on output supply, i.e. on exempt supply. The only exception to the above principle is 'zero rated supply, where ITC is available even if no tax is payable on output supply.

If a taxable person is making both taxable and exempt supply, he is entitled to full credit of ITC in respect of inputs, input services and capital goods exclusively used for taxable supply and no credit at all for inputs, input services and capital goods exclusively used for exempt supply.

If common inputs, input services and capital goods are used for taxable as well as exempt supply, only proportionate ITC attributable to the taxable supply is available. The common ITC is apportioned in the ratio of value of taxable supply and exempt supply.

Elaborate provisions have been made in sub-sections (1) and (2) of section 17 and rules 42 and 43 for calculation of such proportionate ITC.

Statutory Provisions: Section 17

Relevant Rules: Rule 42, Rule 43 and Rule 38

Relevant definitions:

Section 2 (47) "exempt supply" means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply;

Section 2 (108) "taxable supply" means a supply of goods or services or both which is leviable to tax under this Act;

Section 2 (23) of IGST Act 2017 "zero-rated supply" shall have the meaning assigned to it in section 16;

As per Section 16 (1) of IGST Act 2017 "zero rated supply" means any of the following supplies of goods or services or both, namely:"

(a) export of goods or services or both; or

(b) supply of goods or services or both [for authorized operations] to a Special Economic Zone developer or a Special Economic Zone unit.

Provisions of Section 17 are given hereunder-

Section 17(1) Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.

(2) Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the **Integrated Goods and Services Tax Act** and partly for effecting exempt supplies under the said Acts, the

amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.

(3) The value of **exempt supply** under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the **recipient** is liable to pay tax on **reverse charge** basis, transactions in **securities**, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.

2[Explanation.-For the purposes of this sub-section, the expression ""value of exempt supply"" shall not include the value of activities or transactions specified in Schedule III, 3[except,"

- (i) the value of activities or transactions specified in paragraph 5 of the said Schedule; and
- (ii) the value of such activities or transactions as may be prescribed in respect of clause(a) of paragraph 8 of the said Schedule.]

(4) A banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances shall have the option to either comply with the provisions of sub-section (2), or avail of, every month, an amount equal to fifty per cent. of the eligible **input tax credit on inputs, capital goods and input services** in that month and the rest shall lapse:

Provided that the option once exercised shall not be withdrawn during the remaining part of the financial year:

Provided further that the restriction of fifty per cent. shall not apply to the tax paid on supplies made by one registered person to another registered person having the same Permanent Account Number.

(5) Notwithstanding anything contained in sub-section (1) of section 16 and subsection (1) of section 18, input tax credit shall not be available in respect of the following, namely:-

(a) **motor vehicles** for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the following taxable supplies, namely: -

- (A) further supply of such motor vehicles; or
- (B) transportation of passengers; or
- (C) imparting training on driving such motor vehicles;

(aa) vessels and aircraft except when they are used""

- (i) for making the following taxable supplies, namely: -
 - (A) further supply of such vessels or aircraft; or
 - (B) transportation of passengers; or
 - (C) imparting training on navigating such vessels; or
 - (D) imparting training on flying such aircraft;
- (ii) for transportation of goods;

(ab) services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa):

Provided that the input tax credit in respect of such services shall be available

- (i) where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein;
- (ii) where received by a taxable person engaged-
 - (I) in the manufacture of such motor vehicles, vessels or aircraft; or
 - (II) in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;

(b) the following supply of goods or services or both-

(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance:

Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;

(ii) membership of a club, health and fitness center; and

(iii) travel benefits extended to employees on vacation such as leave or home travel concession:

Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.".]

(c) **works contract** services when supplied for construction of an immovable property (other than plant and machinery) except where it is an **input service** for further supply of works contract service;

*(d) goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of **business**.

Explanation. "For the purposes of clauses (c) and (d), the expression "construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the said immovable property;

(e) goods or services or both on which tax has been paid under section 10;

(f) goods or services or both received by a **non-resident taxable person** except on goods imported by him;

(fa) goods or services or both received by a **taxable person**, which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013;]

(g) goods or services or both used for personal consumption;

(h) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and

(i) any tax paid in accordance with the provisions of sections 74, section 129 and section 130.

(6) The Government may prescribe the manner in which the credit referred to in subsections (1) and (2) may be attributed.

Explanation." For the purposes of this Chapter and Chapter VI, the expression "plant and machinery" means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes-

(i) land, building or any other civil structures;

(ii) telecommunication towers; and

(iii) pipelines laid outside the factory premises.

3. Other Provisions of Input Tax Credit:

Statutory Provisions: Section 18, Section 19 and Section 20

Relevant Rules: Rule 39, Rule 40, Rule 44, Rule 45 and Rule 54

Relevant definitions:

Section 2 (68) "job work" means any treatment or process undertaken by a person on goods belonging to another registered person and the expression "job worker" shall be construed accordingly;

Section 2 (88) "principal" means a person on whose behalf an agent carries on the business of supply or receipt of goods or services or both;

Section 2 (61) "**Input Service Distributor**" means an office of the supplier of goods or services or both which receives tax invoices issued under section 31 towards the receipt of input services and issues a prescribed document for the purposes of distributing the credit of central tax, State tax, integrated tax or Union territory tax paid on the said services to a supplier of taxable goods or services or both having the same Permanent Account Number as that of the said office;

1. a person who has applied for registration under this Act within thirty days from the date on which he becomes liable to registration and has been granted such registration shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act;
2. In case of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person shall be allowed to transfer the input tax credit which remains unutilised in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business.
3. The principal shall, subject to such conditions and restrictions as may be prescribed, be allowed input tax credit on inputs sent to a job-worker for job-work. Further, the principal shall be entitled to take credit of input tax on inputs even if the inputs are directly sent to a job worker for job-work without being first brought to his place of business. However, to enjoy ITC, the goods sent must be received back by the principal within 01 year (03 years in case of capital goods)
4. The Input Service Distributor shall distribute the credit of central tax as central tax or integrated tax and integrated tax as integrated tax or central tax, by way of issue of a document containing the amount of input tax credit being distributed

AUDIT UNDER GST

Audit under GST is an important compliance verification tool to measure the level of compliance of a taxpayer in the light of various provisions of the CGST Act, 2017 and the Rules made there under. It is aimed to bring transparency, deter tax evasion, and guide towards compliance accuracy in businesses. GST Audit is mandated to do a meticulous scrutiny of taxpayer's transactions to validate the accuracy of the reported GST liability.

The activity of Audit by the department is to,

- examine the records, returns and other documents maintained or furnished by the taxpayer
- verify the correctness of turnover declared, taxes paid, refund claimed, and input tax credit availed, and
- assess taxpayer's compliance with the provisions of the CGST Act, 2017 and the Rules made there-under.

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

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

Statutory Provisions: Section 65, section 66, Section 35, Section 71

Relevant Definitions:

Section 2 (13) "**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;

Section 2 (85) "**place of business**" includes""

- (a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both;
- (b) a place where a taxable person maintains his books of account; or
- (c) a place where a taxable person is engaged in business through an agent, by whatever name called;

Section 2 (89) "**principal place of business**" means the place of business specified as the principal place of business in the certificate of registration;

Section 2(91) "**proper officer**" in relation to any function to be performed under this Act, means the Commissioner or the officer of the central tax who is assigned that function by the Commissioner in the Board;

Types of Audits:

1. Audit by Tax Authorities: As per the provisions of Section 65 of CGST Act, 2017 and Rule 101 of CGST Rules 2017 audit is to be conducted by the authorized officer.

[As per Section 65 (1) The Commissioner or any officer authorized by him, by way of a general or a specific order, may undertake audit of any registered person for such period, at such frequency and in such manner as may be prescribed.]

[As per Rule 101 The period of audit to be conducted under sub-section (1) of section 65 shall be a financial year or part thereof or multiples thereof.]

2. Special Audit: Special audit is to be conducted by a chartered accountant or a cost accountant as per the provisions of Section 66 of CGST Act, 2017 and Rule 102 of CGST Rules 2017

[As per Section 66 (1) If at any stage of scrutiny, inquiry, investigation or any other proceedings before him, any officer not below the rank of Assistant Commissioner, having regard to the nature and complexity of the case and the interest of revenue, is of the opinion that the value has not been correctly declared or the credit availed is not within the normal limits, he may, with the prior approval of the Commissioner, direct such registered person by a communication in writing to get his records including books of account examined and audited by a chartered accountant or a cost accountant as may be nominated by the Commissioner.]

The 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) at least 15 working days prior to the conduct of audit.
2. FORM GST ADT-01 also enlists the documents and data to be submitted to the Auditor for a preliminary review.
3. 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.
4. During the audit, the authorized officer may request access to verify the books of accounts or other necessary documents. Auditee/taxpayer's cooperation is crucial for a timely completion of audit.
5. On completion of the audit verification, Auditee/taxpayer receives the preliminary findings, and his views/comments are recorded to finalize the observations.
6. Observations should be presented before MCM. If observations are approved by MCM.
7. Finalized observations are sent to the Auditee/taxpayer in the form of Final Audit Report (Form GST ADT-02) within 30 days.

8. The Auditee/taxpayer is given the option to make the payment of tax short paid / not paid with waiver of show cause notice. The final audit findings are informed to the Auditee/taxpayer within 30 days along with his rights and obligations and the reasons for such findings.
9. 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.
10. The Auditee/taxpayer is not required to provide most of the digital information, as this data is already available with the department.
11. Audits verification may be conducted at the place of business of the registered taxpayer or at the office of the authorized officer.
12. The emphasis of the audit is on trade facilitation and providing non-intrusive environment to taxpayers.

