

SEMESTER : III
BASICS OF GST
II.M.Com

Unit I

GST - The Road Begins - Draft Model GST Law - Positives – Negatives - LEVY - Territorial jurisdiction of GST - Taxable Event - Consideration - Levy and collection of GST - Composition levy - PLACE AND TIME OF SUPPLY - Definitions of Goods & Services - Time of supply.

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VALUATION - Value of taxable goods and services- Valuation Rules – SPECIAL TRANSACTIONS - Job work - Electronic Commerce -INPUT TAX CREDIT – Input tax credit - Input Service Distributor -REFUNDS - Refund -Interest on refund.

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Study Material
BASICS OF GST
II.M.Com
Semester-III
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Unit I

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GST Implemented 01.07.2017

What is GST in Simple words?

The goods and services tax (**GST**) is a value-added tax levied on most goods and services sold for domestic consumption. The **GST** is paid by consumers, but it is remitted to the government by the businesses selling the goods and services.

- ❖ GST is single tax on the supply of goods and services, right from the manufacturer to the consumer.
- ❖ The input tax credit paid at each stage will be available in the subsequent stage of value addition, which makes GST essentially a tax only on value addition at each stage.
- ❖ With the stream lining of the multiple taxes, the final cost to the consumer will turn out to be low because of elimination of double charging system.

Some examples of Direct taxes

Include **tax** varieties such as income **tax**, corporate **tax**, wealth **tax**, gift **tax**, expenditure **tax** etc.

Some examples of indirect taxes

Include sales **tax**, **excise** duty, VAT, service **tax**, entertainment **tax**, custom duty etc.

Types of GST

There are four different types of GST as listed below:

1. The Central Goods and Services Tax (CGST)
2. The State Goods and Services Tax (SGST)
3. The Union Territory Goods and Services Tax (UTGST)
4. The Integrated Goods and Services Tax (IGST)

GST Slab Rates

The GST council has fitted over 1300 goods and 500 services under four tax slabs of **5%**, **12%**, **18%** and **28%** under GST.

Which items are in 5% GST Slab?

Household necessities such as edible oil, sugar, spices, tea, and coffee (except instant) are included. Coal, Mishti /Mithai (Indian Sweets) and Life-saving drugs are also covered under this **GST slab**.

Which items are in 12% GST Slab?

12 per cent tax will be imposed on apparel above Rs 1,000, frozen meat products, **butter**, cheese, ghee, dry **fruits** in packaged form, animal fat, sausage, fruit juices, , Ayurvedic medicines, tooth powder, agarbatti, coloring books, picture books, umbrella, sewing machine, cell phones

Which items are in 18% GST Slab?

Hair oil, toothpaste and soaps, capital **goods** and industrial intermediaries are covered in this **slab**.

Which items are in 28% GST Slab?

The top tax rate of 28 per cent will now be levied on goods like pan masala, aerated **water** and beverages, cigars and **cigarettes**, tobacco products, cement, paints, perfumes, ACs, dish washing machine, washing machine, refrigerators, vacuum cleaners, cars and two-wheelers, aircraft and yachts.

How is GST Calculated

GST calculation can be explained by simple illustration : If a goods or services is sold at Rs. 1,000 and the **GST** rate applicable is 18%, then the net price **calculated** will be = $1,000 + (1,000 \times (18/100)) = 1,000 + 180 = \text{Rs.}$

19 Items with ZERO Percentage GST Rate

There will be **zero** tax imposed on **items** such as jute, fresh meat, fish, chicken, eggs, milk, butter milk, curd, natural honey, fresh fruits and vegetables, flour, besan, bread, salt, bindi, bangles, News papers, Stamps, Handloom and other items of daily use.

OBJECTIVES AND PURPOSE OF GST

1. Develop National market – one Nation to one tax
2. Avoid cascading effect of various indirect taxes
3. To avoid overlapping of state and central tax
4. Remove barriers in inter - state movement of goods to reduce wastage of truck time and wastage of man hours at check posts.

NEED FOR GST

- ❖ The biggest tax reform in indirect taxes since independence
- ❖ Structure of indirect taxes as excising up to 30.6.2017 was based on the their list, seven schedule to constitution
- ❖ It will drive India economic growth in the next decade
- ❖ GST removes multiplicity of taxes across states and will create single national taxation system and single common market
- ❖ Each movement costing at least 2% Entry Tax and Check Posts
- ❖ Each state government and union Territory ha its own VAT act rules, regulation, notification and procedure
- ❖ GST is to overcome these defect in present tax system.
- ❖ Tax burden on goods and services hat to be reduced benefiting common man

ADVANTAGES OF GST

1. GST eliminates the cascading effect of **tax**. ...
2. Higher threshold for registration. ...
3. Composition scheme for small businesses. ...
4. Simple and easy online procedure. ...
5. The number of compliances is lesser. ...
6. Defined treatment for E-commerce operators. ...
7. Improved **efficiency** of logistics. ...
8. Unorganized sector is regulated under GST.
9. **Resourceful Administration by Government**
10. Previously, the management of indirect taxes was a complicated task for the Government. However, under the GST establishment, the integrated tax rate, simple input of tax credit mechanism and a merged GST Network, where information is available, and administration of resources are well-organised and straightforward for the Government.

DISADVANTAGES OF GST

1. IT Infrastructure:

Since GST is an IT-driven law, it cannot be sure whether all the states in India are currently equipped with infrastructure and workforce availability to embrace this law. Only a few states have implemented this E- Governance model. Even today some states use the manual VAT returns system.

2. Higher Tax Burden of SME's:

Earlier the small and medium enterprises had to pay excise duty only on a turnover that exceeded Rs. 1.5 crore every financial year. However, under the GST administration, businesses whose turnover exceeds Rs 40 lacs are liable to pay GST.

3. Increase Burden of Compliance:

The GST administration states that companies are required to register in all the states they operate in. This increases the burden on the business for excessive paperwork and compliance.

4. Petroleum Products don't fall under the GST Slab:

Petrol and petroleum products have not been included in the scope of GST until now. States levy their taxes on this sector. Tax credit for inputs will not be available to these industries or those related industries.

5. Coaching of Tax Officers:

There is inadequate training that is provided to the Government officers for practical usage and implementation of such systems since the GST administration heavily banks on information technology.

DRAFT MODEL GST LAW

Virtually all states have supported the idea of GST except Tamil Nadu which has “some reservations”, Finance Minister Arun Jaitley said after the meeting of Empowered Committee on the long awaited indirect tax reform.

The Draft GST Law is a model which the Central Government and each of the State Governments would use to draft their respective Central and State GST Acts. Further, a Draft of the Integrated GST Act, 2016, which will govern levy of GST on inter-State supplies by the Central Government, is also issued.

The Draft Model GST Law states that the Act shall be referred as the Central/ State Goods and Services Tax Act, 2016. The Draft Model GST Law consists of 162 clauses divided into 25 Chapters along with 4 schedules and Rules as to Valuation under GST. Further, the Draft Integrated GST Act, 2016 consists of 33 clauses divided into 11 Chapters.

The Draft Model GST Law prescribes a threshold of Rs.9 Lakhs aggregate turnover in a Financial Year for a supplier to get registered under the GST and Rs. 4 Lakhs for businesses in North Eastern States Assam, Arunachal Pradesh, Sikkim, Nagaland, Mizoram, Meghalaya, Tripura, and Manipur, Sikkim.

Broadly, the Draft Model GST Law covers the following aspects:

- Definition of key terms such as ‘goods’, ‘services’, ‘aggregate turnover’, ‘business’ etc.
- Place of supply of goods and/or services: Since, the proposed GST framework will work on the principle of destination based consumption tax, place of supply rules plays an important role to build up a mechanism to determine tax jurisdictions for the smooth implementation of GST. It becomes more important in case of e commerce transactions;
- Time and value of supply: Under the proposed GST regime, all the major taxes levied under the Indirect taxation i.e. Central Excise, Service tax, VAT/CST etc., are

proposed to be brought under the ambit of GST. Hence, the prevailing concepts of manufacturing of Goods/ provision of Services/ sale of Goods will no longer be relevant and common base has to be arrived at for levy and collection of GST in all cases;

- Scheme of input tax credit including manner of taking Input tax credit, credit in case of input sent for job works, manner of distribution of credit by Input service distributor etc.;
- Transfer of input tax credit
- Payment of tax, interest, penalty and other amounts;
- Tax invoice, credit and debit notes
- Returns and related compliances
- Demands/ recovery;
- Refund;
- Transitional provisions

The availability of Draft Model GST Law enables the Trade and Industry to plan the transition from the existing Indirect tax regime to the GST regime. It is important that a thorough analysis of the Draft GST Law is undertaken so as to provide necessary suggestions/ feedback to the Government. It is expected that the Government will soon come out with a mechanism to invite suggestions/ feedbacks of the Trade and Industry.

Positive Impact of GST

1. Easy to run a business across all states uniformly

GST would change VAT all over India this means that a business would not have to suffer about keeping up with VAT compliances that are various in all states.

2. Fewer Tax Compliances

Central GST would replace sales tax, excise duty, service tax, custom duty etc.

State GST would replace state VAT, State Cesses and surcharges, central sales tax, Tax on advertisement, Luxury tax, Purchase tax, and entrainment tax.

3. Faster Transportation of Goods

It will be of large help to the logistical sector and will also result in the faster transportation of goods as there will be no hour long wait at the sales tax code across border due to the elimination of various indirect taxes.

4. Indirect benefits to startups

Startups are required to register To VAT if their turnover is more than Rs.5 lacs and in some state Rs.10 lacs with the coming of GST business with an annual turnover of over Rs.20 lacs above are needed to register of GST.

5. Increase in foreign Investment

The goods manufactured within India will become more competitive in the international market due to decreased cost which will in turn faster the growth of Indian export.

Negative Impact of GST

1. Proposed GST Rate is higher than VAT

The rate of GST is proposed to be larger than the current VAT rate in India. Which although decreasing the prices in the longer run will be have help in cutting down prices of commodities.

2. Dual Control

A business will indirectly controlled by both the central and the state in all tax-related cases. The state will lose autonomy to replace the tax rate will be regulated by the GST Council.

3. Certain sector will face a negative impact.

Sectors that are currently enjoying no excise duty or have enjoyed a lot of tax benefits will have to bear the burn of a higher TAX. These Included Textile, Media, Pharma and Telecom.

4. Loss incurred by the manufacturing states

Since GST is commonly related to the manufacturing segment, most manufacturing states may incur losses

LEVY COLLECTION OF GST

What is Levy?

Levy of GST CGST/SGST/IGST/UTGST is on supply of goods and services in the course on Inter-State, Intra-State trade and commerce that is the taxable event in GST is supply is the taxable event in GST is supply of goods and services.

Levy Collection of GST, Levy and collection of tax section 9 of GST Act-2017

Let divide this section into 3 parts

1. First Part(Normal Charge Mechanism or Forward Charge Or Direct Charge
2. Second Part (Reverse Charge Mechanism)
3. Third Part (E-Commerce Operator)

1. What is Forward Charge Mechanism in GST?

Forward charge mechanism under GST is when GST is **charged** in the sales invoice by the supplier; same is collected from purchaser and finally deposited to govt. (or)

Means that the supplier of goods services has to pay the tax, for examples Mr.X.is a chartered accountant a private services to Mr. and collect The GST.

2. What is Reverse Charge Mechanism in GST?

This reverses the scenario as the person who is receiving the goods and services need to pay the taxes. A payment voucher needs to be issued from the supplier to the recipient. (or)

In the case of Reverse Charge the receiver of services is liable to pay the tax. (or)

Under the reverse charge mechanism the receiver of goods services has to pay the tax. (Examples Goods Transport agency, Casual tax on persons, Recovery Agent Banking, Financial Company).

3. What is e commerce operator under GST

Example Amazon, Flipkart, E-Card, Snap deal and **operators** selling services are Uber, Ola, Swiggy, Urban Clap.

Electronic Commerce Operator has been defined in Sec. 2(45) of the CGST Act, 2017 to mean any person who owns, operates or manages digital or **electronic** facility or platform for **electronic commerce**. Question 3: Is it mandatory for **E-commerce operator** to obtain registration? Answer: Yes.

Suppose if a Samsung selling these mobile through flip cart then it is E-Commerce operator. But when it sold own website it is not E-Commerce operator.

Territorial jurisdiction of GST

What is Territorial jurisdiction?

Territorial jurisdiction is the court's power to bind the parties to the action. This law determines the scope of federal and state court power.

What does jurisdiction means?

The geographic area over which authority extends legal authority the authority to hear and determine causes of action. **Jurisdiction** generally describes any authority over a certain area or certain persons. In the law, **jurisdiction** sometimes refers to a particular geographic area containing a defined legal authority. (or)

In the law **jurisdiction refers** to particular area containing a definite authority to hear and determine a cause of action. ... **Jurisdiction can** also be used to **define** the proper court in which to bring a particular case. Finally **jurisdiction refers** to inherent authority of court to hear a case and to declare a judgment.

Territorial jurisdiction

The Act Appointment various tax officers with all Powers under GST Act and Rule They are.