Auditors must bear certain provisions of CGST Act, IGST Act and Rules in mind. The details are as under-

Sections	Section Heading	Relevant Rules	Remarks, If any
7& 8 of CGST Act 2017	Supply, including Mixed and composite		Schedule I, II & III
9 & 11 of CGST Act 2017	Levy of tax, RCM and Exemptions		
12 of CGST Act 2017	Time of Supply of Goods		Advance payment has been delinked from time of supply in case of supply of goods.
13 of CGST Act 2017	Time of Supply of Service		
14 of CGST Act 2017	Time in case of change in rate of tax.		
15 of CGST Act 2017	Value of Taxable Supply	27 to 35	
16 to 20 of CGST Act 2017	Input Tax credit	36 to 45	
31 of CGST Act 2017	Tax Invoice	46 to 55A	
34 of CGST Act 2017	Credit and Debit Notes		
35 of CGST Act 2017	Accounts and records	56 to 58	
37 to 39 of CGST Act 2017	Statements and Returns	59 & 61	
44 of CGST Act 2017	Annual Returns	80	
47	Levy of late fee		
49 of CGST Act 2017	Payment of Tax, interest and penalty	85 to 88A	
50 of CGST Act 2017	Interest on delayed payment of tax		
54 of CGST Act 2017	Refund of Tax	89 to 97A & updated Circulars	
73 & 74 of CGST Act 2017	Determination of tax not paid or short paid	142	
76 of CGST Act 2017	Tax collected but not paid to the Government		
122 to 127	Offences and penalty		
7 to 9 of IGST Act 2017	Nature of Supply, whether interstate or Intra state		

10 to 14 of IGST Act 2017	Place of supply of Goods and services		
16 of IGST Act 2017	Zero Rated Supply		
20 of IGST Act 2017	Application of provisions of CGST Act		

Frequent issues detected during audit-

1. Non-payment/ short payment of Tax
2. Wrong classification of Goods/Services
3. Short/Excess payment of Tax due to improper calculation/ accounting
4. Collecting Tax from the customers but not paying the same to the Government
5. Wrong availment of ITC on ineligible document
6. Blocked ITC availed and utilized
7. Tax not paid on advance in case of services
8. Reverse Charge Mechanism liability
9. Wrong availment of benefit of exemption notifications
10. Non reversal of Input tax credit under Rule 42 and 43
11. Nonpayment of Interest on delayed payment of tax

GST Audit is not only for reconciliation of tax liability and payment thereof, but it also encompasses the verification of compliance with the provisions of the GST laws by a registered person and educating the taxpayers to be more compliant with the law and procedure

CGST Act, 2017

Notes on CGST Sections

Section 1 provides for short title, extent and commencement of the Act.

Section 2 defines various terms and expressions used in the Act.

Section 3 speaks about appointment of Commissioners and other class of officers as may be required for carrying out the purposes of the Act.

Section 4 provides for appointment of officers in addition to the officers appointed under Section 3 mentioned above.

Section 5 speaks about powers to officers to discharge functions under the Act.

Section 6 speaks about authorization of officers of State tax and Union territory tax as proper officers for the purposes of the Act in certain circumstances.

Section 7 provides the scope of supply. This Section provides for activities to be treated as supply. This Section further provides those certain activities, specified in Schedule I of the Act, even made or agreed to be made without a consideration shall be treated as supply. This Section also provides activities which are neither supply of goods nor supply of services.

Section 8 speaks about the tax liability on a composite or a mixed supply.

Section 9 speaks about levy and collection of central tax on all intra-State supplies of goods or services or both except on the supply of alcoholic liquor for human consumption, on the value determined under Section 15 at a rate not exceeding forty per cent. This Section further provides that"

- (i) the Central Government to notify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both, on the recommendations of the Council;
- (ii) the central tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis;

Section 10 provides for composition levy. It is an alternative method of levy of tax designed for small taxpayers whose turnover is upto prescribed limit. This Section also provides that certain categories of supplies or suppliers cannot opt for composition levy. A person opting to pay under this Section can neither take credit of taxes paid on inputs nor it can collect any tax from the recipient.

Section 11 confers powers on the Central Government to exempt either absolutely or conditionally goods or services or both of any specified description from the whole or part of the central tax, on the recommendations of the Council. It also confers powers on the Central Government to exempt from payment of tax any goods or services or both, by special order, on the recommendations of the Council.

Section 12 speaks about time of supply of goods. This Section extensively elaborates time of supply in normal situations, in reverse charge situations, in situations of supply of

voucher and remainder situations.

Section 13 provides about time of supply of services. This Section extensively elaborates time of supply in normal situations, in reverse charge situations, in situations of supply of voucher and remainder situations.

Section 14 Speaks about time of supply of goods or services or both where rate of tax changes.

Section 15 provides for value of taxable supply. This Section provides that the value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable given the conditions that the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply. This Section enumerates the items which are to be included in the value and the items which are not to be included in the value for the purpose of calculation of tax.

Section 16 provides for eligibility, conditions and time period for taking input tax credit. This Section provides that a registered person is entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business.

Section 17 Speaks about apportionment of input tax credit and blocked input tax credit. This Section provides for the extent of apportionment of credit where the goods or services or both are used partly for the purpose of any business and partly for other purposes or where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies. This Section further provides for a specific mechanism of taking of input tax credit by a banking company or a financial institution including a non-banking financial company engaged in supplying services by way of accepting deposits, extending loans or advances. This Section also provides the list of supplies on which input tax credit cannot be availed of.

Section 18 provides for availability of credit in special circumstances like new registration, shifting from composition levy to normal levy, exempted supplies becoming taxable and vice versa.

Section 19 speaks about special provision for taking input tax credit by a person (called "principal") who has sent inputs or capital goods for job work subject to prescribed conditions.

Section 20 provides for an "Input Service Distributor" who shall distribute the credit of input tax in prescribed manner and subject to specified conditions.

Section 21 speaks about manner of recovery of excess input tax credit distributed by the Input Service Distributor along with interest thereon.

Section 22 seeks to create liability for registration on every supplier in the State or Union territory from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds prescribed amount. This Section creates liability for registration under the Act with effect from the appointed day on every person who is registered under an existing law.

Section 23 provides that certain categories of persons are not liable for registration.

Section 24 provides for compulsory registration of certain suppliers notwithstanding that

their aggregate turnover is below the exempted threshold provided in Section 22.

Section 25 provides for procedure of registration. This Section provides that every person who is liable to be registered shall apply for registration in every such State or Union territory in which he is so liable within thirty days from the date on which he becomes liable to registration. This Section further provides that a casual taxable person or a non-resident taxable person shall apply for registration at least five days prior to the commencement of business. This Section also provides that every person who makes a supply from the territorial waters of India shall obtain registration in the coastal State or Union territory where the nearest point of the appropriate base line is located. This Section also provides for voluntary registration. This Section also provides that certain organisations would be issued Unique Identity Number mainly for the purpose of refund of taxes paid on inward supplies.

Section 26 provides for deemed registration or rejection of application for registration under the Act where registration number or Unique Identity Number has been issued or rejected under States Goods and Services Tax Act.

Section 27 speaks about special provisions for a casual taxable person and a nonresident taxable person.

Section 28 provides for amendment of registration. This Section also provides for deemed approval or rejection of amendment where any approval or rejection of amendments has been done under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act.

Section 29 provides that the proper officer may, either on his own motion or on an application filed by the registered person or by his legal heirs, in case of death of such person, cancel the registration under certain specified circumstances. This Section further provides that cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a cancellation of registration under the Act.

Section 30 provides for revocation of cancellation of registration where the registration had been cancelled by the proper officer on his own motion. This Section further provides that the revocation of cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a revocation of cancellation of registration under the Act.

Section 31 speaks about issuance of tax invoice within the prescribed period showing the prescribed particulars. This Section provides for issue of documents other than tax invoice in certain cases.

Section 32 prohibits an unregistered person to collect tax. This Section also provides that a registered person shall collect tax in accordance with the provisions of the Act.

Section 33 provides that where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate the amount of tax forming part of the price in all documents relating to assessment, tax invoice and other like documents.

Section 34 provides for issuance of a credit notes and debit notes in specified situations.

This Section also provides for maximum time and return in which details of credit note and debit note are required to be declared.

Section 35 provides that every registered person shall keep and maintain at his principal place of business records showing true account of specified particulars. This Section casts responsibility on owner or operator of warehouse or go-down or any other place used for storage of goods and on every transporter to maintain specified records.

Section 36 requires every registered person to retain books of account or other records until the expiry of seventy-two months from the due date of furnishing of annual return for the year pertaining to such accounts and records.

Section 37 provides for manner and time of furnishing of the details of outward supplies by a registered person, other than certain specified categories of registered persons, and manner and time of communication of these details to the corresponding recipients. This Section further provides for manner and time of acceptance or rejection of the details communicated from the recipients.

Section 38 speaks about manner and time of furnishing of the details of inward supplies by a registered person, other than certain specified categories of registered persons, including verification, validation, modification or deletion of details of outward supplies furnished by the corresponding suppliers. This Section further provides for manner and time of communication of the details of supplies, as modified or accepted by the recipient, to the corresponding supplier. This Section also provides for manner and time period for rectification of error or omission and payment of tax and interest, if any, as a consequence to the unmatched details.

Section 39 speaks about manner, conditions and time of furnishing of returns by different categories of registered persons. This Section further provides that the tax is required to be paid by the due date of filing of return. This Section also provides for the time limit upto which rectification of any omission or incorrect particulars in the return can be carried out.

Section 40 provides that every registered person who has made outward supplies in the period between the date on which he became liable to registration till the date on which registration has been granted shall declare the same in the first return furnished by him after grant of registration.

Section 41 speaks about every registered person shall be entitled to provisionally take the credit of eligible input tax subject to prescribed conditions and restrictions. This Section further provides that the credit taken on provisional basis shall be utilized only for payment of output tax self-assessed in the return in which the credit on provisional basis is taken.

Section 42 provides for matching, in prescribed time and manner, of details of inward supplies furnished by a recipient for a tax period with the corresponding details.

Section 43 provides for matching, in prescribed time and manner, of details of every credit note relating to outward supply furnished by a supplier for a tax period with the corresponding details. This Section also provides for the consequences of mismatch.

Section 44 provides that every registered person, other than certain specified category of

persons, shall furnish an annual return along with a copy of the audited annual accounts, a reconciliation statement and such other particulars as may be prescribed.

Section 45 provides that every registered person whose registration has been cancelled shall furnish a final return within prescribed period.

Section 46 provides for issuance of notice to registered person who has failed to furnish a return.

Section 47 provides for levy of fee for delayed filing of return.

Section 48 provides for the manner of approval of goods and services tax practitioner, their eligibility conditions, duties and obligations, manner of removal.

Section 49 speaks about payment of tax, interest, penalty and other amounts. This Section further provides for maintenance of electronic cash ledger. This Section provides that the input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger. This Section also provides for the manner in which the amount in the electronic cash ledger or electronic credit ledger can be used. This Section also provides for the ordering of the utilisation of input tax credit for payment of tax, and provides restriction on certain cross-utilisation.

Section 50 provides for interest on delayed payment of tax.

Section 51 provides for deduction of tax at source by Government departments, local authorities, government agencies and other notified persons, at the rate of one per cent. from the payment made or credited to the supplier in specified situations.

Section 52 provides for collection of tax at source by an electronic commerce operator, at a notified rate where the consideration for supplies is to be collected by the operator. This Section elaborates on date of collection, date of payment of the amount to the credit of Government and filing of prescribed statements.

Section 53 provides that on utilization of input tax credit availed under the Act for payment of tax dues under the Integrated Goods and Services Tax Act, the amount collected as central tax shall stand reduced by an amount equal to such credit so utilised and the Central Government shall transfer an amount equal to the amount so reduced from the central tax account to the integrated tax account in prescribed manner and time.

Section 54 provides that refund of excess tax and interest or any other amount paid can be claimed before the expiry of two years from the relevant date. This Section further provides that in case of zero-rated supplies and inverted tax structure, refund of unutilised input tax credit can be claimed. This Section also provides for the time limit within which the refund application has to be decided. This Section also provides that in case of zero-rated supplies advance refund of ninety per cent. can be granted.

Section 55 speaks about refund of taxes paid on the notified supplies of goods or services or both received by specified person or class of persons.

Section 56 speaks about payment of interest on delayed payment of refund. It fixes the ceiling of interest rate in normal and other specified situations.

Section 57 provides that tax and other amounts which are otherwise refundable barring unjust enrichment shall be credited to a Consumer Welfare Fund.

Section 58 speaks about the money in the Consumer Welfare Fund would be used for the welfare of the consumers. This Section also provides that the Government or the authority specified by it shall maintain proper and separate account of the Fund and prepare an annual statement of accounts.

Section 59 speaks about self-assessment by every registered person.

Section 60 speaks about provisional assessment on request by a taxable person in specified situations.

Section 61 speaks about scrutiny of returns and other particulars and manner of sorting out the discrepancies in the returns and also taking corrective measures for realisation of short-payment.

Section 62 speaks about procedure of assessment of persons who have not filed returns by the due dates. This Section provides that the proper officer may proceed to assess the tax liability of the non-filer to the best of his judgment.

Section 63 speaks about procedure of assessment of persons who are not registered though they are liable to get registered. This Section provides that the proper officer may proceed to assess the tax liability of the unregistered person to the best of his judgment.

Section 64 speaks about summary assessment in special circumstances with the permission of Additional Commissioner or Joint Commissioner.

Section 65 speaks about detailed procedure for conduct of audit of records, maintained by a registered person, to verify the correctness of tax liability and tax payment.

Section 66 speaks about audit of a registered person, under certain circumstances, by a chartered accountant or a cost accountant.

Section 67 speaks about power and provides for the detailed procedure for carrying out search, seizure and inspection to unearth non-compliance of provisions of the Act. This power can be exercised by an officer not below the rank of Joint Commissioner or by an officer authorised by Joint Commissioner.

Section 68 speaks about inspection of goods in movement. This Section provides that the Government may require the person-in-charge of a conveyance carrying any consignment of goods of value exceeding specified amount to carry with him prescribed documents and devices.

Section 69 speaks about power to arrest a person who has committed certain specified offence.

Section 70 speaks about power to summon any person whose attendance is considered necessary in any inquiry.

Section 71 speaks that any authorised officer shall have access to any place of business of a registered person for the purposes of carrying out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of revenue.

Section 72 speaks about officers of Police, Railways, Customs and other officers engaged in collection of land revenue to assist officers involved in implementation of the Act.

Section 73 speaks about determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or

any wilful misstatement or suppression of facts. This Section further provides that the adjudication order will be issued within three years from the due date of filing of annual return for the year to which the discrepancy is noticed. This Section also provides that the show cause notice is required to be issued at least three months prior to the time limit. It has also been provided that SCN need not be issued if tax along with interest is paid before issue of such notice.

Section 74 provides that in cases of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised, for reasons of fraud or willful misstatement or suppression of facts, the adjudication order will be issued within five years from the due date of filing of annual return for the year to which the discrepancy is noticed. Further, the show cause notice is required to be issued at least six months prior to the time limit. This Section also provides that such notice need not be issued if tax along with interest and penalty equal to fifteen per cent. of tax is paid before issue of such notice.

Section 75 provides for general provisions for determination of tax. This Section provides that the period of stay, if any, would be excluded while calculating the time period for issuance of show cause notice or passing of order. This Section further provides that the time period during which appeal is pending in any appellate fora would be excluded while calculating the time period for issuance of such notice or passing of order.

Section 76 provides that any amount collected as tax, along with interest, from customers shall be paid to account of the Government regardless of whether the supplies are taxable or not. This Section further provides for issuance of a show cause notice for the amount collected but not deposited.

Section 77 speaks about refund of central tax in situations where intra-State supplies are subsequently held to be inter-State supplies.

Section 78 provides that any amount payable in pursuance of an order shall be paid by such person within a period of three months, except in certain specified cases, from the date of service of order failing which recovery proceedings shall be initiated.

Section 79 speaks about various modes of recovery of amount payable under the Act.

Section 80 speaks about payment of arrears in a maximum of twenty-four instalments.

Section 81 provides that transfer of property would be void in certain specified circumstances.

Section 82 provides that liabilities under the Act shall be the first charge on the property of the taxable person, save as otherwise provided in the Insolvency and Bankruptcy Code, 2016.

Section 83 provides that during the pendency of any proceedings under certain sections of the Act, the Commissioner by order in writing attach provisionally any property for a period of one year from the date of the order for provisional attachment.

Section 84 speaks about continuation and validation of certain recovery proceedings.

Section 85 provides that where a taxable person transfers his business in whole or in part, the taxable person and the person to whom the business is so transferred shall, jointly and severally, be liable wholly or to the extent of such transfer, to pay the tax, interest or any penalty due from the taxable person upto the time of such transfer.

Section 86 speaks that where an agent supplies or receives any taxable goods on behalf of his principal, such agent and his principal shall, jointly and severally, be liable to pay the tax payable on such goods.

Section 87 speaks about the liability of companies when two or more companies are amalgamated or merged in pursuance of an order of court or of Tribunal or otherwise.

Section 88 provides for the liability of company and its directors when any company is being wound up.

Section 89 provides for the liability of director of a private company.

Section 90 provides for the liability of the firm and each of the partners of the firm.

Section 91 provides for the liability of guardians and trustees acting on behalf of a minor or other incapacitated person.

Section 92 provides for the liability of the Court of Wards, the Administrator General, the Official Trustee or any receiver or manager.

Section 93 provides for special provisions regarding liability to pay tax, interest or penalty in certain cases.

Section 94 provides for liability where a taxable person is a firm or an association of persons or a Hindu undivided family and such firm, association or family has discontinued business.

Section 95 contains definitions of the terms and expressions used in the Chapter on Advance Ruling.

Section 96 provides that the Authority for Advance Ruling constituted under the provisions of a State Goods and Services Tax Act or Union Territory Goods and Services Tax Act shall be deemed to be the Authority for Advance Ruling in respect of that State or Union territory under the Act.

Section 97 provides for form, manner and fee for filing of an application for advance ruling. This Section also lists the nature of questions on which advance ruling can be sought.

Section 98 provides for the detailed procedure for filing of an application for advance ruling. This Section provides that the advance ruling is to be pronounced within ninety days from the date of receipt of application.

Section 99 provides that the Appellate Authority for Advance Ruling constituted under the provisions of a State Goods and Services Tax Act or a Union Territory Goods and Services Tax Act shall be deemed to be the Appellate Authority in respect of that State or Union Territory under the Act.

Section 100 provides that any party aggrieved by any advance ruling may appeal to the Appellate Authority within a period of thirty days from the date on which the ruling sought to be appealed against is communicated.