- i) Principal Chief Commissioner of Central Tax
- ii) Principal Director General of Tax
- iii) Chief Commissioner of Central Tax
- iv) Director Mingle of Direct Tax
- v) Principle Commissioner of Central Tax
- vi) Principal Additional Direct General of Tax

- vii) Commissioner of Central Tax
- viii) Additional Director General of Central Tax
- ix) Joint Commissioner of Central Tax
- x) Joint Director of Central Tax
- xi) Deputy Director of Central Tax
- xii) Assistant Director of Central Tax
- xiii) Assistant Commissioner of Central Tax

THERE ARE THREE IMPORTANT CONCEPTS:

Importance of Time, Place and Value of Supply

1. Time of Supply

- (A). Supply of goods
- (B). Supply of services
- (C). Reverse charge

2. Place of supply

- (A). Supply of Goods
- (B). Supply of Services

3. Value of Supply of Goods/Service

GST Invoice Format

Your Company Name

1. GSTIN
 2. Name
 3. Address
 4. Serial No. of Invoice
 5. Date of Invoice

Transportation Mode : Apply for Supply of Goods

Vehicle No.
Date and Time of Supply
Place of Supply

Details of Receiver (Billed to)

Name
Address
State
State Code
GSTIN/Unique ID

Details of Consignee (Shipped to)

Name
Address
State
State Code
GSTIN/Unique ID

| Sr. No. | Description of Goods or Services | HS N | Qty. | Unit | Rate (per item) | Total | Discount | Taxable value | CGST | | SGST | | IGST | |
|--|----------------------------------|------|------|------|-----------------|-------|----------|---------------|------|------|------|------|------|------|
| | | | | | | | | | Rate | Amt. | Rate | Amt. | Rate | Amt. |
| | Freight | | | | | | | | | | | | | |
| | Insurance | | | | | | | | | | | | | |
| | Packing and Forwarding Charges | | | | | | | | | | | | | |
| | Total | | | | | | | | | | | | | |
| Total Invoice Value (In figure) | | | | | | | | | | | | | | |
| Total Invoice Value (In Words) | | | | | | | | | | | | | | |
| Amount of Tax subject to Reverse Charges | | | | | | | | | | | | | | |

Declaration:

Signatory

Electronic Reference Number

Signature

Name of the

Designation / Status

Date -

Why are time place and value of supply important?

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

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

Value of supply is important because GST is calculated on the value of the sale. If the value is calculated incorrectly, then the amount of GST charged is also incorrect

1. Time of Supply

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

CGST/SGST or IGST must be paid at the time of supply. Goods and services have a separate basis to identify their time of supply. Let's understand them in detail.

A. Time of Supply of Goods

Time of supply of goods is earliest of:

1. Date of issue of invoice
2. Last date on which invoice should have been issued
3. Date of receipt of advance/ payment*.

For example:

Mr. X sold goods to Mr. Y worth Rs 1,00,000. The invoice was issued on 15th January. The payment was received on 31st January. The goods were supplied on 20th January.

*Note: GST is not applicable to advances under GST. GST in Advance is payable at the time of issue of the invoice. Notification No. 66/2017 – Central Tax issued on 15.11.2017.

Let us analyze and arrive at the time of supply in this case.

Time of supply is earliest of –

1. Date of issue of invoice = **15th January**
2. Last date on which invoice should have been issued = 20th January

Thus the time of supply is 15th January.

What will happen if, in the same example an advance of Rs 50,000 is received by Mr. X on 1st January?

The time of supply for the advance of Rs 50,000 will be 1st January (since the date of receipt of advance is before the invoice is issued). For the balance Rs 50,000, the time of supply will be 15th January.

B. Time of Supply for Services

Time of supply of services is earliest of:

1. Date of issue of invoice
2. Date of receipt of advance/ payment.
3. Date of provision of services (if invoice is not issued within prescribed period)

Let us understand this using an example:

Mr. A provides services worth Rs.20,000 to Mr. B on 1st January. The invoice was issued on 20th January and the payment for the same was received on 1st February.

In the present case, we need to first check if the invoice was issued within the prescribed time. The prescribed time is 30 days from the date of supply i.e. 31st January. The invoice was issued on 20th January. This means that the invoice was issued within a prescribed time limit.

The time of supply will be earliest of –

1. Date of issue of invoice = **20th January**

2. Date of payment = 1st February

This means that the time of supply of services will be 20th January.

C. Time of Supply under Reverse Charge

In case of reverse charge the time of supply for service receiver is earliest of:

1. Date of payment*

2. 30 days from date of issue of invoice for goods (60 days for services)

*w.e.f. 15.11.2017 'Date of Payment' is not applicable for goods and applies only to services. Notification No. 66/2017 – Central Tax

For example:

M/s ABC Pvt. Ltd undertook service of a director Mr. X worth Rs. 50,000 on 15th January.

The invoice was raised on 1st February. M/s ABC Pvt Ltd made the payment on 1st May.

The time of supply, in this case, will be earliest of –

1. Date of payment = 1st May

2. 60 days from date of date of invoice = **2nd April**

Thus, the time of supply of services is 2nd April.

2. Place of supply

It is very important to understand the term 'place of supply' for determining the right tax to be charged on the invoice.

Here is an **example:**

| Location of Service Receiver | Place of supply | Nature of Supply | GST Applicable |
|-------------------------------------|------------------------|-------------------------|-----------------------|
| Maharashtra | Maharashtra | Intra-state | CGST + SGST |
| Maharashtra | Kerala | Inter-state | IGST |

A. Place of Supply of Goods

Usually, in case of goods, the place of supply is where the goods are delivered.

So, the place of supply of goods is the place where the ownership of goods changes.

What if there is no movement of goods. In this case, the place of supply is the location of goods at the time of delivery to the recipient.

Example 1- Intra-state sales

Mr. Raj of Mumbai, Maharashtra sells 10 TV sets to Mr. Vijay of Nagpur, Maharashtra

The place of supply is Nagpur in Maharashtra. Since it is the same state CGST & SGST will be charged.

Example 2-Inter-State sales

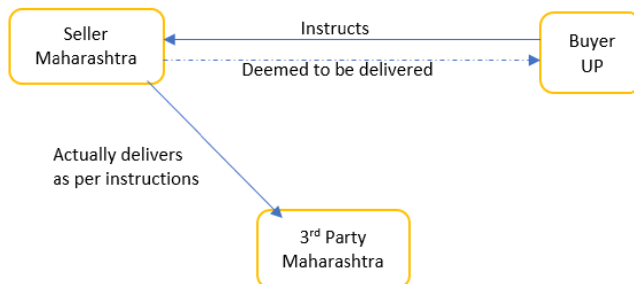
Mr. Raj of Mumbai, Maharashtra sells 30 TV sets to Mr. Vinod of Bangalore, Karnataka. The place of supply is Bangalore in Karnataka. Since it is a different state IGST will be charged.

Example 3- Deliver to a 3rd party as per instructions

Anand in Lucknow buys goods from Mr. Raj in Mumbai (Maharashtra). The buyer requests the seller to send the goods to Nagpur (Maharashtra)

In this case, it will be assumed that the buyer in Lucknow has received the goods & IGST will be charged.

Place of supply: Lucknow (UP), GST: IGST



Example 4- No movement of goods

Sales Heaven Ltd. (Chennai)

opens a new showroom in Bangalore. It purchases a building for showroom from ABC Realtors (Bangalore) along with pre-installed workstations

Place of supply: Bangalore

GST: CGST & SGST

There is no movement of goods (work stations), so the place of supply will be the location of such goods at the time of delivery (handing over) to the receiver.

Example 5- Train

Mr. Vinod is travelling to Mumbai via train. The train starts at Delhi and stops at certain stations before Mumbai. Vinod boards the train at Vadodara (Gujarat) and promptly purchases lunch on board. The lunch had been boarded in Delhi.

Place of supply: Delhi

GST: CGST & UTGST

The food items were loaded into the train at Delhi. So, place of supply becomes Delhi.

B. Place of Supply for Services

Generally, the place of supply of services is the location of the service recipient.

In cases where the services are provided to an unregistered dealer and their location is not available the location of service provider will be the place of provision of service.

Special provisions have been made to determine the place of supply for the following services:

- Services related to immovable property
- Restaurant services
- Admission to events
- Transportation of goods and passengers

- Telecom services
- Banking, Financial and Insurance services.

In case of services related to immovable property, the location of the property is the place of provision of services.

Example 1:

Mr. Anil from Delhi provides interior designing services to Mr. Ajay(Mumbai). The property is located in Ooty (Tamil Nadu).

In this case, place of supply will be the location of the immovable property i.e. Ooty, Tamil Nadu.

3. Value of Supply of Goods or Services

Value of supply means the money that a seller would want to collect the goods and services supplied.

The amount collected by the seller from the buyer is the value of supply.

But where parties are related and a reasonable value may not be charged, or transaction may take place as a barter or exchange; the GST law prescribes that the value on which GST is charged must be its 'transactional value'.

This is the value at which unrelated parties would transact in the normal course of business. It makes sure GST is charged and collected properly, even though the full value may not have been paid.

Importance of Place of Supply

- i) **Export of goods**
Taking goods out of India to a place outside India
- ii) **Import of goods**
Bringing goods in to India from a place outside India
- iii) **Export of services**
Supplier of services located in India
Recipient of services is located outside India
Place of supply of services in outside India
- iv) **Important of services**
Supplier of services is located outside India
Recipient of services is located in India
Place of supply of services in India.

Unit II

VALUATION - Value of taxable goods and services- Valuation Rules - SPECIAL TRANSACTIONS - Job work - Electronic Commerce -INPUT TAX CREDIT - Input Service Distributor -REFUNDS - Refund -Interest on refund.

What is the value of GST?

The **value** of supply under **GST** shall include: Any taxes, duties, cess, fees, and charges levied under any act, except **GST**. **GST** Compensation Cess will be excluded if charged separately by the supplier. Any amount that the supplier is liable to pay which has been incurred by the recipient and is not included in the price.

Example

Let us consider an example of ABC, a manufacturer, selling tools and hardware like drills and hardware like drills, polishers, spades etc. It sells a power drill to XYZ a wholesaler. The MRP is Rs. 5,500 but ABC sells it for Rs. 3,000.

Currently, the invoice will look like-

| | |
|-------------------------------|-------|
| Power Drill | 3,000 |
| Add: Excise @ 12.5% | 375 |
| Subtotal | 3,375 |
| Add: VAT @14.5% (on subtotal) | 490 |
| Total | 3,865 |

Value of supply under GST

The value of goods &/or services supplied is the transaction value, i.e. the price paid/payable, which is Rs 3,000 in the example. Assuming CGST=9% and SGST= 9%

| | |
|---------------|-------|
| Power Drill | 3,000 |
| Add: CGST @9% | 270 |
| Add: SGST @9% | 270 |
| Total | 3,540 |

What is Valuation of Supply Under GST?

Goods and Services Tax will be charged on the value of supply made. The new law has provided various rules which can be referred to for determining the value of supply on which GST has to be charged. In simple words, these rules will help in determining the charging value for GST.

Valuation Rules for Supply

Valuation Rules have recently been released and are now open for public comment. These rules are currently hosted on CBEC's portal and you can access them [here](#). These rules are going to impact all the businesses. To make it easier for our readers, we have come up with our analysis of these valuation rules.

All possible scenarios wherein valuation is required are categorized under seven different heads. These heads are:

1. Value of Supply of Goods or Services where the consideration is not wholly in money.

Example will include cases when a buyer gives another good in exchange of partial consideration and barter.

2. Value of Supply of Goods or Services or both between distinct or related persons, other than through agent.

Example will include when goods or services are supplied to related persons or entities which have separate registration but common control.

3. Value of Supply of Goods made or received through an agent.

Specific cases when goods or services are supplied between Principal and his agent. There may not be a value-addition but these cases will fall under the definition of supply.

4. Value of Supply of Goods or Services or both based on cost.

This valuation method provides valuation on the basis of the cost of manufacture or cost of acquisition.

5. Residual method for determination of the value of supply of goods or services or both.

Any other method which can be fairly justified.

6. Determination of value in respect of certain supplies.

Specific cases such as Foreign Currency Convertor, Life Insurance Business are covered under this head.

7. Value of Supply of Service in the case of a pure agent.

This valuation rule will apply to exclusive Principal-Agent related cases. Most of these valuation rules are case specific, the all powerful GST council has also listed up certain businesses such as the sale of foreign currency and life insurance business etc and their specific valuation rules (Under clause 6 above).

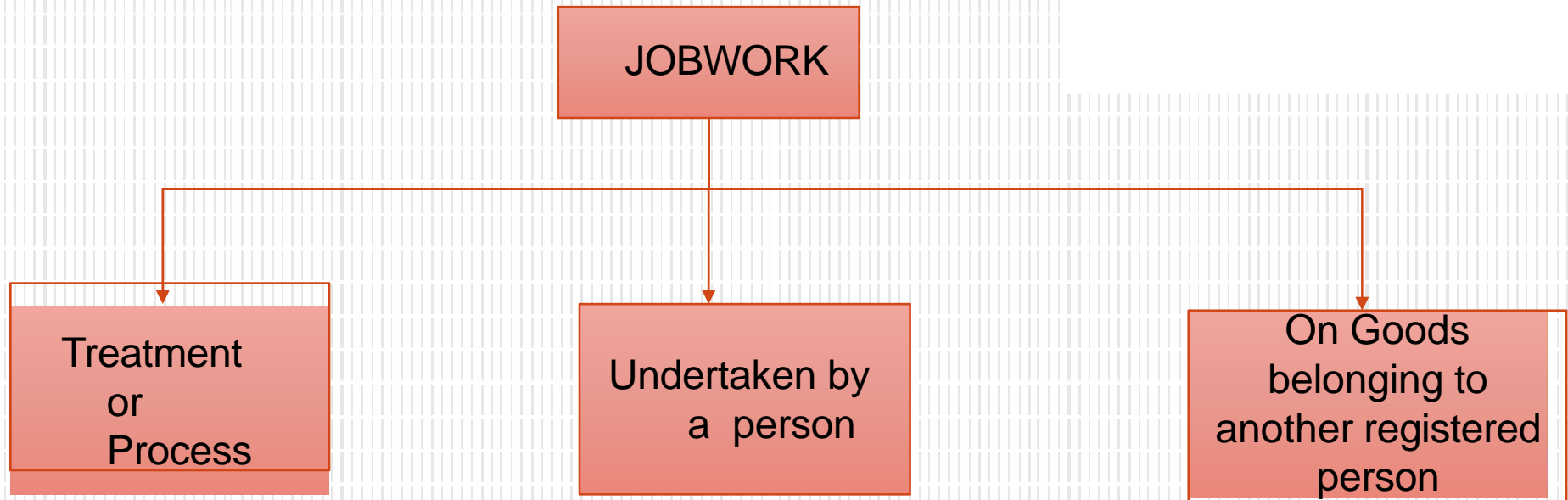
SPECIAL TRANSACTION - JOBSITE



OBJECTIVES:

- ✓ Definition
- ✓ Job work Procedure u/s 143 of CGST Act, 2017.
- ✓ Input tax credit as per Section 16 and 19 of the CGST Act, 2017.
- ✓ Other clarifications relating to Job work as per Circular No. 38/12/2017 – Central Tax dated 26th of March 2018.