Section 101 provides that the Appellate Authority shall pass order within a period of ninety days from the date of filing of the appeal or a reference. This Section also provides that where the members of the Appellate Authority differ on any point referred to in appeal or reference; it shall be deemed that no advance ruling can be issued in respect of

the question under the appeal or reference.

Section 102 provides that the Authority or the Appellate Authority may amend any order passed by it so as to rectify any error apparent on the face of the record, except under certain specified circumstances, within a period of six months from the date of the order.

Section 103 provides that the advance ruling shall be binding only on the applicant and on the concerned officer or the jurisdictional officer in respect of the applicant. This Section also provides that the advance ruling shall be binding unless there is a change in law or facts.

Section 104 provides that the advance ruling shall be void where the ruling has been obtained by fraud or suppression of material facts or misrepresentation of facts.

Section 105 provides that the Authority or the Appellate Authority shall have all the powers of a civil court under the Code of Civil Procedure, 1908 for the purpose of exercising its powers under the Act.

Section 106 provides that the Authority or the Appellate Authority shall have power to regulate its own procedure.

Section 107 provides the tax payer or the department may appeal against any decision or order passed by an adjudicating authority under the Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act within three months or six months respectively. The Section provides for a pre-deposit of ten per cent. for admittance of the appeal filed by the tax payer and grant of automatic stay on the remaining amount.

Section 108 provides power of revision to the Commissioner. The Section provides that the Revisional Authority, on his own motion, or upon request from Commissioner of State tax or the Commissioner of Union territory tax may revise an order passed by an officer subordinate to him if he considers it to be erroneous and prejudicial to the interest of revenue.

Section 109 provides for constitution of Appellate Tribunal for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority.

Section 110 provides for the qualification, appointment, conditions of services, removal of the President and Members of the Appellate Tribunal.

Section 111 provides for the procedure to be followed by the Appellate Tribunal while disposing of any proceedings before it or appeal presented before it.

Section 112 provides for the detailed procedure for filing of appeal before the Appellate Tribunal.

Section 113 provides for the process to be followed by Appellate Tribunal while confirming, modifying or annulling the decision or order against which an appeal has been filed.

Section 114 provides for financial and administrative power of the President of the Appellate Tribunal over the National and Regional Benches.

Section 115 provides for payment of interest where the pre-deposits are required to be refunded consequent to any order of the Appellate Authority or of the Appellate Tribunal.

Section 116 provides for qualification, disqualification and other procedures relating to

authorised representative.

Section 117 provides that the appeals to the High Court can be filed by a person, aggrieved by an order of the State Bench or Area Bench of the Tribunal, within one hundred and eighty days. This Section also provides that the High Court may admit the appeal on substantial question of law.

Section 118 provides for appeal before the Supreme Court from an order of the National Bench or Regional Benches of the Appellate Tribunal, or from any judgment given or order passed by the High Court.

Section 119 provides that sum due to the Government in accordance with an order passed by the National, Regional, State, Area Bench or a High Court shall be payable notwithstanding that an appeal has been preferred to the High Court or the Supreme Court.

Section 120 confers powers on the Board to issue orders or instructions or directions fixing monetary limits below which appeals will not be filed by the department.

Section 121 provides for matters in which any decision taken or order passed by an officer of central tax cannot be appealed against.

Section 122 provides for a list of offences such as supply of goods without invoice, issue of invoice without supply, etc., which shall be liable to penalty. The Section also provides for offences such as aiding or abetting offences specified, shall be liable of a penalty.

Section 123 provides for a penalty for failure to furnish information return under Section 150.

Section 124 provides for a fine on any person who fails to furnish any information or return under Section 151.

Section 125 provides for a general penalty extending to twenty-five thousand rupees for any contravention to the provisions of the Act and where no penalty has been separately specified for such contravention.

Section 126 provides for general disciplines which shall be followed by the officer imposing penalty under the Act.

Section 127 provides for the proper officer to impose penalty which is not covered under any proceedings under specified Sections of the Act.

Section 128 confers power to the Government to waive penalty in part or full, any penalty referred to in specified sections of the Act or any late fee for specified class of taxpayers and under specified circumstances.

Section 129 provides for provisions relating to detention, seizure and release of goods and conveyances in transit. This Section also provides for penalty which shall be payable for release of such goods.

Section 130 provides for provisions relating to confiscation of goods or conveyances. This Section also provides for a fine which shall be payable for release of such goods.

Section 131 clarifies that confiscation made or penalty imposed under the provisions of the Act should not prevent the infliction of any other punishment imposed under provisions of the Act or under any other law for the time being in force.

Section 132 provides for a list of offences which shall be punishable with gradation of fine and imprisonment depending on the amount of tax evaded or the amount of input tax credit wrongly availed or utilized or the amount of refund wrongly taken. This Section also provides for offences which shall be non-cognizable and bailable or cognizable and non-bailable.

Section 133 provides for punishment and imprisonment for wrongful declaration of information by any person engaged in connection with the collection of statistics under Section 151 or any person engaged in connection with the provision of service on the common portal or the agent of common portal.

Section 134 provides for restriction to Courts to take cognizance of any offence under the Act or the rules made thereunder except with the previous sanction of the Commissioner.

Section 135 provides presumption of culpable mental state by the court unless otherwise proved by the accused.

Section 136 provides for relevancy of the statements made and signed by a person on appearance in response to any summons.

Section 137 provides that if the person who committed an offence is a company, the person who was in charge and responsible for the conduct of business of the company shall be deemed to be guilty of the offence and punished accordingly.

Section 138 provides for compounding of any offence under the Act, either before or after the institution of prosecution, by the Commissioner on payment of a prescribed compounding amount.

Section 139 provides for migration of taxpayers registered under the existing law to be issued provisional registration under the Act, if the said taxpayer is required to be registered under the provisions of the Act.

Section 140 provides for transitional arrangements for carrying forward of input tax credit available under the existing law.

Section 141 provides for transitional provisions relating to job work.

Section 142 provides for miscellaneous provisions for transition of existing tax payers in various situations.

Section 143 provides for the procedure and conditions for sending any inputs or capital goods, without payment of tax to a job worker for job-work.

Section 144 provides for presumption to be made for documents tendered by the prosecution in evidence unless the contrary is proved by the person being prosecuted.

Section 145 provides for admissibility of micro films, facsimile copies of documents and computer printouts as evidence.

Section 146 provides for notification of the Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns, computation and settlement of integrated tax, electronic way Act and other functions.

Section 147 confers powers on the Government to notify certain supplies of goods as deemed exports on the recommendations of the Council.

Section 148 confers powers on the Government to notify certain classes of registered persons, and the special procedures to be followed by such persons on the recommendations of the Council.

Section 149 provides for the assignment and provision of parameters for Goods and Services tax compliance rating.

Section 150 provides for list of persons who are obligated to furnish information return and the procedure to be followed by such persons.

Section 151 confers powers on the Commissioner to direct collection of statistics relating to any matter in connection with the Act.

Section 152 provides for situations and instances where there is a bar on disclosure of information required under Section 151.

Section 153 confers powers on officers to take assistance of any expert at any stage of scrutiny, inquiry, investigation or any other proceedings.

Section 154 provides for the power of the Commissioner or an officer authorized by him to take samples of goods from the possession of any taxable person.

Section 155 provides that the burden of proving rightful claim of input tax credit will lie on the person claiming the credit.

Section 156 provides that all persons discharging functions under the Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

Section 157 provides that no suit, prosecution or other legal proceedings shall lie against the President, State President, Members, officers or other employees of the Appellate Tribunal or any other officer appointed or authorized under the Act for anything which is in good faith done or intended to be done under the Act or rules made thereunder.

Section 158 provides that no particulars contained in any statement made, return furnished or accounts or documents produced in accordance with the Act should be disclosed. The Section also provides for specific circumstances under which such information can be disclosed.

Section 159 confers power on the Commissioner, or any other officer authorized by him to publish the name of any person and any other particulars relating to any proceedings or prosecution under the Act if it is necessary in public interest to do so.

Section 160 provides that 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 the Act shall be invalid or deemed to be invalid merely by reason of any mistake, defect or omission.

Section 161 provides that any authority can rectify any error which is apparent on the face of record in any decision or order or notice or certificate or any other document.

Section 162 restricts civil courts to have jurisdiction to deal with or decide any question arising from or relating to anything done under the Act.

Section 163 provides that a fee may be charged for a copy of any order or document

provided to any person on an application made by him.

Section 164 confers powers on the Central Government to make rules for carrying out the provisions of the Act on recommendations of the Council.

Section 165 confers powers on the Board to make regulations for carrying out the provisions of the Act.

Section 166 provides for laying of rules, regulations and notifications made by the Central Government before each House of the Parliament.

Section 167 provides that the Commissioner may direct that any power exercisable by any authority or officer under the Act may be exercisable also by another authority or officer, subject to specified conditions.

Section 168 confers powers to the Board to issue orders, instructions or directions to the central tax officers for uniform implementation of the provisions of the Act.

Section 169 speaks about methods which should be followed for communication of any decision, order, summons, notice or other communication under the Act.

Section 170 speaks about rounding off of tax, interest, penalty, fine or any other sum payable and the amount of refund or any other sum due.

Section 171 provides that it is mandatory to pass on the benefit due to reduction in rate of tax or from input tax credit to the consumer by way of commensurate reduction in prices.

Section 172 speaks about removal of difficulty. It confers powers on the Central Government to make such provisions not inconsistent with the provisions of the Act or the rules or regulations by a general or special order, on the recommendations of the Council within a period of three years from the date of commencement of the Act.