SECTION 2(68):

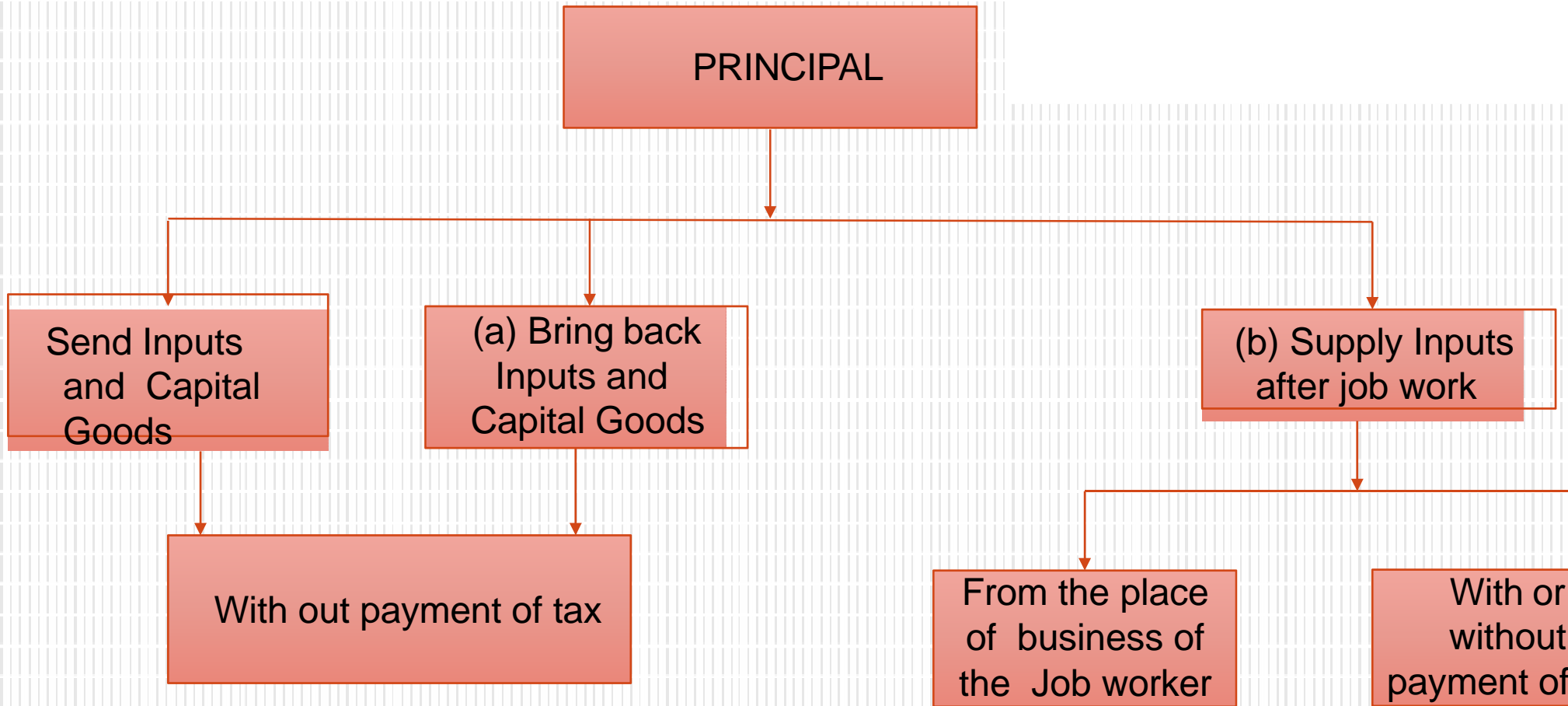


- ❖ Expression “*JOBWORKER*” shall be construed accordingly.
- ❖ Person sending the inputs is called as “*PRINCIPAL*”.

Illustration:

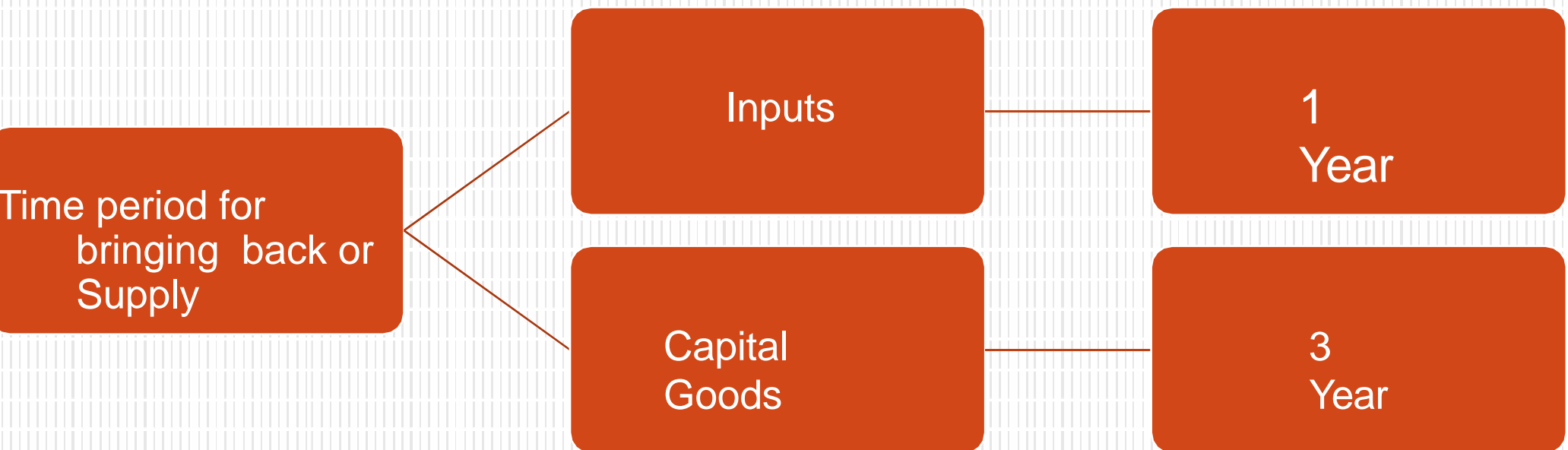
A Ltd is engaged in the business of manufacturing of Bikes. He sent all the parts assembling to B Ltd. Here the activity of assembling performed by Mr B amounts Manufacture. Here the process is done on the parts sent by “A Ltd”. The assembling process done by B Ltd comes under Job work.

SECTION 143(1) - Conditions for sending the goods to Job worker



Section 143(1)(a),(b)

Time period for the sending back of/further supply of inputs and capital goods from the place of Job worker:



Time period of one year or three years is not applicable for mould, dies, jigs and fixtures.

Section 143(b)

❑ **Supply from place of business of job worker shall be included in the turnover of the Principal if -**

- ✓ The place of business of job worker is mentioned as additional place of business of the principal

Except -

- ✓ If the Job worker is already registered under GST Act,2017
- ✓ Principal is engaged in supply of goods as may be notified by the commissioner.

Section 143(2)

Principal is responsible for keeping proper accounts for all the inputs and capital goods held with the Job worker.

- ✓ Sending the goods under the cover of a challan under rule 45
- ✓ Two copies of challan to be issued to the job worker.
- ✓ Challan to be issued by the supplier in the name of the buyer containing the details of the job worker as consignee – Goods directly sent from the suppliers place to the job worker business.

Illustration: Mr A(principal) have ordered the goods from Mr B(supplier of the principal) and said to give delivery of goods to Mr C(job worker). In this case challan has to be issued by B to C on behalf of A. Challan has to be raised in bill to ship to model.

- ✓ On subsequent movement of goods to another job worker. Challan can be endorsed to the second job worker.
- ✓ In case of imported goods – Goods are sent along with Bill of entry from customs station and the principal has to send a challan for the same to the job worker.

Section 143

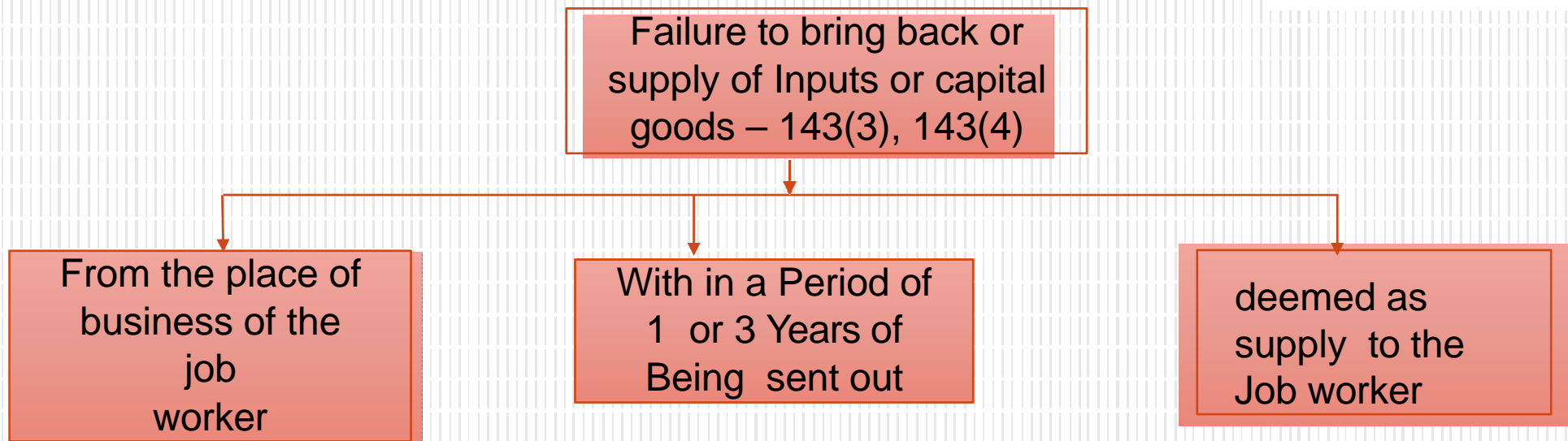
- ✓ Quarterly filing of GST ITC – 04 containing the details of goods sent to the job worker from the Principal or from another job worker and *vice versa*.

RULE 138 (1):

- ✓ Generate E-Way bill for movement of goods if the value of the consignment exceeds 50,000/- by the person who commences movement of goods in the course of supply and **for the reasons other than supply**.
- ✓ E – Way bill is required to be generated irrespective of the value of consignment in case of interstate movement of inputs/capital goods for job worker. If Job worker is unregistered Principal has to generate the E – way bill.

Illustration: Mr “X” has sent goods worth 75,000/- to Mr “Y” here the movement is commenced by A i.e. Principal and the value is more than 50,000/-. So now A has to raise E – Way bill for the respective transport.

Section 143(3),(4),(5)-Failure to comply with provisions of 143(1):



- ❑ Scrap if any generated during the job work process can be directly supplied from the place of business of job worker if the job worker is registered, or from the place of business of Principal if the job worker is not registered.

Availment of Input tax credit - Section 16(2)

16(2)(a)

- Recipient should be in possession of tax invoice or debit note or any other document issued by the supplier

16(2)(b)

- Has received goods or services or both

16(2)(c)

- Tax has been paid to the government on the respective supply either in cash or through utilisation of Input tax credit

16(2)(c)

- Furnished return under section 39

Clarifications with respect to Job work:

- **Registration (Section 22)**

- **Principal** – Obtain registration if his aggregate turnover exceeds 20 lakhs

- **Job worker** – Obtain registration if his turn over from job work services exceeds 20 lakhs.

- ❖ 10 lakhs in case of business located in special category states.

- Job worker and Principal are in different states – Required to obtain registration irrespective of Turnover limit (Section 24).

- Exemption from registration – If the Aggregate Turnover do not exceed 20 lakhs in case of Inter state supply of services.

Notifications with respect to Job work: Circular No.38/12/2018

Taxability of Job work service:

- Job worker is required to pay tax on the Job work service provided to the Principal which is supply as per Section 7 of the CGST Act, 2017.
 - Value on which tax is to be paid – Value determined as per section 15 of the CGST Act, 2017.
 - Time of taxability is determined as per section 13 of the CGST Act, 2017.
 - Place of supply is determined as per the provisions of Section 12 of the IGST Act 2017.
 - Issue of Invoice - Job worker is liable to issue invoice only for the job work service provided by him.
 - Job worker can also use other inputs for provision of Job work services and is eligible to take credit of the same.
 - In case job worker is not registered principal is liable to pay tax under section 9(4).
-

Illustration:

- P (Principal) having registered premises in Andhra Pradesh sent goods to Q (Job work Unregistered) located in Telangana. Q processed the goods and sent goods back to place of business of Principal with a challan for movement of goods and an invoice raised for the value of Job work service done by Q amounting to 50,000/- on 10th of January, 2018 and P had made the payment for the same on 20th of January, 2018.