Section 173 speaks about omitting Chapter V of the Finance Act, 1994, save as otherwise provided in the Act.

Section 174 provides repeal of certain Acts and savings of certain actions.

IGST Act, 2017

Notes on IGST Sections

Section 1 provides for short title, extent and commencement of the Act.

Section 2 definitions of various terms and expressions used in the Act.

Section 3 speaks about appointment of Commissioners and other class of officers as may be required for carrying out the purposes of the Act.

Section 4 provides for authorization of State tax and Union territory tax officers, subject to certain exceptions and conditions as shall be notified by the Central Government on recommendations of the Council, to be proper officers for the purposes of the Act.

Section 5 speaks about levy and collection of integrated tax on all inter-State supplies of goods or services or both except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 of the Central Goods and Services Tax Act at a rate not exceeding forty per cent. It further provides that integrated tax on goods imported into India shall be levied and collected under section 3 of the Customs Tariff Act, 1975, at the time and in the manner in which customs duty shall be collected under the provisions of the Customs Act, on a value as determined under the provisions of the Customs Tariff Act. This Section also provides that "

- (i) the Central Government to notify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both, on the recommendations of the Council;
- (ii) the integrated tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis;

Section 6 confers powers on Central Government to exempt either absolutely or conditionally goods or services or both of any specified description from the whole or part of the integrated tax, on the recommendations of the Council. This Section also confers powers on the Central Government to exempt from payment of tax any goods or services or both, by special order, on which tax is leviable on the recommendations of the Council.

Section 7 provides for instances where a supply of goods or services or both will be considered as inter- State supply.

Section 8 provides for instances where a supply of goods or services or both will be considered as intra- State supply.

Section 9 provides for supplies made in territorial waters to be deemed to be made in the States or Union territories where the nearest point of the appropriate baseline is located.

Section 10 provides for the place of supply for all supplies of goods other than those goods which are imported into or exported out of India.

Section 11 provides for the place of supply for all supplies of goods which are imported into or exported out of India.

Section 12 provides for the place of supply for all supplies of services where location of supplier and recipient is in India.

Section 13 provides for the place of supply for all supplies of services where location of supplier or location of recipient is outside India.

Section 14 provides for deeming the supplier of services located in non-taxable territory to be liable to pay tax on the 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.

Section 15 provides for refund of integrated tax paid on supply of goods to tourists leaving India.

Section 16 provides for zero rating of certain supplies namely exports and supplies made to Special Economic Zone Unit or Special Economic Zone developer and the manner of zero rating.

Section 17 provides for apportionment of integrated tax and settlement of funds between the Central and State Government.

Section 18 provides for utilization of credit of integrated tax availed under the Act for payment of central tax, Union territory tax or State tax.

Section 19 provides for refund of integrated tax in situations where inter-State supplies are subsequently held to be intra-State supplies.

Section 20 provides for application of specific provisions of the Central Goods and Services Tax Act to the Act.

Section 21 provides that all import of services made on or after the appointed day will be liable to integrated tax regardless of whether the transactions for such import of services had been initiated before the appointed day.

Section 22 confers powers on the Central Government to make rules for carrying out the provisions of the Act on recommendation of the Council.

Section 23 confers powers on the Board to make regulations for carrying out the provisions of the Act.

Section 24 provides for laying of rules, regulations and notifications made by the Central Government before each House of the Parliament.

Section 25 confers powers on the Central Government to make such provisions not inconsistent with the provisions of the Act or the rules or regulations by a general or special order, on the recommendations of the Council within a period of three years from the date of commencement of the Act.

E-Way Bill.

E-Way Bill is an Electronic Way bill for movement of goods to be generated on the E-Way Bill Portal. A GST registered person cannot transport goods in a vehicle whose value exceeds Rs. 50,000 (Single Invoice/bill/delivery challan) without an e-way bill that is generated on ewaybillgst.gov.in.

Alternatively, E-Way bill can also be generated or cancelled through SMS, Android App and by site-to-site integration through API entering the correct GSTIN of parties. Validate the GSTIN with the help of the GST search tool before using it. When an E-Way bill is generated, a unique E-Way Bill Number (EBN) is allocated and is available to the supplier, recipient, and the transporter

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

- In relation to a 'supply'
- For reasons other than a 'supply' (say a return)
- Due to inward 'supply' from an unregistered person
- 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:

(A). Inter-State movement of Goods by the Principal to the Job-worker by Principal/ registered Job-worker

(B). Inter-State Transport of Handicraft goods by a dealer exempted from GST registration

Who should Generate an E-Way Bill?

- **Registered Person** – E-way bill must be generated when there is a movement of goods of more than Rs 50,000 in value to or from a registered person. A Registered person or the transporter may choose to generate and carry E-way bill even if the value of goods is less than Rs 50,000.
- **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.
- **Transporter** – Transporters carrying goods also need to generate e-Way Bill if the supplier has not generated an e-Way Bill.

Cases when E-Way bill is Not Required

In the following cases it is not necessary to generate e-Way Bil:

- The mode of transport is non-motor vehicle
- Goods transported from Customs port, airport, air cargo complex or land customs station to Inland Container Depot (ICD) or Container Freight Station (CFS) for clearance by Customs.
- Goods transported under Customs supervision or under customs seal
- Goods transported under Customs Bond from ICD to Customs port or from one custom station to another.
- Transit cargo transported to or from Nepal or Bhutan
- Movement of goods caused by defense formation under Ministry of defense as a consignor or consignee
- Empty Cargo containers are being transported
- Consignor transporting goods to or from between place of business and a weighbridge for weighment at a distance of 20 kms, accompanied by a Delivery challan.
- Goods being transported by rail where the Consignor of goods is the Central Government, State Governments or a local authority.
- Transport of certain specified goods- Includes the list of exempt supply of goods, as per Annexure to Rule 138(14).
- Goods treated as no supply as per Schedule III, Certain schedule to Central tax Rate notifications.

Validity of E-Way Bill

An e-way bill is valid for periods as listed below, which is based on the distance travelled by the goods. Validity is calculated from the date and time of generation of e-way bill-

Type of conveyance	Distance	Validity of EWB
Other than over dimensional cargo	Less Than 200 Kms (one day)	1 Day

	For every additional 200 Kms or part thereof (one additional day)	additional 1 Day
For Over dimensional cargo	Less Than 20 Kms (one day)	1 Day
	For every additional 20 Kms or part thereof (one additional day)	additional 1 Day

Under circumstances of an exceptional nature, including trans-shipment, when the goods cannot be transported within the validity period of the e-way bill, the transporter may extend the validity period after updating the details in Part B of FORM GST EWB-01.

SCRUTINY UNDER GST

What is scrutiny under GST?

Under any taxation law where self-assessment is a prescribed mode of assessment (i.e. the tax payer assesses his tax liability), occasional checking / verification of the assessment done by the tax payer is logical and truly warranted – to be sure that the taxes paid are proper and as per law. This checking / verification could be in the form of audit, anti-evasion check (by Division / Commissionerate / DGGI) **or scrutiny** by the range officer. Scrutiny involves **thorough checking and cross matching of all returns** filed by the tax payer. Data of various columns of GSTR-1, 3B, 9 and 9C is reconciled in this process and we use documents available on various portals (e-waybill, DGARM and ADVAIT, etc.) Generally, documents are not called from the taxpayer. It is quite an elaborate process and broadly speaking, it checks veracity and correctness of every detail furnished in the returns.

➤ **Legal Provisions**

Section 61 of the CGST Act, 2017 is the legal authority for conducting scrutiny. The procedure has been elaborated in Rule 99 of the CGST Rules, 2017.

➤ **Proper officer for scrutiny**

Proper officer has been defined in Section 2(91) of the CGST Act, 2017. Circular no. 3/3/2017 dated 5.07.2017 has designated proper officers for performing various functions under the Act. In the said circular, Superintendent, Central Tax, has been designated as the proper officer for the purpose of Section 61 (scrutiny). This means Range Officer is entrusted with the job of scrutiny.

➤ **Guidelines for conducting scrutiny**

A recent circular no. 2/2022 dated 22.03.2022 lays down the guidelines (SOP) for conducting scrutiny. It prescribes procedure from picking up GSTINs to actual conduct of scrutiny by the RO.

➤ **Process of scrutiny**

Following is the broad outline of the process of scrutiny as per the above circular –

• **Selection of GSTINs:**

Selection of the GSTINs is based on risk-based parameters and is done by the **DGARM** (Directorate General of Analytics and Risk Management) from among the GSTINs registered with the Central Tax formations. Such data is shared with the CGST Commissionerates **via DDM portal**.

ROs are supposed to conduct scrutiny of **at least 03 GSTINs per month**.

Selection of GSTINs is based on several risk parameters which are derived out of

DGARM, ADVAIT, GSTN, e-Waybill portal etc.

Let us understand some of the important risk parameters used by the DGARM since understanding **these parameters can help us identifying risk prone units in our jurisdiction** even if the said GSTINs are not appearing in the list prepared by the DGARM. **List prepared by DGARM also has certain inputs which are indicative and may not be exhaustive.**

- Difference in turnover as declared in GSTR-1 and the data of GSTR-3B
- Difference of turnover as per the data of e-waybill and the data of GSTR-3B
- Mismatch in ITC as available in GSTR-2A (or 2B after FY 20-21) and claimed in GSTR-3B
- Mismatch in taxable amount as per TDS / TCS return and TDS / TCS available in cash ledger.
- ITC from suppliers whose registration has been subsequently cancelled (fake invoice cases)
- Cases where ITC reversal is required in terms of Section 17 of the CGST Act, 2017

List prepared by DGARM also has certain inputs which are indicative and may not be exhaustive. Pertinently, the data shared is real time data and may change over the time. Hence, the data may have to be interpreted properly by the officer.

- **Schedule for scrutiny:**

After receipt of the GSTINs for scrutiny with the returns in question, a schedule is drawn up for the entire year with approval of AC/DC in charge of the Division. Riskier GSTINs may be prioritized while drawing up schedule. The schedule shall be reported to the Zone and in turn to the DGGST for monitoring.

- **Data resources for scrutiny:**

Scrutiny means verification of the correctness of the data furnished by the taxpayer in his returns. The data available on various returns, columns of the same return, DGARM, ADVAIT, e-waybill portal and GSTN etc. may be used for the purpose of verification. Turnover and ITC declared in 3B may be juxtaposed with the figures available in DGARM, ADVAIT, other returns, etc. to figure out differences.

Steps of scrutiny:

- The RO should normally not call for any additional documents and rely upon documents available with him. Now if examination of returns of the unit selected for scrutiny, brings out discrepancies, then the RO will issue a notice in the **Form ASMT-10** asking for explanation there for within 30 days of the service of the said notice or such further time as he thinks fit. Preferably, tax, interest and any other amount due from the taxpayer should be intimated to him in this notice.

- Queries raised must be **specific and not vague**. Further, the additional payments made through **DRC 03** must also be considered for calculation of liability.
- ASMT- 10 must be issued after **analyzing all returns** of a particular FY. Even if one return is analyzed and ASMT-10 is issued, it will be deemed that all returns of the FY have been analyzed.
- In response, the taxpayer may accept the liability and deposit the due amounts and then inform the proper officer accordingly or send his response, clarifying discrepancies, in form **ASMT-11** within 30 days of issuance of ASMT-10, if he doesn't agree with the observations in ASMT-10.
- If the details mentioned in ASMT-11 are accepted by the officer or the tax amount and all other dues are paid, the officer will **conclude the proceedings** and inform the taxpayer accordingly in **Form ASMT-12** within 30 days of receipt of ASMT-11.
- If the explanation is not acceptable, the officer shall proceed to take action under Section 65 (Audit), 66 (special Audit), 67 (Inspection, search and seizure) or proceedings under Section 73 or 74, as the case may be.

GRANT OF REWARD TO INFORMERS

1. The field formations [Commissionerates of Customs/Central Taxes (Central Goods and Services Tax (GST), Integrated Goods and Services Tax (IGST), Central Excise) and the Directorate General of Revenue Intelligence (DRI) and Directorate General of GST Intelligence (DGGI)] of Central Board of Indirect Taxes and Customs give reward to the informers (those who give information to the Department on smuggling of contraband and evasion of duties and taxes) under **“The Guidelines for grant of Reward to informers and Government Servants, 2015.** “The guidelines are applicable for grant of rewards to the informers in respect of cases of seizures made and/or infringements/evasion of duty/ service tax etc. detected, under the provisions of the following Acts:
 - (a) The Customs Act, 1962;
 - (b) The Central Excise Act, 1944;
 - (c) Narcotic Drugs & Psychotropic Substances (NDPS) Act, 1985;
 - (d) Finance Act, 1994 as amended to an extent the said Act Contains provisions relating to Service Tax;
 - (e) The Central Goods and Services Tax Act, 2017;
 - (f) The Central Goods and Services Tax (Extension to Jammu and Kashmir) Act;
 - (g) The Integrated Goods and Services Tax Act, 2017; and
 - (h) The Integrated Goods and Services Tax (Extension to Jammu and Kashmir) Act, 2017.
2. **These guidelines will also be applicable for:**
 - (a) grant of rewards in respect of cases of detection of Drawback frauds or abuses of duty exemption schemes under various Export Promotion Schemes announced by the Government from time to time, unearthed on the basis of specific prior information provided by the informer or prior intelligence developed by the Government Servants;
 - (b) grant of reward to informers (who give information relating to assets, immovable properties etc. of persons from whom arrears of duty, tax, fine, penalty etc., are recoverable and the information results in the recovery of arrears);
 - (c) grant of reward to an informer who gives information regarding the whereabouts, assets, immovable properties etc. of persons from whom arrears of duty, tax, fine, penalty etc. are recoverable and the information results in recovery of arrears.

PRINCIPLES GOVERNING GRANT OF REWARD

3. **Reward should not be granted as a matter of routine:** Reward is purely an ex-gratia payment which, subject to guidelines, may be granted based on the judgment of the authority competent to grant rewards and taking into account facts and circumstances of each case and cannot be claimed by anyone as a matter of right.
4. **Criteria for grant of reward:** In determining the reward which may be granted, the authority competent to grant reward will keep in mind the following:
 - (a) The specificity and accuracy of the information, the risk and trouble undertaken, the extent and nature of the help rendered by the informer, whether information gives clues to persons involved in smuggling, infringements, evasion of duty, tax etc.;
 - (b) special initiative, efforts and skills/ ingenuity displayed leading to the recovery of Government dues during the course of investigation admitting their liability by way of voluntary deposit;
 - (c) whether the information led to seizure of contraband goods/ detection of infringements /evasion of duty /tax, the owners/ organizers/ financiers/racketeers and the carriers have been apprehended or not;
 - (d) the reward has to be case specific and not to be extended, in respect of other cases made elsewhere/against other parties on the basis of a similar modus operandi;
 - (e) in the cases of recovery of arrears of duty/tax. the grant of reward shall be considered only in those cases where the Chief Commissioner is satisfied that all possible efforts have been made by the Departmental officers to trace the defaulter/ details of defaulter 's property and Information provided by the informer has been instrumental in the recovery of arrears.
5. **Assignment of Reward (transfer of reward and payment of reward in the event of death of informer/Government Servant):** As the reward under these guidelines is in the nature of ex-gratia payment, no assignment (transfer) thereof made by the informer will be recognized. However, in the event of death of the informer the authority competent to grant rewards may grant reward to legal heirs or nominees of an informant/Government Servant of an amount not exceeding the amount that would have been payable to the informant had he/she not died.

QUANTUM AND CEILING OF REWARDS

6. In the cases other than those involving opium and other narcotic drugs, controlled substances, psychotropic substances and other synthetic drugs etc. informers will be eligible for reward up to:
 - (a) 20% of the net sale proceeds of the contraband goods seized (except items listed in Para 7, 8 & 9 below) and/or amount of duty/Tax evaded plus amount of fine and penalty levied/imposed and recovered;
 - (b) 20% of recovery of drawback claimed fraudulently and/or recovery of duties evaded under various Export Promotion Schemes plus amount of fine/penalty levied / imposed and recovered.
7. In respect of opium and other narcotic drugs, controlled substances, psychotropic substances and other synthetic drugs etc. seized under the provisions of Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985, the overall ceiling of reward will be as per the revised specific rates indicated in Annexure A-1 and Annexure A-2.
8. In respect of Gold and Silver seized under the provisions of Customs Act, 1962 and in cases of detection of import of gold / silver in contravention of provisions of Customs Act, 1962 the overall ceiling of reward will be as per specific rates indicated in Annexure A-3.
9. In respect of recovery of arrears of duty/tax, the reward can be given up to a maximum of 5% of the amount recovered and the quantum of reward will be determined by such factors as the nature, accuracy, actionability and efficacy of the information, and other attendant factors.

PAYMENT OF ADVANCE / INTERIM REWARD

10. Advance/Interim reward may be paid to informers up to 50% of the total admissible reward immediately on seizure in respect of the following categories of goods, namely:
 - (a) gold / silver bullion; and
 - (b) arms and ammunition, explosives.
11. In other cases of outright smuggling, involving seizures of contra band goods, including foreign currency, advance/ interim reward upto 25% of the total admissible reward may be paid to the informers immediately after seizure, if the authority competent to sanction reward is satisfied that the goods seized are reasonably expected to be confiscated on adjudication and the adjudication order is likely to be sustained in appeal/ revision proceedings.

12. In all other cases, including Customs appraising cases, cases of town-seizures and Central Excise duty evasion / service tax evasion cases, normally, no advance/ interim reward would be granted. However, in cases where the parties/persons involved have voluntarily paid the amount of duty evaded during the course of investigation, admitting their liability, 25% of the admissible reward may be considered for payment as advance /interim reward to the informers, after the issue of the show-cause notice (SCN), provided the authority competent to sanction reward is satisfied that there is reasonable chance of confiscability/infringement/evasion, as the case may be, being established in adjudication and sustained in appeal/ revisionary proceedings.
13. In exceptional cases, the Heads of Department may, having regard to the value of the seizures effected and magnitude of the evasion of duty/infringement detected and special efforts or ingenuity displayed by the officers concerned, sanction suitable reward on the spot to be adjusted against the advance/ interim reward that may be sanctioned thereafter.
14. Where proceedings in a case are closed without issue of show cause notice or within 30 days of service of show cause notice after recovery of duty, interest and /or penalty, as per the provisions of law mandating such closure of proceedings, or by an order of the Settlement Commission, reward may be paid to the officers as well as the informers taking into consideration their respective roles in detection and recoveries made in the case.
15. Reward may also be paid in cases where recoveries are made under voluntary disclosure schemes such as Voluntary Compliance Encouragement Scheme (VCES) provided the initiation of the investigation preceded the filing of declaration by the assesses under such voluntary disclosure schemes.