Form the above example-

- Whether the Job work service amounts to supply?

Ans: Yes, it is a supply of service as per section 7 of the CGST Act, 2017.

- Who is liable to pay tax?

Ans: As Section 9 of the CGST Act, 2017 supplier is liable to pay tax. Since Q is unregistered P is liable to pay tax under section 9(4) of the CGST Act, 2017.

Illustration:

- What is place of Supply?

Ans: As per Section 12 of the IGST Act, 2017 the place of supply is Andhra Pradesh. Since the recipient of service is a registered person i.e. P.

- What is the time of supply?

Ans: The Time of Supply should be determined as per Section 13 of CGST Act, 2017 since the transaction is being taxed under reverse charge. The time of supply shall be date of payment i.e. 20th of January, 2018.

Electronic Commerce (Models)

Definitions:

- ❖ Means supply of goods and /or services including digital products over digital or electronic network.
- ❖ Thus every model except the inventory model shall be covered here, Electronic commerce.
- ❖ Means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce operator
- ❖ The major difference between the two is that while an aggregate (Ola) only connects the customer with the supplier/ service provider, whereas an ecommerce operator (Flipkart) facilitates the entire process of the supply of goods / provisions of service. So flipkart not only the connects the customer but also provides all information about the product and looks after the delivery and refund process. Hence and e-commerce operator is larger than an aggregate. Difference between E-Commerce & Aggregator.
- ❖ Owner & Seller of the goods are the same person. The owner himself of owns the goods. Which he sells through an online Portal, Example just buy live inventory model.
- ❖ Service is providing under the brand name of another person Example Ola, Uber etc aggregator Model. Example Goods & Services are sold under the name of the original Owner i.e buyers & Sellers come across a place to buy & sell – which is helped by e-commerce operator. Example Olx, Quicker, etc
- ❖ They own a particular database. Access to much information is provided to consumer for a charge.

Impact of GST on E-Commerce

The uprising of Electronic Commerce in India has also resulted in conception of online marketplaces. A Marketplace is an e-commerce platform owned by the E-commerce Operator such as Flipkart, Snapdeal and Amazon. Some of the features of a marketplace model are-

- Marketplace enables third-party sellers to register and sell online on their platform.
- Marketplace charges a subscription fees/ commission on sale value from listed sellers.
- Third-party sellers under this model gain access to a larger customer base, registered with marketplace.
- Customer on the other hand gains access to multiple sellers and competitive prices for desired products.
- Items purchased on such marketplaces are either shipped by Merchant/Third-party seller directly or through the fulfillment center managed by Marketplace Operator.

1. No Benefit under Composition Scheme: Most of these sellers registered with marketplace operators are small and medium businesses. Government has introduced composition scheme under GST law. This scheme is primarily aimed to reduce the burden of compliance for small and medium businesses. Under this scheme, businesses are required to file returns quarterly instead of monthly and pay taxes at nominal rates up to 2%. To know more about Composition

2. Tax Collection at Source by Marketplace Operator: Under the new tax regime, marketplace operators are mandatorily required to deduct a percentage amount as the GST liability of seller and deposit it with government. This mechanism is being termed as “Tax Collection at Source (TCS)” under the GST law. Eventually the marketplace seller will have to file monthly return under GST to claim the credit of TCS collected by the marketplace operator. This will also impact the liquidity and cash flow of these sellers.

3. Increased reach of e-commerce

The GST has opened up new avenues for small and medium-sized sellers to compete with larger enterprises. Earlier due to the over looming tax rates in different states, sellers were usually confined to their states only, limiting the free reach to far-flung areas. By the introduction of GST, e-sellers will be relieved of varying tax structures.

4. Compulsory registration required

The government specifies a company to be registered if it has a threshold of more than 20 lac. This limit has been dropped for north-eastern states by about 10 lac rupees. For the e-commerce sector the situation is different as all sellers are to be registered even if their threshold doesn't cross 20 lac. This is a limitation which if removed would allow more sellers to become a part of an online community.

5. Tax collected at source

E-commerce marketplaces will deduct 2% of the TCS of net value sales apart of seller liability and are to be paid to the government. Additionally, the sales reported by the marketplaces and those of the seller need to tally each month. If any discrepancies persist, the extra amount needs to be paid by the seller. This measure is aimed to weed out fraudulent activities surrounding online marketplaces and amount of tax evasion will decrease, building trust between marketplaces and the sellers.

6. Ineligible for composition

The e-commerce sellers are not eligible for compensation as part of GST actions. The composition scheme would have enabled sellers whose turnover is about 75 lac to file tax returns quarterly rather than the monthly which is followed now, The tax amount would have been a meager 2%, but the scheme has been kept out of reach for sellers.

7. Increase in credit

The GST has introduced input tax credit for e-commerce marketplaces, establishing a direct contact between input product and final product. They will be able to utilize input tax credit to their benefit.

8. Cash on delivery refund

In developing countries like India, cash-on-delivery is a more popular option exercised by users. The refunds on such orders are issued after a reconciliation of 7-10 days if the taxes have already been paid. This sticky issue has been taken care under GST.

What is input tax credit?

Input Credit means at the time of paying tax on output, you can reduce the tax you have already paid on inputs, you can claim input credited of Rs.300 and you only need to deposit Rs.150 in taxes. Input credit mechanisms available to you are covered under the GST Act. In simple words input Tax Credit means reducing the taxes paid on inputs from taxes to be paid on output.

Input tax credit (ITC) is the tax paid by the buyer on purchase of goods or services. Such tax which is paid at the purchase when reduced from liability payable on outward supplies is known as input tax credit. In other words, input tax credit is tax reduced from output, tax payable on account of sales.

Example –

Mr. A purchased goods worth Rs. 18,000 on which GST @ 18% was Rs. 3240. He sold goods worth Rs. 22,000. GST payable @ 18% is Rs. 3960. Let us calculate and understand net GST payable and input GST credit.

| | |
|-----------------------------|----------|
| Outward GST payable - | Rs. 3960 |
| Less- GST paid on purchases | Rs. 3240 |

Thus, net GST payable through cash Rs. 720

From above, we understand that Rs 3240 reduced is input tax credit availed that had been paid on purchases.

Basic requisites / conditions for claiming Input Tax Credit (ITC) –

The following requisites are mandatory for claiming input tax credit under GST –

- (1) One must be registered under GST Law
- (2) A tax invoice or debit note issued by the registered supplier showing the tax amount
- (3) Goods or services must have been received
- (4) Supplier should have filed returns and paid such tax thereon to the government
- (5) Where goods are received in parts or in installments, ITC maybe claimed on receipt of last lot or installment.
- (6) Where input tax credit is included in the cost of capital goods and depreciation on such tax is claimed, no input tax credit is allowed.
- (7) Input tax credit will not be allowed if the same has not been claimed within the prescribed time limit. **be claimed:**

A registered dealer can claim input tax credit on the basis of following documents –

- (1) A tax invoice issued by registered supplier
- (2) A debit note issued in respect of earlier issued tax invoice by the registered supplier.
- (3) An invoice issued by the recipient of goods or services who has paid tax under reverse charge mechanism
- (4) A bill of entry or similar document in case of imports.
- (5) An invoice or credit note issued by an Input Service Distributor.

For instance XY Corp, a buyer has a Purchase Invoice was dated 8th July 2017(FY 2017-2018), wants to claim GST paid on that purchase. As per the criteria laid down to reckon the time limit. The Due date of filing GST return for September-2018 (FY-2018-2019) is 20th October 2018 and the date of filing GST Annual Return for FY-2017-2018 is 31st December 2018, Whichever is earlier will be the time period within which XY Corp has to claim ITC. Therefore, the date is 20th October 2018 and XY Corp can claim this ITC in any of the months between July 2017 to September 2018.

Input Service Distributors (ISD) UNDER GST

1. Who is an Input Service Distributors (ISD) under GST?
2. Situations where ISD is not applicable
3. Purpose of registering as ISD
4. Recovery procedure for wrongful/excess distribution of credit by ISD

1. Who is Input service distributor (ISD) Under GST?

An Input service distributor (ISD) is a business which receives invoices for services used by its branches. It distributes the tax paid, to such branches on a proportion basis by issuing an ISD invoice.

The branches can have different GSTINs but must have the same PAN as that of ISD

Example: Head office of ABC limited is located at banglore having branches at Chennai, Mumbai and Kolkata, The head office incurred annual software maintained expense (service received) on behalf of all its branches and received the invoice for the same. Since software is used by all its branches, the input tax credit of entire service cannot be claimed at Banglore. The same has to be distributed to all three locations. Here, the Head office at Banglore is the Input Service Distributor.

2. Situations where ISD is not applicable

ISD **cannot** distribute the input tax credit :

- paid on Inputs Example Raw materials and capital goods Example Machine purchased
- To outsourced manufacturers or service providers.

3. Purpose of registering as ISD

The concept of ISD is a facility made available to business having a large share of common expenditure and billing/payment is done from a centralized location. The mechanism is

meant to simplify the credit taking process for entities and the facility is meant to strengthen the seamless flow of credit under GST.

4. Conditions to be fulfilled by ISD

- **Registration:** Input Service Distributor has to compulsorily register as “ISD” apart from its registration as a normal taxpayer under the Act, wherein he has to specify under serial number 14 of the REG-01 form as an ISD. Only then he shall be able to distribute the credit to the recipients.
- **Invoicing:** ISD can distribute the amount of tax credit to recipients as earlier stated by issuing an [ISD invoice](#)
- **Returns:** Amount of tax credit distributed should not exceed the amount of tax credit available with the ISD as at the end of a relevant month to be filed in [GSTR-6](#) by 13th* of the succeeding month by ISD.

5. Recovery procedure for wrongful distribution of credit by ISD

GST Act provides that the following shall be deemed to be inappropriate distribution of tax credit by Input Service Distributor:

- credit distributed to all or any recipient in excess of the amount available for distribution
- distributed in an inappropriate ratio to all or any recipient
- Distributed in excess to what a supplier is entitled to and shall be recovered from such recipient(s) along with interest and the provisions of ‘Demand and Recovery’ shall apply for affecting such recovery.

REFUND

1. What is GST refund?

Usually when the GST paid is more than the GST liability a situation of claiming GST refund arises. Under GST the process of claiming a refund is standardized to avoid confusion. The process is online and time limits have also been set for the same.

2. When can the refund be claimed?

There are many cases where [refund](#) can be claimed. Here are some of them –

Excess payment of tax is made due to mistake or omission.

- Dealer Exports (including deemed export) goods/services under claim of rebate or Refund
- ITC accumulation due to output being tax exempt or nil-rated
- Refund of tax paid on purchases made by Embassies or UN bodies
- Tax Refund for International Tourists
- Finalization of provisional assessment

3. How to calculate GST refund?

Let's take a simple case of excess tax payment made.

Mr. B's GST liability for the month of September is Rs 50000. But due to mistake, Mr. B made a GST payment of Rs 5 lakh.

Now Mr. B has made an excess GST payment of Rs 4.5 lakh which can be claimed as a refund by him. The time limit for claiming the refund is 2 years from the date of payment.

4. What is the time limit for claiming the refund?

The time limit for claiming a refund is 2 years from relevant date.

The relevant date is different in every case.

Here are the relevant dates for some cases –

| Reason for claiming GST Refund | Relevant Date |
|--|---|
| Excess payment of GST | Date of payment |
| Export or deemed export of goods or services | Date of despatch/loading/passing the frontier |
| ITC accumulates as output is tax exempt or nil-rated | Last date of financial year to which the credit belongs |
| Finalization of provisional assessment | Date on which tax is adjusted |

Also if refund is paid with delay an interest of 24% p.a. is payable by the government.

5. How to claim GST refund?

The [refund application](#) has to be made in Form RFD 01 within 2 years from relevant date.

The form should also be certified by a Chartered Accountant.

You can file your returns very easily using [ClearTax GST](#) Software.

Interest on Refund

Once an application for the refund is filed, within 60 days the GST officer may issue an order if he is satisfied with the whole or partial refund amount claimed.

If the refund is not provided within 60 days of the application by the proper officer then the refund has to be paid with an interest at 6% p.a. calculated for the period of delay.

Exception: If refund from an order/direction from the appellate authority/tribunal/court is granted then interest on refund is 9% calculated for period of delay.

Period of delay for Interest calculation: To find out the period for which Interest at 6%/9% is to be calculated, count the number of days from the date of receipt of Application for refund till the date of payment of Refund.

Exception: A Casual taxable person / Non-resident Taxable person, who claims the Refund of the balance unutilized advance deposit of tax made at the time of registration, is eligible to count the days from the date of deposit till the date of payment of Refund.

The Interest shall be paid by issuing Payment advice in [RFD-05](#). Payment advice (RFD-05) contains the amount of refund delayed, the period of delay and amount of Interest being paid.

The Interest amount is directly credited to the registered Bank account of the claimant that was declared at the time of GST registration.

Illustration (Deemed exports) : Anuj is a sub-contractor and he supplies goods to an export oriented units(EOUs) on 25 July 2017. Anuj was to file the return by 20 August 2017 for the supplied goods. The transaction would be considered as “Deemed Export”. The relevant date for this would be 20 August 2017. Anuj has time till 19th August 2019 to claim refund for these supplies.

Unit III

Compliances - Registration - Invoices, Credit And Debit Notes - Payment Of Tax - Tax Deducted At Source - Returns - Accounts And Records - Assessment, Audit And Inspection - Assessment - Audit - Inspection - Interest, Penalty And Prosecution - Interest - Offences And Penalties – Prosecution.

GST compliance checklist for your business

1. Classifying transactions

Using HSN/SAC code mapping, you must classify all transactions under GST as either “goods” or “services.” Some of these classifications have changed from the old valued added tax (VAT) laws. For example, restaurants classified as “goods” under state VAT laws are now classified as “services” under GST.

In addition, GST has adopted the integrated GST (IGST) model, which classifies transactions into two categories: interstate transactions and intrastate transactions. You should take into account frequent changes in tax rates and exemptions, and reclassify items and redefine tax rates as needed.

Identify your HSN Codes / SAC Codes & Tax Rates

Since the 18th of May, 2017, the GST Council has met 4 times to declare the rates of various goods and services, which included amendments which happened along the way. At the same time, the HSN codes (for goods) and SAC codes (for services) have also been declared. It is supercritical for you, to not only to be aware of the tax rates of the supplies you make but also the HSN / SAC codes – primarily for 2 reasons.

One, it will have an impact on your GST invoicing – if your turnover is above INR 1.5 crores but below INR 5 crores you need to use 2-digit code and if your turnover is INR 5 crores and above, you need to use 4-digit code. If your turnover is below INR 1.5 crores, you are not required to mention HSN Code in their invoices at all.

2. Place of supply and time of supply

You must be clear regarding the applicable provisions of place and time of supply, as provisions differ with location, industry, and commodities. Capturing the time and place of supply can sometimes be confusing. Avalara Trust File GST helps track this information.

3. Tax slabs

Once supplies have been properly classified, make sure to apply the appropriate tax rate on each supply, and to update tax rates in your system as needed.

4. GST registration — location

GST law requires all factories, outlets, and warehouses in India to register under GST, and all supply points to be identified.

You can obtain GST registrations for different business verticals falling under different jurisdictions to help ease GST compliance and ensure seamless input tax credit (ITC).

7. Account balances and reconciliations

You need to reconcile accounts with vendors and customers as on June 30, 2017, before GST launched. You should also reconcile stock on inventory lists that include complete details of quantity, rate, and ITC.

8. Sales and marketing policy

GST has made substantial changes in taxation with regards to gifts, discounted items, and related party transactions. Amend your sales and marketing policies accordingly.

9. Logistics model and payment policy

There is a marked transformation from previous VAT laws in the point of supply and the point at which tax liability arises and needs to be paid under GST. Understand these changes and analyze your cash flow carefully. Also revisit and redefine your inventory policy, logistics model, and payment policy accordingly.

10. Review existing contracts

Existing contracts need to be reviewed and updated to comply with GST. This applies to penalization, incentives, pricing changes on account of seamless ITC, etc., under GST.

11. Supply chain management

Review your list of suppliers, the nature of goods supplied, place of supply, and contractual terms in case suppliers can be rationalized or consolidated to improve supply chain efficiency. Also ensure that contractual terms are in line with GST law.

12. Review of vendor masters

Make sure to update all vendor masters in respect to:

- a) GST registration numbers for all locations
- b) HSN codes for the items supplied

c) Reverse charge mechanism applicability

d) Matching of GST credit with suppliers to encourage timely filing of returns

13. Review of customer masters

It is important to capture the place of supply (with up-to-date GST registration numbers) in case PAN India operations need to be captured. In case of ecommerce and B2C transactions, special attention may be required.

14. Update tax masters

If you don't have an automated GST system, you'll need to update tax masters at regular intervals.

15. Filing GST returns

Filing timely returns with the correct information is very important under GST to avoid high penalties and ensure a good GST rating. Returns are to be filed in the subsequent months on a monthly/quarterly/annual basis; incomplete data may result in invalid returns.

16. Systems transition and preparedness

Check to see that the system you have in place can be updated to keep current with GST compliance. Pay specific attention to system support, as GST law is expected to undergo many more changes before it stabilizes.

GST is not just a tax reform, but a business reform too, affecting almost every aspect of your operations. It is of prime importance to understand GST and its implications, and to adopt a robust system that will help alleviate GST compliance worries. Be proactive and face the challenges head-on rather than react to problems arising from noncompliance, and you'll likely be much better off.

What is GST Compliance Rating?

The theory of the compliance rating system is to rate businesses on how compliant they are with the GST rules, regulations and the time limits specified in such Act and Rules. As per Section 149 of the CGST act, a registered person shall be assigned a goods and service tax compliance rating score by the government based on his record of compliance with the provisions of the act.

How the Compliance Rating Works?

1. Making payments on time – Depending on your annual turnover, you will need to make your payments either on a monthly or quarterly basis. Reconciliations on time

– Just as payments need to be made in a timely manner, same is the case with reconciliations which you shall complete within the due dates.

2. Filing returns on time – Continuing to file your GST returns in time will safeguard your ratings so that they remain high and reap more benefits in return.
3. Following the various time limits – Whether it is for filing, payments, reconciliations, ensuring strict adherence to the specified time limits will help you maintain your high compliance rating.

Important Benefits of GST Compliance Rating

1. Issuance of input tax credit – With a high score you will also receive your input credits faster. Additionally, more buyers will prefer to do business with you so that they too can benefit from faster input credit refunds.
2. Trust and reputation amongst the business community – Since every registered business's rating will be visible in the public domain, by following the implemented 3.rules and regulations of the GST scheme,
3. Increase customer base – As your compliance rating increases, so will your customer base, in accordance with your rating and reputation.

GST – Registration

Information required for GST Registration

1. Provisional ID
2. Password
3. Valid Email Address
4. Valid Mobile number
5. Bank Account number
6. IFSC and MICR code

Documents required for GST Registration

1. In case of Partnership deed
2. In Case of others registration certification of the business entity
3. Photograph of authorized Signatory
4. Bank account number
5. Address of branch
6. Address of account holder
7. Few transactions details

Step-1.

1. 1.Login to www.gst.gov.in
2. 2.Begin the application process as new user
3. 3.Use the Provisional ID and The password
4. 4.On next page web page answers the security questions

Step-2.

1. 1. Legal name of business (as per PAN)
2. 2. Legal name of Business (as per Current tax)
3. 3. PAN of Business 4. State 5. Sector 6. Trade Name

Step-3.

1. 1. The next page resolve around the personal particulars of the owners
2. If is a straight forward process and should be a breeze for any applicant the information
3. If the Stakeholder is also the authorized signatory

New Registration

| <u>Form</u> | <u>Used for</u> | <u>Due Date</u> |
|--------------------|--|---|
| GST REG-01 | Application for registration as a regular/composition dealer | |
| GST REG-02 | Acknowledgment of receipt of application for registration, issued by GSTN | |
| GST REG-03 | Notice seeking additional information/clarification/documents relating to application for registration, issued by a GST Officer | Within 3 working days after the date of receipt of application |
| GST REG-04 | Application for providing clarification/additional information/documents for registration | Within 7 working days after the date of receipt of notice |
| GST REG-05 | Order of rejection of application for registration | Within 3 working days after the date of submission of application/within 7 working days after the date of receipt of additional clarification/information/documents |
| GST REG-06 | Certificate of registration to regular dealer/composition dealer/tax deduct at source/tax collector at source | Within 3 working days after the date of submission of application/within 7 working days after the date of receipt of additional clarification/information/documents |
| GST REG-07 | Application for registration as tax deduct at source or tax collector at source | |
| GST REG-09 | Application for registration as a non-resident taxable person | Within 5 days prior to commencement of business |
| GST REG-09A | Application for registration as a person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient | |
| GST REG-10 | Application for extension of period of registration by casual taxable persons and non-resident taxable persons | |

| | | |
|------------|--|--|
| GST REG-11 | Order of allotment of temporary registration to a person who has not registered, though liable to register | |
| GST REG-12 | Application for allotment of Unique ID to be filed by UN bodies, embassies, etc | |
| GST REG-29 | Report of physical verification of a business premise, to be filed by GST Officer in cases where the Officer feels that physical verification of business premises is required after grant of registration | Within 15 working days after date of physical verification |

Cancellation of registration

| Form | Used for | Due Date |
|-------------|--|--|
| GST REG-03 | Notice seeking additional information/clarification/documents relating to application for cancellation registration, issued by a GST Officer | Within 15 working days after the date of receipt of application for cancellation of registration |
| GST REG-04 | Application for providing clarification/additional information/documents for cancellation of registration | Within 7 working days after the date of receipt of notice |
| GST REG-08 | Order of cancellation of registration of person not eligible to deduct or collect tax at source | |
| GST REG-15 | Application for cancellation of registration, to be filed by registered person | Within 30 working days of occurrence of event requiring cancellation of registration |
| GST REG-16 | Show cause notice issued to a person whose registration is liable to be cancelled | |
| GST REG-17 | Application for reply to show cause notice for cancellation of registration, to be filed by a registered person | Within 7 working days after the date of receipt of notice |
| GST REG-18 | Order of cancellation of registration | Within 30 days after the date of application for cancellation of registration |
| GST REG-19 | Order of drop in proceedings of cancellation of registration | |

Invoicing Under GST

Here, we will be covering the following aspects of GST Invoices:

1. What is a GST Invoice?
2. Who should issue GST Invoice?
3. What are the mandatory fields a GST Invoice should have?
4. By when should you issue invoices?
5. How to personalize GST Invoices?
6. What are other types of invoices? Debit notes and Credit note
7. Can you revise invoices issued before GST?
8. How many copies of Invoices should be issued?
9. GST Invoicing under Special Cases?
10. FAQs on Invoice

1. What is a GST Invoice?

An invoice or a GST bill is a list of goods sent or services provided, along with the amount due for payment.

2. Who should issue GST Invoice?

If you are a GST registered business, you need to provide GST-complaint invoices to your clients for sale of good and/or services. Your GST registered vendors will provide GST-compliant purchase invoices to you

3. What are the mandatory fields a GST Invoice should have?

A tax invoice is generally issued to charge the tax and pass on the [input tax credit](#). A GST Invoice must have the following mandatory fields-

1. Invoice number and date
2. Customer name
3. Shipping and billing address
4. Customer and taxpayer's GSTIN (if registered)**
5. Place of supply
6. HSN code/ SAC code
7. Item details i.e. description, quantity (number), unit (meter, kg etc.), total value
8. Taxable value and discounts
9. Rate and amount of taxes i.e. CGST/ SGST/ IGST
10. Whether GST is payable on reverse charge basis
11. Signature of the supplier

**If the recipient is not registered AND the value is more than Rs. 50,000 then the invoice should carry:

- i. Name and address of the recipient,
- ii. Address of delivery,

TAX INVOICE

| | | |
|--|--|---|
| Customer Name Kabir Jewellers_AP | Billing Address Kabir Jewellers_AP F-45 Airport Road, Hyderabad Andhra Pradesh | Shipping Address Kabir Jewellers_AP F-45 Airport Road, Hyderabad Andhra Pradesh |
| Customer GSTIN - | | |

Country of Supply India **Place of Supply** Andhra Pradesh (37) **Due Date** 12/07/2017

| Item | HSN / SAC | Quantity | Rate / Item (₹) | Discount (₹) | Taxable Value (₹) | CGST (₹) @6% | SGST / UTGST (₹) @6% | CESS (₹) | Total (₹) |
|--------------------|-----------|----------|-----------------|--------------|-------------------|---------------|----------------------|-------------|-----------------|
| 1. Dry Fruits Pack | 08131000 | 200.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 2. freight @ 12% | - | 1.00 | 500.00 | 0.00 | 500.00 | 30.00 @6% | 30.00 @6% | 0.00 | 560.00 |
| 3. Saffron | 0910 | 5.00 | 800.00 | 0.00 | 4,000.00 | 100.00 @2.5% | 100.00 @2.5% | 0.00 | 4,200.00 |
| 4. Freight @ 5% | - | 1.00 | 200.00 | 0.00 | 200.00 | 5.00 @2.5% | 5.00 @2.5% | 0.00 | 210.00 |
| Total | | | | | 4,700.00 | 135.00 | 135.00 | 0.00 | 4,970.00 |

Taxable Amount ₹ 4,700.00

Total Tax ₹ 270.00

Invoice Total ₹ 4,970.00

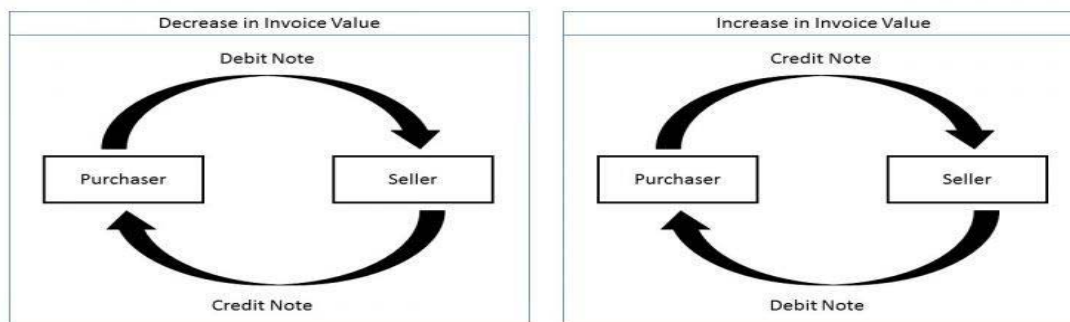
Total amount (in words) Four Thousand Nine Hundred Seventy Rupees Only

For Sri Ganesh Catering Services
(Authorised Signatory)

5. How to personalize GST Invoices?

You can personalize your invoice with your company's logo. The Clear Tax Bill Book allows you to create and personalize GST Invoice free of cost.