PAYMENT OF FINAL REWARD

16. Final rewards should be sanctioned and disbursed only after conclusion of adjudication/appeal/revision proceedings as well as closure of proceedings.
17. In case of narcotic drug, psychotropic substance and controlled substance, one-time final rewards should be sanctioned and disbursed only after compliance of provisions under Para 4(1) of the Notification No. GSR 38(E) dated 16.01.2015 issued under Section 52 A of the Narcotic Drugs & Psychotropic Substances Act, 1985 and filing of prosecution complaint before the designated Court.
18. The final reward will be determined on the basis of the net sale proceeds of

goods seized/confiscated (if any) and/or the amount of additional duty/fraudulently claimed Drawback recovered plus penalty/fine recovered for the duty recovered in cases of detection of abuse of duty exemption schemes.

19. The total rewards admissible, i.e., advance and final reward put together, should not exceed the ceiling of 20% of the net sale proceeds (if any) plus amount of additional duty/ service tax/fine/ penalty recovered in cases or the amount of drawback fraudulently claimed recovered, or the duty recovered in cases of detection of misuse of duty exemption scheme as the case may be.
20. Time limit to sanction final reward: It is desirable that immediately after conclusion of adjudication /appeal/ revision proceedings, it should be considered by the sponsoring authority as to whether the case can be considered and recommended to the reward committee for grant of reward.

DELEGATION OF POWERS FOR SANCTION / PAYMENT OF REWARD COMPOSITION OF REWARD COMMITTEE

21. The monetary limit for sanction of rewards to informers and Government Servants will be as per Annexure-B.
22. In multi-jurisdictional cases, only the Chief Commissioner/ Commissioner / Additional Commissioner /Joint Commissioner having jurisdiction where the maximum evasion of revenue has taken place shall be the Member of the Reward Committee. The Additional Commissioner / Joint Commissioner being considered for reward should not be a part of the Reward committee.

REVIEW OF FINAL REWARDS SANCTIONED BY THE COMPETENT AUTHORITY

23. Final reward sanctioned by the duly constituted reward sanctioning authority /committee shall not be reviewed or reopened. However, in most exceptional cases, where DGRI, DGGI, or the Chief Commissioner, as the case may be, is satisfied that the review of the final reward sanctioned by the competent authority is absolutely necessary to redress any grave injustice meted out to the Informer and make a recommendation to the Board to this effect, the Government may review the final reward sanctioned on the specific recommendations of the Board.
24. Since reward is an ex- gratia payment, only one representation by the informer against the amount of reward sanctioned should be entertained after being submitted through the reward sanctioning committee /authority to the

Jurisdictional Chief Commissioner/ DGRI/DGGI as the case may be, who, if deemed fit will forward the same with his recommendation to the Board. The Government may review the reward on the recommendations of the Board. No further representation or petition against the decision regarding grant of reward would be entertained either from the informer or any person on his behalf.

UNDERTAKING BY THE INFORMER

25. At the time when an informer furnishes any information or document(s), an undertaking should be taken from the informer that:
- (a) he/she is aware that the extent of the reward depends on the precision of the information furnished by him/her;
 - (b) the provisions of Section 177, 182 and 211 of the Indian Penal Code have been read by and/or explained to him/her;
 - (c) he/she is aware that if the information furnished by him/her is found to be false, he/she, would be liable to prosecution ; (d) he/she shall not claim reward as a matter of right; (e) he/she accepts that the Government is under no obligation to enter into any correspondence regarding the details of seizures made etc., if any, and that the payment of reward is an ex-gratia based on best judgment of the authority competent to grant reward and taking into consideration the facts and circumstances of each case.
26. It is also clarified to the informer that the Government is under no obligation to grant/sanction the maximum admissible reward up to 20% of the net sale proceeds of the seized/confiscated goods, (if any) and/or the amount of additional duty/penalty/redemption fine recovered and that the amount of reward to be sanctioned to the informer, will purely depend on the specificity & accuracy of the information & other dependent factors, as indicated in the guidelines.

ADDITIONAL INFORMATION IN RESPECT OF IDENTITY OF INFORMER

27. At present DRI-I / AE-1 is filed by an officer, who records the information stating gist of intelligence and action to be taken along with the sealed cover containing an information slip containing Left Thumb Impression (LTI). Further, in order to reduce delay and provide adequate safeguards, informer may, on his own wish provide following additional information on the information slip/written information viz. Visible identification marks (two), Height, Date of birth/Age. However, the additional information is not

considered as mandatory for grant of reward to informer. No reward shall be withheld for non- furnishing of additional information.

Annexure-A-1

Rates of Reward in respect of substances seized under the provisions of Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985

Sl. No.	Commodity	Proposed rate of maximum reward (in Rs. per kg)	Prescribed purity
1.	Opium	6,000/- (20% of present illicit price)	Standard Opium
2.	Morphine base and its salts	20,000/- (20% of present illicit price)	90% or more of anhydrous morphine
3.	Heroin and its salts	1,20,000/- (20% of present illicit price)	90 % or more of diacetyl morphine
4.	Cocaine and its salts	2,40,000/- (20% of present illicit price)	90% or more of anhydrous morphine
5.	Hashish	2,000/- (20% of present illicit price)	With THC content of 4 % or more
6.	Hashish Oil	10,000/- (20% of present illicit price)	With THC content of 20% or more
7.	Ganja	600/- (20% of present illicit price)	Should be commercially acceptable as Ganja
8.	Mandrax Tablets	2,000/- (20% of present illicit price)	Presence of Methaqualone
9.	Ampheta mine, its	20,000/- (10% of present illicit price)	100% pure ATS with pro rata reduction for reduced purity

	salts and preparations thereof		
10.	Methamphetamine, its salts and preparations thereof	20,000/- (10% of present illicit price)	100% pure ATS with pro rata reduction for reduced purity
11.	Ecstasy or 3,4-Methylene Dioxy Methamphetamine (MDMA)	15,000/1,000 tablets (10% of present illicit price)	Presence of MDMA

N.B: Rewards shall be reduced pro-rata if the purity is less than the one prescribed above.

Annexure-A-2

Rates of Reward in respect of controlled/psychotropic substances, etc. seized under Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985

Sl. No.	Commodity (Controlled/psychotropic substances/synthetic drugs)	Rate of maximum reward (in Rs.)	Prescribed purity
1.	Ephedrine, its salts and preparations thereof	280/- per kg	100%
2.	Pseudo-ephedrine, its salts and preparations thereof	480/- per kg	100%
3.	Acetic Anhydride	10/- per litre	100%
4.	Ketamine, its salts and preparations thereof	700/- per kg	100%
5.	Anthranillic Acid	45/- per kg	100%

6.	N-acetyl Anthranillic acid	80/- per kg	100%
7.	Diazepam and its Preparations	0.53/- per tablet of 5mg	100%
8.	Alprazolam and its Preparations	0.20/- per tablet of 5mg	100%
9.	Lorezepam and its Preparations	0.296/- per tablet of 5mg	100%
10.	Alprax and its preparations	0.52/- per tablet of 5mg	100%
11.	Buprenorphine/ Tidigesic and its preparations	` 25,000 /- per kg	100%
12.	Dextropropoxyphene , its salts and preparations thereof	` 2,880 /- per kg	100%
13.	Fortwin and its Preparations	` 1.044/- per vial of 30 mg	100%

N.B: Rewards shall be reduced pro-rata if the purity is less than the one prescribed above.

Annexure-A-3

Rates of Reward in respect of seizure of Gold / Silver in contravention of provisions of the Customs Act, 1962

Sl.No.	Commodity	Rate of maximum reward (in Rs.)	Prescribed purity
1	Gold	1,500/- per 10 grams	99.9%
2	Silver	3,000/- per kilogram	99.0%

N.B: Rewards shall be reduced prorata if the purity is less than the one prescribed above.

For 10 gm. gold and for 1kg of silver the admissible reward shall be-

- (a) When the gold is absolutely confiscated and the goods are not redeemed to the noticee, the quantum of reward shall be Rs. 1,500/- per 10 gms. Similarly, with regard to confiscation of silver, the quantum of reward shall be Rs. 3,000/- per one Kg.

- (b) When the gold and silver, including jewellery and articles thereof are seized, and in cases of detection of import of gold / silver in contravention of provisions of Customs Act, 1962 (where after issuance of SCN / completion of adjudication proceedings, an option to redeem goods is exercised), then quantum of reward shall be calculated as per the actual realization of duty, fine and penalty as applicable to similar such detection in terms of the reward rules.
- (c) In case of absolute confiscation of gold and silver jewellery, the quantum and ceiling of reward will be 20% of the Net sale proceeds of the jewellery plus amount of penalty levied/imposed and recovered.

Annexure-B

Monetary limit wise Reward Sanctioning Authority

1. Reward To informers	
Monetary Limit	Reward Sanctioning Authority
Upto Rs. 10 Lakh	Jurisdictional Principal Commissioner/ Commissioner of Customs/CGST & Central Excise/Principal Additional Director General/Additional Director General of DRI/ DGGI
Above Rs. 10 Lakh & upto ` 25 Lakh	A Committee consisting of: - (a) Jurisdictional Principal Commissioner/ Commissioner of Customs/CGST & Central Excise/Principal Additional Director General/ Additional Director General of DRI/DGGI; (b) One of jurisdictional Addl. Comm./Senior most Jt. Commissioner/Director of the Commissionerate or/DRI/DGGI; and (c) An outside Addl/Jt. Commissioner or Addl/ Jt. Director of DRI/DGGI nominated by jurisdictional Principal Commissioner/Commissioner/Principal ADG/ADG Note: Addl. Commissioner/ Joint Commissioner of the Commissionerate or/DRI/DGGI being considered for reward shall not be member of the reward committee.
Above Rs. 25 Lakhs & upto Rs. 50 Lakhs	A Committee consisting of i. Jurisdictional Principal Chief Commissioner/Chief Commissioner/Principal DGRI/DGRI/ Principal DGGI/DGGI; ii. Jurisdictional Principal Commissioner/ Commissioner/ Principal ADG/ADG - DRI/Principal ADG/ADG - DGGI iii. Principal Commissioner (Logistics or any other Commissioner rank officer nominated by Principal Chief Commissioner/Chief Commissioner/ Principal DGRI/DGRI/ Principal DGGI/DGGI.