6. Debit and credit note



A **debit note** is issued by the seller when the amount payable by the buyer to seller increases:

1. Tax invoice has a lower taxable value than the amount that should have been charged
2. Tax invoice has a lower tax value than the amount that should have been charged

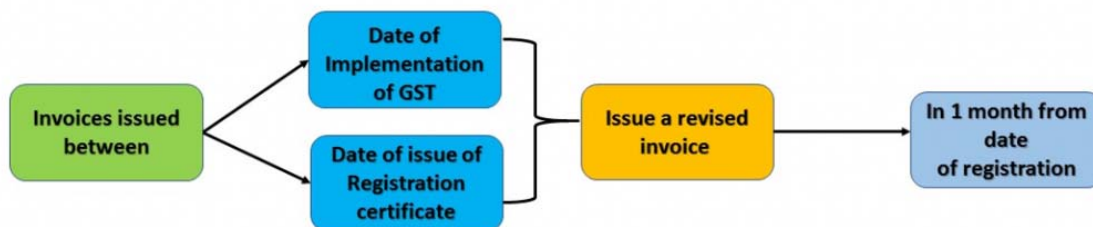
A **credit note** is issued by the seller when the value of invoice decreases:

1. Tax invoice has a higher taxable value than the amount that should have been charged
2. Tax invoice has a higher tax value than the amount that should have been charged
3. Buyer refunds the goods to the supplier
4. Services are found to be deficient

7. Can you revise invoices issued before GST?

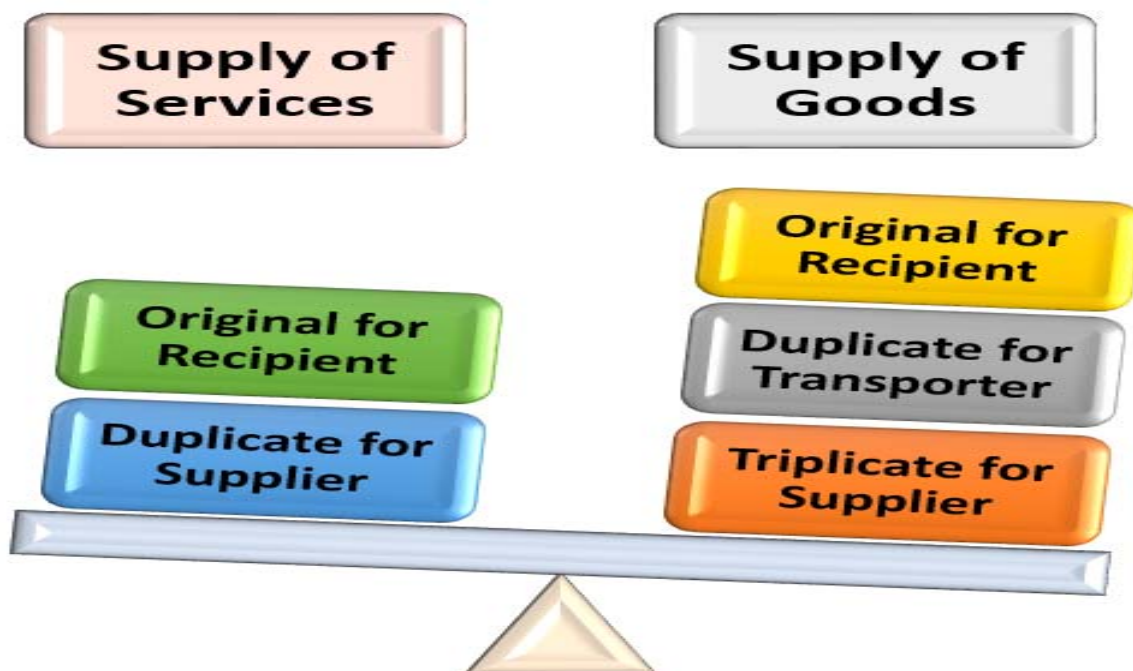
Yes. You can revise invoices issued before GST. Under the GST regime, all the dealers must apply for provisional registration before getting the permanent registration certificate.

Refer to this image below to understand the protocol of issuing a revised invoice:



8. How many copies of Invoices should be issued?

- For goods– 3 copies
- For services– 2 copies



9. GST Invoicing under Special Cases?

In some cases, like banking, passenger transport, etc., the government has provided relaxations on the invoice format issued by the supplier.

10. FAQs on Invoice

Q1. What's the difference between invoice date and due date?

Invoice date refers to the date when the invoice is created on the bill-book, while the due date is when the payment is due on the invoice.

Q2. How to issue an invoice under reverse charge?

In case of GST payable under reverse charge, on you must additionally mention that tax is paid on a reverse charge, on the GST invoice.

Q3. Is it mandatory to maintain invoice serial number?

Yes, invoice serial number must be maintained strictly. You may change the format by providing a written intimating the GST department officer along with reasons for the same.

Q4. Can I digitally sign my invoice through DSC?

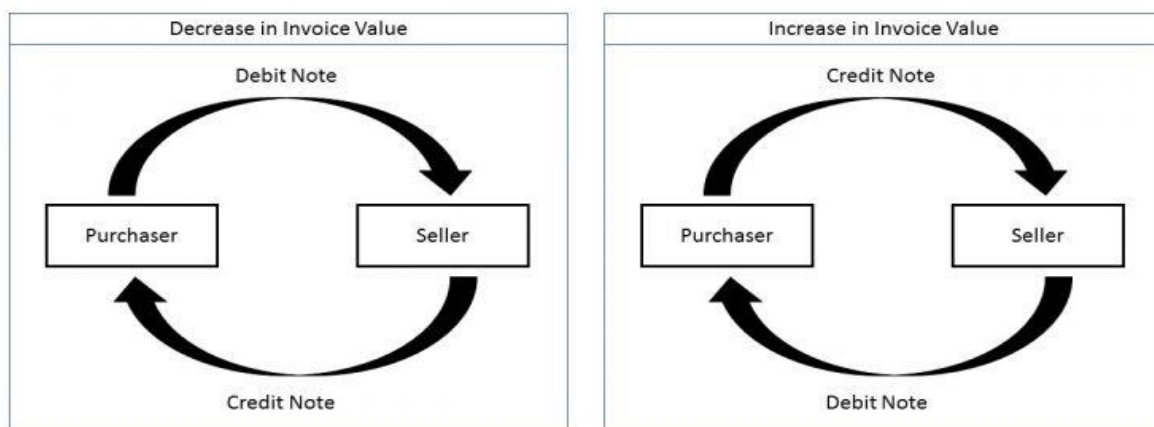
Yes, you can digitally sign invoice through DSC.

What is Debit Note?

When goods supplied are returned or when there is a revision in the invoice value due to goods (or services) not being up to the mark or extra goods being issued.

What is Credit Note?

Credit Note is issued by the supplier and receiver of goods and services. ... Thus, credit note increases the liability for the buyer.



Credit notes are typically used when there has been an error in an already-issued invoice, such as an incorrect amount, or when a customer wishes to change their original order. In short, **credit notes** can be used in any circumstances that would require the invoice to be changed and re-issued.

A debit note or a Credit Note can be issued in 2 situations

1. When the amount payable by buyer to seller decreases –There can be a change in the value of goods after the goods are delivered and invoice is issued by the seller. This can be due to a return of goods or due to the bad quality of the goods delivered etc. In this case, and the value of goods decreases due to which a Debit Note is issued by the purchaser to the seller. The reason behind this – In the purchaser’s books of account the seller will have a credit balance, when a debit note is issued the credit balance of the Sellers account decreases, thus reducing the seller’s balance. It means that that lesser amount is required to be paid by the buyer to the seller to settle his liability. Thus debit note reduces the liability for the buyer.

2. When the amount payable by buyer to seller increases-When the value of invoice increases due to extra goods being delivered or the goods already delivered have been charged at an incorrect value a Debit Note is required to be issued. It means that more amounts are required to be paid by the buyer to the seller to settle his liability. Thus, credit note increases the liability for the buyer.

Debit Note under GST

Cases when Debit note is to be issued by supplier:

| | Cases Where Debit note has to be issued by the Supplier |
|------|--|
| A. | Original tax invoice has been issued and taxable value in the invoice is less than actual taxable value. |
| B. | Original tax invoice has been issued and tax charged in the invoice is less than actual tax to be paid. |
| Note | Debit note will include a supplementary invoice. |

Time limit for issue of credit note and debit note

1. On or before the thirtieth day of September following the end of the financial year in which such supply was made, or
2. The date of filing of the relevant annual return for the financial year,
Whichever is **earlier?**

It may be noted that annual return is required to be filed under section 30(2) on or before 31st December of the financial year following the relevant financial year. In cases where such annual return is filed after 30th September, the time limit for issuing credit/debit note will be 30th September only.

The GST payment process

What are the main features of GST payment process?

The payment processes under GST Act (s) have the following features:

- Electronically generated challan from GSTN Common Portal in all modes of payment and no use of manually prepared challan
- Facilitation for the tax payer by providing hassle free, anytime, anywhere mode of payment of tax
- Convenience of making payment online
- Logical tax collection data in electronic format
- Faster remittance of tax revenue to the Government Account
- Paperless transactions
- Speedy Accounting and reporting
- Electronic reconciliation of all receipts
- Simplified procedure for banks
- Warehousing of Digital Challan.

Electronic liability ledger

This ledger records all liabilities of a taxable person including:

- The tax, interest, late fees, or any other amount payable per the return furnished by the taxpayer or per any proceedings
- The tax and interest payable arising out of any mismatch of ITC or output tax liability
- Any interest that may accrue from time to time
- The reversal of ITC or interest.

Taxpayers should settle their liabilities in the following order:

1. Self-assessed tax and other dues, such as interest, penalty, fees, or any other amount relating to **previous tax period returns**
2. Self-assessed tax and other dues relating to the **current tax period return**
3. Any other amount payable under the act/rules (liability arising out of demand notice, proceedings, etc.)

Electronic credit ledger

Every claim of ITC self-assessed by the taxpayer shall be credited to this ledger. The amount available in this ledger may be used for payment towards output tax only. Under no circumstance can an entry be made directly in the electronic credit ledger.

This ledger may include the following:

- ITC on inward supplies from registered taxpayers
- ITC available based on distribution from input services distributor (ISD)
- ITC on input of stock held/semi-finished goods or finished goods held in stock on the day immediately preceding the date on which the taxpayer became liable to pay tax, provided he applies for registration within 30 days of becoming liable

- Permissible ITC on inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day of conversion from composition scheme to regular tax scheme
- ITC eligible on a payment made on a reverse charge basis

Electronic cash ledger

Any amount paid by the taxpayer will be reflected in the electronic cash ledger. The amount available in this ledger may be used for making any payment towards tax, interest, penalty, fees, or any other amount due under the act/rules in the time and manner prescribed. (It is reiterated that any credit in the electronic credit ledger can be utilized only for payment of output tax.)

To initiate a payment, taxpayers generate a challan online using **form GST PMT-06**, which will be valid for a period of 15 days. Payment can then be remitted through any of the following modes:

- Internet banking (authorized banks only)
- Credit or debit card (authorized banks only)
- National Electronic Fund Transfer (NEFT) or real-time gross settlement (RTGS) (any bank, authorized or unauthorized)
- Over-the-counter (OTC) payment (authorized banks only) **for deposits up to ten thousand rupees** per challan and per tax period

The taxpayer is responsible for any commission due on the payment.

The payment date shall be recorded as the date the payment is credited to the appropriate government account. The date, the payment is debited from the taxpayer's account is not relevant.

Unregistered taxpayers needing to make a tax payment will still use the online GST portal but with a temporary identification number generated through the portal.

Interest on delayed payments

Per Section 50 of the CGST Act, interest will start accruing on a delayed payment the day after the payment was due. This applies to both missed payments and payments not made in full.

The payment of interest is automatic and should be made voluntarily, even without a demand. The interest rate, not to exceed 18 percent, will be determined by the Government on the recommendation of the GST Council.

In the case of undue or excess claim of ITC, or undue or excess reduction in output tax liability, interest shall be paid at a higher rate, not to exceed 24 percent, to be notified by the Government.

GST payment forms

| Sr. no. | Form no. | Short description | Purpose |
|----------------|-----------------|--|---|
| 1 | GST PMT-01 | Electronic tax liability register | Any tax, interest, penalty, late fee, or any other amount will be debited to this register |
| 2 | GST PMT-02 | Electronic credit ledger | Every claim of ITC shall be credited to this ledger |
| 3 | GST PMT-03 | Refund to be recredited | Refund if rejected the amount debited from the electronic credit ledger or electronic cash ledger, as the case may be, will be recredited by order of a proper officer |
| 4 | GST PMT-04 | Discrepancy in electronic credit ledger | Discrepancy in electronic credit ledger, communicated to an officer through this form |
| 5 | GST PMT-05 | Electronic cash ledger | Any tax, interest, penalty, late fee, or any other amount to be deposited in cash are credited to this ledger |
| 6 | GST PMT-06 | Challan for deposit of tax | Generate and pay a challan |
| 7 | GST PMT-07 | Application for intimating discrepancy relating to payment | The application is meant for the tax payer where the amount intended to be paid is debited from his account but CIN has not been conveyed by bank to Common Portal or CIN has been generated but not reported by concerned bank (within 24 hours of debit)” |

Unique identification number for each transaction

Within the online GST portal, a unique identification number shall be generated for each debit or credit to the electronic cash or credit ledgers, as the case may be. This number shall be indicated in the corresponding entry on the electronic tax liability register.

TAX DEDUCTED SOURCE (TDS)

1. What is TDS?

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

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

2. When will the liability to deduct TDS be attracted? What is the rate of TDS?

TDS is to be deducted at the rate of 2 percent on payments made to the supplier of taxable goods and/or services, where the total value of such supply, under an individual contract, exceeds two lakh fifty thousand rupees. No deduction of Tax is required when the location of supplier and place of supply is different from the State of the registration of the recipient.

3. What are the registration requirements for TDS deductors?

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

4. When and to whom should the TDS be paid?

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

- The Central Government in case of the IGST and the CGST
- The State government in case of the SGST

5. What are the provisions relating to the issue of TDS certificates under the GST law?

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

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

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

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

7. Which form is required to file the TDS return?

The person deducting tax is required to file a TDS return in form GSTR-7 within 10 days from the end of the month. When GSTIN of the unregistered supplier is not available, their name can be mentioned. The robustness of the system reflects these filled-in details in the electronic ledger of the supplier.

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

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

9. How is Refund of TDS possible under GST?

If any excess amount is deducted and paid to the government, a refund can be claimed as this is not the tax amounting that the government has a right on.

However, if the deducted amount is already added to the electronic cash ledger of the supplier, the amount so added cannot be got back as a refund by the deductor. Deductee can claim a refund of tax subject to refund provisions of the act.

Provisions in Draft GST Law

- ▶ Section 2(88): “Return”:

Means any return prescribed or otherwise required to be furnished by or under this Act or rules thereunder;

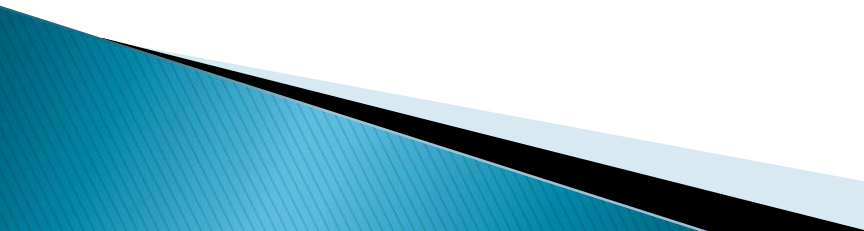
- ▶ Section 2(99):”Tax Return Preparer”:

Means any person who has been approved to act as a Tax Return Preparer under the scheme framed under section 34


- Section 2(106):” Valid Return”:

Shall have the meaning assigned to it under sub-section(3) of section 27

Importance of Returns

- ▶ Tool for compliance verification program of tax administration
 - ▶ Providing necessary inputs for policy decision making
 - ▶ Management of Audit and anti-evasion programs of tax administration
 - ▶ Finalization of the tax liabilities of the taxpayer within stipulated period of limitation.
- 

WHO ALL SHOULD FILE

- Every registered taxable person irrespective of whether there is business activity or not
 - UN Agencies and other entities claiming refund of taxes paid for the periods in which they claim such refund
 - TDS Authorities in the month in which they effect TDS
 - Persons who have been allotted UID for the month in which they have made inter-State inward supplies of taxable goods and/or services.
- 

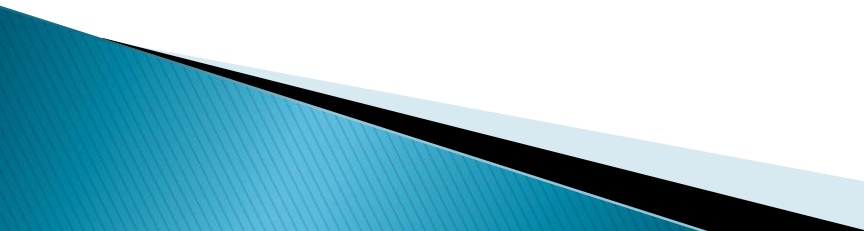
Types of Returns

| Name | What does it relate to | When to be filed |
|--------|---|---|
| GSTR-1 | Outward Supplies made for a month by a regular taxpayer (sec 25) | 10 th of the succeeding month |
| GSTR-2 | Inward Supplies made for the month by a regular taxpayer (sec 26) | 15 th of the succeeding month |
| GSTR-3 | Monthly return by a regular taxpayer (sec 27) | 20 th of the succeeding month |
| GSTR-4 | Quarterly return by a composition taxpayer(sec 27) | 18 th of the succeeding month after the end of the quarter |

Types of Returns

| Name | What does it relate to | When to be filed |
|--------------|--|--|
| GSTR-5 | Periodic return by Non-Resident Foreign Taxpayer (sec. 19-A) | 20 th of the succeeding month |
| GSTR-6 | Return of an ISD (section 27(6)) | 13 th of the next month |
| GSTR-7 | TDS Return (section 27(5)) | 10 th of the next month |
| GSTR-8 | Annual Return (Section 30) | 31 st of December of the next Financial Year |
| Final Return | Taxpayer whose registration is cancelled (section 31) | With in three months of the date of cancellation/ date of order, which ever is later |
| First Return | Newly registered taxable person (sec 27A) | |

Other points

- ▶ Taxpayers having multiple registrations in a State have to file separate returns for each registration
 - ▶ Casual Taxpayers to file regular returns
 - ▶ All returns have to be filed online only
 - ▶ Annual Returns are based on financial statements and not just the total of the tax periods
 - ▶ Common returns under CGST, IGST and SGST Acts
 - ▶ No revised returns
- 

Who should file what

| Nature of taxpayer | Must file |
|-----------------------------------|--|
| Taxpayer under regular scheme | Monthly GSTR-1, GSTR-2, GSTR-3 Annual Return |
| Taxpayer under composition scheme | Quarterly GSTR-4, Annual Return |
| Casual Taxpayer | GSTR-1, GSTR-2, GSTR-3 during validity period of registration and GSTR-5 on expiry of registration |
| Non-resident Foreign Taxpayer | GSTR-1, GSTR-2, GSTR-3 during validity period of registration and GSTR-5 on expiry of registration |
| Input Service Distributor | Monthly GSTR-6 |
| TDS Authority | GSTR-7 for the month in which TDS is done, Annual Return |
| UN Bodies and UID Cases | GSTR-2 for the month in which inward supplies are received [sec |

ACCOUNTS AND RECORDS UNDER GST

1. Accounts and Other Records

- ☞ Who must maintain accounts under GST?
- ☞ What records must be maintained under GST?
- ☞ What are the accounts which must be maintained under GST?

2. Accounting entries under GST

3. Electronic Cash and Credit Ledger

4. Period for Retention of Accounts under GST

5. Consequences of Not Maintaining Proper Records

1. Accounts and Other Records

Every registered person is required to keep and maintain all records at his principal place of business.

*Who must maintain accounts under GST?

It is the responsibility of the following persons to maintain specified records-

- The owner
- Operator of warehouse or godown or any other place used for storage of goods
- Every transporter

Every registered person whose turnover during a financial year exceeds the prescribed limit (2crore) will get his accounts audited by a chartered accountant or a cost accountant.

*What records must be maintained under GST?

Every registered person must maintain records of:

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

*What are the accounts which must be maintained under GST?

In our article, we have listed the various accounts to be maintained that businesses need to keep under GST.

For example, under GST, a trader has to maintain the following a/cs (apart from accounts like purchase, sales, stock) –

- Input CGST a/c
- Output CGST a/c
- Input SGST a/c
- Output SGST a/c
- Input IGST a/c
- Output IGST a/c
- Electronic Cash Ledger (to be maintained on Government GST portal to pay GST)

2. Accounting entries under GST

In spite of initial transition challenges, GST will bring in clarity in many areas of business including accounting and bookkeeping.

While the number of accounts is more apparently under GST, once you go through the accounting entries you will find it is much easier for record keeping. One of the biggest advantages a trader will have is that he can set off his input tax on service with his output tax on the sale.

Read our discussions on the accounting treatment of various transactions under GST answering queries on how to record and pass entries for the inter-state sale of goods, how to record utilisation of input tax credit etc.

3. Electronic Cash and Credit Ledger

Every registered taxpayer will have 3 ledgers under GST which will be generated automatically at the time of registration and will be maintained electronically.

- ❖ **Electronic Cash Ledger**- This ledger will serve as an electronic wallet. The taxpayer will have to deposit money into his cash ledger (add money to the wallet). The money will be utilized to make the payment.
- ❖ **Electronic Credit Ledger**- The input tax credit on purchases will be reflected here under three categories i.e IGST, CGST & SGST. The taxpayer will be able to utilize the balance shown in this account **only for payment of tax (not for interest, penalty etc.)**
- ❖ **E-Liability Ledger**: This ledger will show the total tax liability of a taxpayer after netting off for the particular month. This ledger will be auto-populated.

4. Period for Retention of Accounts under GST

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

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

For example:

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

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

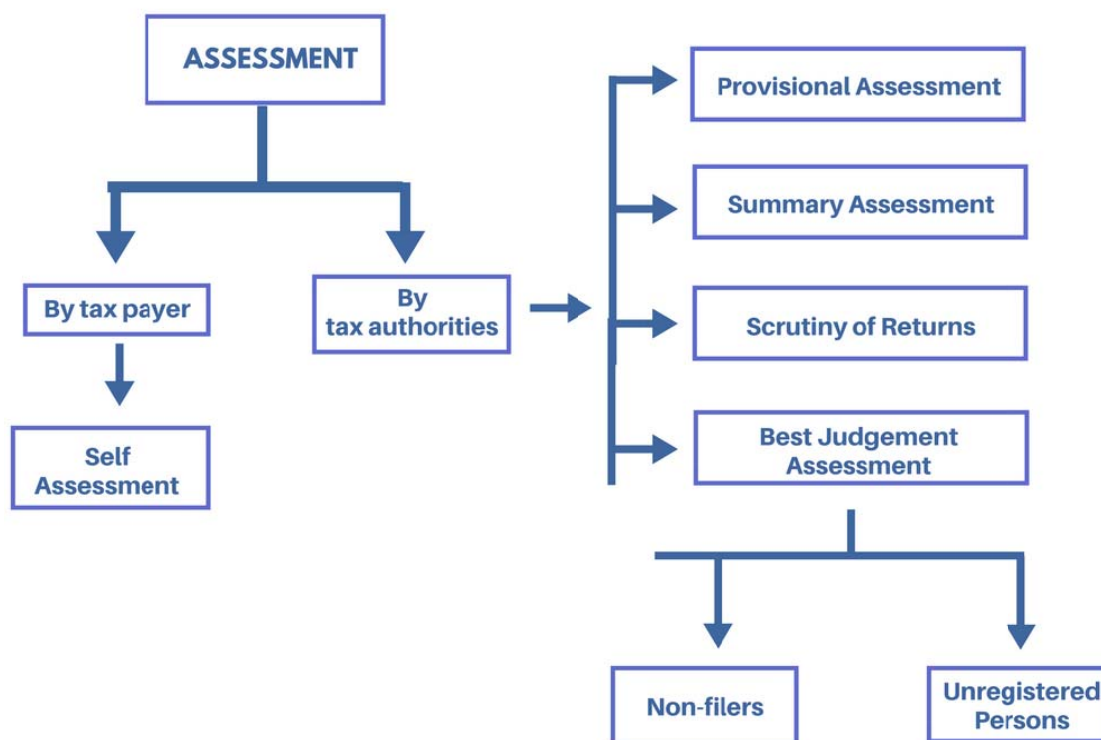
5. Consequences of Not Maintaining Proper Records

If the taxpayer fails to maintain proper records in respect of goods/services, then the proper officer shall treat such unaccounted goods/services as if the taxpayer had supplied them. The officer will determine the tax liability on such unaccounted goods. The taxable person will be required to pay the tax liability calculated along with penalty.

Assessment under GST

Under GST, the term “assessment” means a determination of tax liability under this Act and includes self-assessment, provisional assessment, summary assessment, scrutiny assessment and best judgment assessment. Normally, persons having [GST registration](#) file GST returns and pay GST every month based on self-assessment of GST liability. However, the Government at all times has the right to re-assess or perform an assessment by itself and determine if there is a short payment of GST.

TYPES OF ASSESSMENT



i) Self Assessment (Section 59)

The taxable person is required to pay tax on the basis of self-assessment done by him. Hence, all [GST return filings](#) are based on self-assessment by the taxpayer.

“Every registered person shall self-assess the taxes payable under this Act and furnish a return for each tax period as specified under section 39.”

ii) Provisional Assessment -Section 60

Provisional assessment can be conducted for a taxable person when the taxpayer is unable to determine the value of goods or services or both or determine the rate of tax applicable thereto.

Procedure for Provisional Assessment

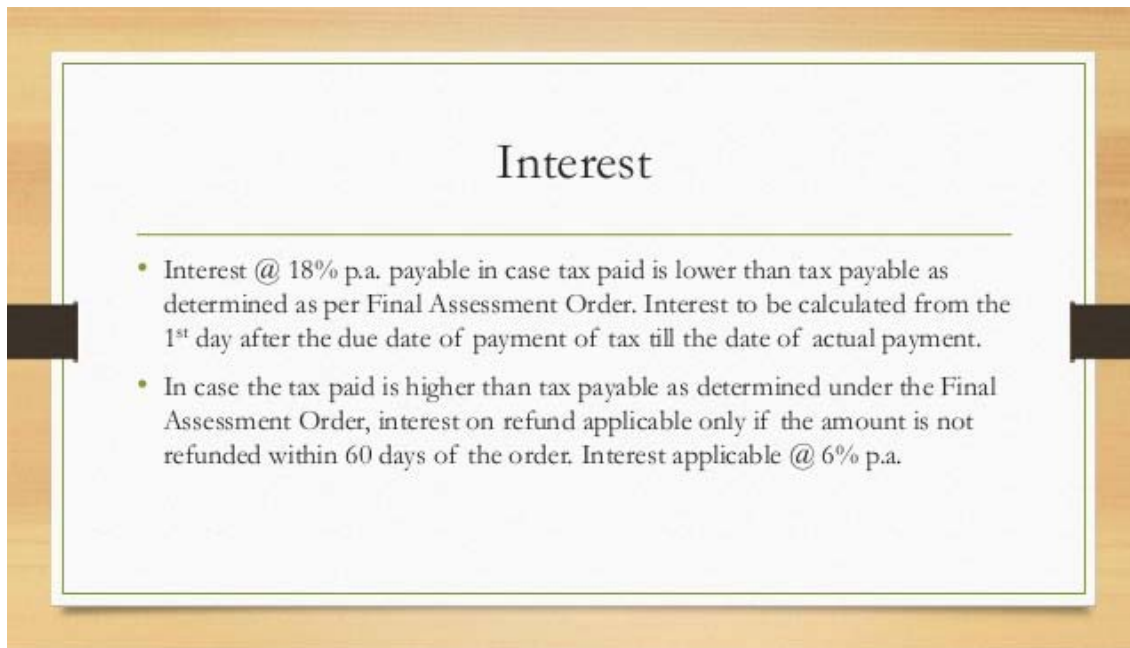
Step 1: The taxable person has to give, the concerned GST officer, a request for provisional assessment in writing.