SHOW CAUSE NOTICES

A Show Cause Notice (SCN) is a formal notice issued by the tax authorities under the Goods and Services Tax (GST) in India, to a taxpayer, requiring them to explain or justify a particular action or inaction that is in violation of the GST laws. The purpose of a Show Cause Notice is to give an opportunity to the taxpayer to explain their actions, and to provide evidence or arguments that show that the violation was not intentional or that the taxpayer was not at fault.

There are several grounds on which a show cause notice under GST may be issued. Some common examples are as under:

- **Evasion of taxes:** SCN may be issued if the taxpayer is found to be non-compliant with the GST laws, such as failing to file returns, not paying taxes, or not maintaining proper records.
- **Non-compliance with the GST laws:** SCN may be issued if the GST authorities suspect that the taxpayer is attempting to evade taxes by misrepresenting the nature of their supplies or by claiming ineligible credits or exemptions.
- **Fraud:** SCN may be issued if the GST authorities suspect that the taxpayer is involved in fraudulent activities, such as making false or misleading statements or using fake invoices.
- **Misuse of input tax credit:** A show cause notice under GST may be issued if the authorities suspect that the taxpayer is claiming input tax credit on supplies that are not eligible for ITC, or if the taxpayer is claiming ITC on supplies that were not received or excess ITC Claim.
- **Supplying goods or services without proper documentation:** SCN may be issued if the GST authorities find that the taxpayer is supplying goods or services without proper documentation, such as invoices or delivery challans.

A show cause notice under GST typically includes the following information:

1. Show Cause Notice Number and Date of Issuance
2. The name and address of the recipient
3. The GST registration number of the recipient
4. The nature of the alleged offense or violation
5. The provisions of the GST laws that the recipient is alleged to have violated
6. The deadline for the recipient to respond to the notice
7. Consequences for Not Replying to the SCN

Some common reasons for the issuance of a Show Cause Notice

- Mismatch in details reported between GSTR-1 & GSTR-3B: scrutiny notice
- Differences in Input tax credit claims made in GSTR-3B vis-a-vis GSTR-2B/2A

- Delay in filing of GSTR-1 and GSTR-3B consecutively for more than six months
- Inconsistent declaration in GSTR-1 and e-way bill portal
- Non-reduction of prices due to reduced GST Rates with effect from the date notified by CBIC. Thereby, a default is committed by taxpayer (seller) for non-passing of the benefit of reduced prices (or GST rates) to the ultimate consumers. The practice is known as profiteering. Several anti-profiteering measures are taken by GST authorities to address the default.
- Non-payment of GST liability (tax) or the short-payment of the tax with or without the intent to defraud: show cause notice (SCN)
- GST Refund is wrongly made with or without the intent to defraud: show cause notice (SCN)
- The Input tax credit is wrongly availed or utilized.
- Where a business is liable but has failed to obtain GST registration and not discharged the tax and other liabilities under the GST Act
- Inconsistencies in reporting of Exports in GSTR-1 with information available on ICEGATE. For example, Shipping Bill or the Bill of export lodged on ICEGATE but not reported in GSTR-1
- For furnishing any information related to records to be maintained by a taxpayer

The procedure for issuing a Show Cause Notice under GST is as follows:

1. The tax authorities conduct an investigation or departmental audit to determine whether a taxpayer has violated any GST laws or evaded taxes.
2. If the tax authorities find evidence of non-compliance or evasion, they may issue a Show Cause Notice to the taxpayer.
3. The Show Cause Notice can be sent to the taxpayer via e-mail or on the official portal. It can also be sent via registered post or delivered a physical copy.
4. The Show Cause Notice includes the details of the alleged violation, the provision of the GST Act or the rules and regulations that have been violated, and the action that the tax authorities propose to take against the taxpayer.
5. The taxpayer is given a specified period of time, usually 30 days, to respond to the Show Cause Notice and provide an explanation for the alleged violation.
6. The taxpayer can either accept the allegations and offer to pay the taxes and penalties as per the Show Cause Notice, or contest the allegations and provide an explanation for their actions.

7. The tax authorities consider the response of the taxpayer and decide whether to accept the explanation and close the case or to proceed with the proposed action.

As per Rule 142 (1A) The proper officer may, 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, communicate the details of any tax, interest and penalty as ascertained by the said officer, in Part A of **FORM GST DRC-01A**.

Along with Show Cause Notice, the proper officer shall issue a summary of SCN in Form DRC-01 having following details:

1. Details of person to whom SCN is to be issued like GSTIN, address etc.
2. Tax period, financial year, Section reference and SCN reference no
3. Brief facts of the case
4. Grounds; and
5. Taxes and other dues (Interest, penalty and others).

Section 169 of the CGST Act states the different means of communicating the notices under GST. As per the section 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 authorized 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 authorized 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.

List of DRCs in GST law is as under-

FORM GST DRC-01 Summary of Show Cause Notice

FORM GST DRC-01A Intimation of tax ascertained as being payable under section 73(5)/74(5)

FORM GST DRC-01B Intimation of difference in liability reported in statement of outward supplies and that reported in return

FORM GST DRC-01C Intimation of difference in input tax credit available in auto-generated statement containing the details of input tax credit and that availed in return

FORM GST DRC-01D Intimation for amount recoverable under section 79

FORM GST DRC-02 Summary of Statement

FORM GST DRC-03 Intimation of payment made voluntarily or made against the show cause notice (SCN) or statement

FORM GST DRC-04 Acknowledgement of acceptance of payment made voluntarily

FORM GST DRC-05 Intimation of conclusion of proceedings

FORM GST DRC-06 Reply to the Show Cause Notice

FORM GST DRC-07 Summary of the order

FORM GST DRC-07A Summary of the order creating demand under existing laws

FORM GST DRC-08 Rectification of Order

FORM GST DRC-08A Amendment/Modification of summary of the order creating demand under existing laws

FORM GST DRC-09 Order for recovery through specified officer under section 79

FORM GST DRC-10 Notice for Auction of Goods under section 79 (1) (b) of the Act

FORM GST DRC-11 Notice to successful bidder

FORM GST DRC-12 Sale Certificate

FORM GST DRC-13 Notice to a third person under section 79(1) (c)

FORM GST DRC-14 Certificate of Payment to a Third Person

FORM GST DRC-15 Application Before The Civil Court Requesting Execution For A Decree

FORM GST DRC-16 Notice for attachment and sale of immovable/movable goods/shares under section 79

FORM GST DRC-17 Notice for Auction of Immovable/Movable Property under section 79(1)(d)

FORM GST DRC-18 Certificate action under clause (e) of sub-section (1) section 79

FORM GST DRC-19 Application to the Magistrate for Recovery as Fine

FORM GST DRC-20 Application for Deferred Payment/ Payment in Instalments

FORM GST DRC-21 Order for acceptance/rejection of application for deferred payment /

payment in instalments

FORM GST DRC-22 Provisional attachment of property under section 83

FORM GST DRC-22A Application for filing objection against provisional attachment of property

FORM GST DRC-23 Restoration of provisionally attached property / bank account under section 83

FORM GST DRC-24 Intimation to Liquidator for recovery of amount

FORM GST DRC-25 Continuation of Recovery Proceedings

Suggestive checklist at the time of issuance of SCN:

1. Whether noticee's name, address and correct GST Registration No has been mentioned.
2. Whether noticee is proprietary concern/firm//private limited/ public limited/body corporate etc. has been mentioned or not.
3. Whether gist of intelligence/information resulting in further inquiry/ investigation has been mentioned in the SCN or not
4. Whether grounds for invoking extended period of limitation has been clearly explained in the SCN.
5. Whether quantification of duty being demanded has been explained in an unambiguous manner. The documents on which such duty calculation is based, is also clearly mentioned in the SCN and whether or not, the same has been made RUD to the SCN
6. Whether duty calculation chart has been duly signed
7. Whether financial year wise quantification has been made.
8. Whether IGST, CGST, SGST, cess has been clearly bifurcated.
9. Whether forward charge demand and reverse charge demand has been bifurcated.
10. Whether DRC 01 and DRC 01A have been issued.
11. Whether SCN is answerable to proper Adjudicating Authority
12. Whether proper sections / rules have been invoked
13. Whether list of RUDs along with description of each RUD and page nos at which it is placed, is enclosed with SCN
14. Whether RUDs are legible and properly photocopied or not.
15. Whether RUDs have been supplied to Noticee at time of service of SCN
16. Whether non-RUDs have been returned or not. If not, then the same should be returned at the earliest after issuance of SCN.
17. Whether proper procedure of service of SCN has been followed

List of Important Sections, Rules, Notifications, Circulars, Instructions etc. related to issuance of SCN are as under-

Section: 73, 74, 75, 122, 125, 169

Rule: 142

Notification: 02/2017, 02/2022, 09/2023, 56/2023 All CT

Circular: 03/2017, 31/2018, 169/2022, 171/2022, 185/2022

Instructions: 02/2021, 04/2023, 05/2023