Step 2: The GST officer on reviewing the application will pass an order within a period not later than ninety days from the date of receipt of the request, allowing payment of tax on a provisional basis or at a **GST rate** or on such value as specified by him.

Step 3: The taxable person, who is making payment on a provisional basis, has to issue a bond with security promising to pay the difference between a provisionally assessed tax and final assessed tax.

Step 4: The GST officer will pass a final assessment, with a period not exceeding six months from the date of communication of the order of provisional payment.

Interest Payable for Provisional Assessment



iii) Scrutiny Assessment- Section 61

GST Officers can scrutinize a GST return and related particulars furnished by the registered person to verify the correctness of the return. This is called a scrutiny assessment. In case of any discrepancies noticed by the officer, he/she would inform the same to the registered person and seek his explanation on the same. On the basis of the explanation received from the registered person, the officer can take the following action:

- If the explanation provided by the individual seems satisfactory, the officer shall inform about the same to the registered person, and no the officer shall take no further action in this regard.
- However, upon unsatisfactory explanation or the registered person failed to take corrective measures after accepting the discrepancies, the proper officer shall initiate

appropriate action like conducting an audit of the registered person, conducting a special audit, inspect and search the place of business of the registered person, or initiate demand and recovery provisions.

iv) Best Judgment Assessment - Section 62 Failure to File GST Return

When a registered person fails to furnish the required returns, even after service of notice under Section 46, an assessment would be conducted by the GST Officer. In such cases, the GST officer would proceed to assess the tax liability of the taxpayer to the best of his judgment taking into account all the relevant material which is available or which he has gathered and issue an assessment order within a period of five years from the date for furnishing of the annual return for the financial year to which the tax not paid relates.

On receipt of the said assessment order, if the registered person furnishes a valid return within a period of 30 days from the date of issuance of the assessment order, then in such case, the assessment order would be deemed to have withdrawn. However, the registered person will be liable to pay interest under Section 50 (1) and/or liable to pay a late fee under Section 47.

v) Assessment of Unregistered Person – Section 63

When a taxable person fails to obtain GST registration even though liable to do so or whose registration has been canceled under section 29 (2) but who was liable to pay tax, the GST officer can proceed to assess the tax liability of such taxable person to the best of his judgment for the relevant tax periods and issue an assessment order within a period of five years from the date specified under section 44 for furnishing of the annual return for the financial year to which the tax not paid relates.

vii) Summary Assessment- Section 64

A GST Officer can on any evidence showing a tax liability of a person coming to his notice, proceed to assess the tax liability of such person to protect the interest of revenue and issue an assessment order if he has sufficient grounds to believe that any delay in doing so may adversely affect the interest of revenue. In order to undertake assessment under section 64, the proper officer should obtain previous permission of additional commissioner or joint commissioner. Such an assessment is called a summary assessment.

AUDIT under GST

Audit under GST means inspection of returns, records and other documents furnished by the taxpayer. **GST Audit** is carried out to check whether the turnover, taxes paid, ITC refund claimed and ITC availed mentioned in his annual report are true and fair or not.

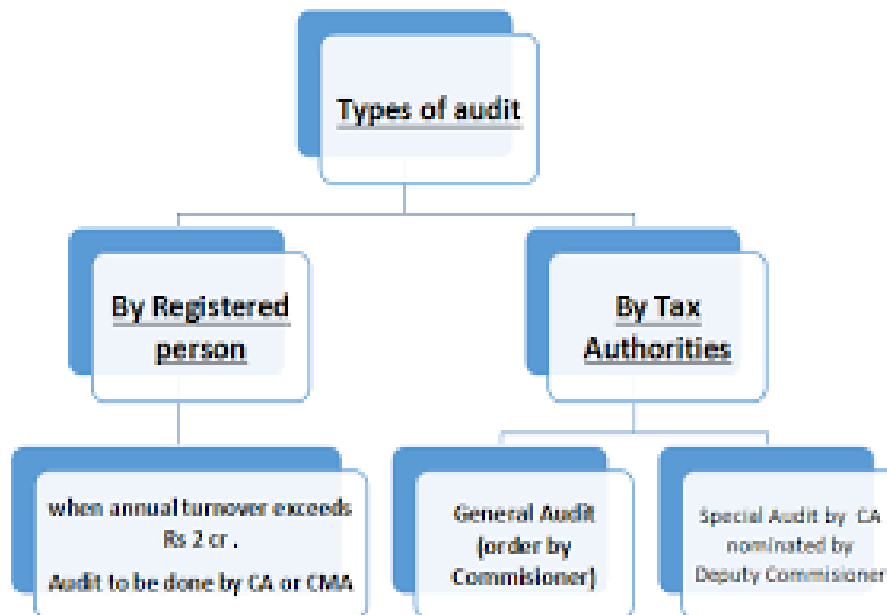
Types of Audit under GST:

There are basically three kinds of [GST audit](#) that may be conducted under GST Audit Rules-

i).GST Audit performed by a Chartered Accountant

ii).GST Audit performed by tax authorities

iii).Special GST Audit



i.GST Audit performed by Chartered Accountant:

As per provision in section 35(5) of GST Audit Rules, when turnover of a registered dealer goes over Rs.2 crores in a said financial year, then he needs his accounts and returns audited by a professional Chartered Accountant and must submit the copy of such a GST audit along with his GST annual returns.

Here is the [GST Audit checklist](#) of values to be maintained by a registered person to comply with GST Audit Rules -

- The production or manufacture of goods
- Inward supply of goods or services or both
- Outward supply of goods or services or both
- Stock of goods

- Input tax credit availed
- Output tax that is payable or already paid
- Books of accounts point

ii. GST Audit by Tax Authorities:

Commissioner of CGST/SGST or any other GST Officer performs this kind of GST audit, who have been authorized by the commissioner. The frequency and manner of such a GST audit can be prescribed later. To start this kind of GST audit, a notice will be sent out to auditee, at least 15 days in advance and such a GST audit shall be completed within 3 months from the date of commencement of an audit. However, a commissioner can extend the period of such a GST audit further by six months with valid reasons which must be recorded in writing.

Such a GST audit brings certain obligations on the auditee as mentioned below-

- The auditee must facilitate the related books of accounts and other documents which must be maintained as per provisions under [GST Audit Rules](#).
- The auditee also must give information and all the necessary assistance to complete the timely audit.

The findings of such a GST audit are notified to auditee by a GST Officer within 30 days of commencement with details including the findings, the reasons and the rights and obligations of the taxable person arising out of such a GST audit in Form ADT-02. When the GST audit results find an unpaid or short paid tax or wrong return filing of wrong input tax credit being availed, then GST Audit process of demand and recovery actions are initiated.

In this form of GST audit, the officer generally audits the -

- Documents on basis of which the accounts were maintained, the returns were filed under GST Audit Rules
- Correctness of the turnover
- Exemptions of deductions of claims
- Rate of tax applied in respect to supply of goods and service
- Input tax credits availed and utilized
- Refunds claimed
- Any other related issue.

iii.Special Audits

A chartered accountant does this kind of [GST audit](#) as per directions received from the GST Officer of not below the rank of Assistant Commissioner, if he declares that the values have not been declared correctly and/or credits availed in not within the normal limits. The CA or CMA (Certified Management Accountant) for such a GST audit is nominated by the commissioner.

The officer shall issue such direction in Form GST ADT-03 to the registered dealer to get his records including his books of accounts to be examined and audited by a professional CA or CMA within a period of ninety days from the day of passing such an order. This period could further be extended by additional ninety days.

The commissioner pays the expense of such a [GST audit](#) and examination. On conclusion of this special GST audit the findings are communicated the auditee in Form GST ADT-04.

INSPECTION under GST

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

Inspection, Search and Seizure

(1) Where the proper officer not below the rank of a Joint Commissioner has reasons to believe that a place of business or any other place is to be visited for the purposes of inspection or search or, as the case may be, seizure in accordance with the provisions of section 67, he shall issue an authorization in FORM GST INS-01 authorising any other officer subordinate to him to conduct the inspection or search or, as the case may be, seizure of goods, documents, books or things liable to confiscation.

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

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

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

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

Interest, Penalty and Prosecution Offences

Interest on Late Payment of GST

According to the GST Penalty regulations, an interest will be charged at the rate of 18 percent per annum from the taxpayers who fail to pay their taxes on time. The interest will be levied for the days after the due date.

Check the example below to understand it better: Suppose your tax liability is Rs. 2,000 and you have not paid tax on time for a given month. Now, if you pay tax after one day from the due date, your interest will be calculated as $2000 \times 18/100 \times 1/365 = \text{Rs. } 0.98$ per day. If you delay more than that, you'll have to pay an interest of the same amount per day.

GST Payment due Dates for Both General & Composition Scheme Taxpayers

| Type of Taxpayer | GST Payment Due Dates |
|---------------------------|---|
| General | 20 th Day of the Next Month |
| Composition | 18 th Day of the Next Month of Quarter |
| Non-Resident | 20 th Day of the Next Month |
| Input Service Distributor | 13 th Day of the Next Month |
| TDS Deductor | 10 th Day of the Next Month |
| TCS Collector | 10 th Day of the Next Month |

Penalty on Missing GST Due Date

In such cases, where taxpayers do not file their returns within specified due dates mentioned, he is obliged to pay a late fee of Rs. 50/day i.e. Rs. 25 per day in each case of CGST and SGST (in case of any tax liability) and Rs. 20/day i.e. Rs. 10/- day in each CGST and SGST (in case of Nil tax liability) subject to a maximum of Rs.5000/-from the given due date to the actual date when the returns are finally filed.

Offences & Penalties

Offences

SEC 122 : PENALTY FOR CERTAIN OFFENCES The Act lists 21 offences in sec 122.

The offences enumerated in section are as follows:

1. Making supply without invoice or with false or incorrect invoice
2. Issuing an invoice without making any supply
3. Not paying tax collected for a period exceeding 3 months
4. Not paying tax collected in contravention of CGST/SGST Act for a period exceeding 3 months

5. Non deduction or lower deduction of tax at source or not depositing tax deducted at source
6. Availing / utilizing ITC without actual receipt of goods &/or services
7. Non collection or lower collection of or nonpayment of tax collectible at source
8. Fraudulently obtaining any refund
9. Furnishing false information or falsification of financial records or furnishing of fake accounts / documents with intent to evade tax
10. Failure to register despite being liable to pay tax
11. Furnishing false information regarding registration particulars either at time of applying for registration or subsequently
12. Obstructing or preventing any official in discharge of his duty
13. Transporting goods without prescribed documents
14. Suppressing turnover leading to tax evasion
15. Failure to maintain accounts / documents in the manner specified in the act or failure to retain accounts / documents for the period specified in the act
16. Failure to furnish information / documents required by an officer in terms of the act / rules or furnishing false information / documents during the course of any proceedings
17. 17 Supplying / transporting / storing any goods liable for confiscation
18. Issuing invoice or document using GSTN of another person
19. Tampering or destroying any material evidence
20. Disposing of / tampering with goods detained / seized / attached under the act
21. Availing / distributing ITC by input tax distributor in contravention of the act & rules

For the 21 offenses with no intention of fraud or tax evasion

An offender not paying tax or making short payments must pay a penalty of **10%** of the tax amount due subject to a **minimum** of Rs. 10,000.





Consider — in case tax has not been paid or a short payment is made, a minimum penalty of Rs 10,000 has to be paid. The maximum penalty is 10% of the tax unpaid.

For the 21 offenses with the intention of fraud or tax evasion

An offender has to pay a penalty amount of tax evaded/short deducted etc., i.e., **100%** penalty, subject to a minimum of Rs. 10,000.

Additional penalties as follows-

PUNISHMENTS UNDER SECTION 132

| OFFENCE INVOLVING | PUNISHMENT EXTENDING TO |
|--|--|
| Tax evaded exceeding Rs.5 Crore or repeat offenders | 5 years  and Fine Non Bailable |
| Tax evaded between Rs.2 Crore to Rs.5 crore | 3 years  and Fine Bailable |
| Tax evaded between Rs.1 Crore to Rs.2 crore | 1 years  and Fine Bailable |
| × False Records × Obstructing Officer × Tamper Records | 6 Months  or or both |

Penalty

If any of the offenses are committed then a penalty will have to be paid under GST. The principles on which these penalties are based are also mentioned by law.

For late filing

Late filing attracts penalty called late fee. The late fee is Rs. 100 per day per Act. So it is 100 under CGST & 100 under SGST. Total will be Rs. 200/day*. The maximum is Rs. 5,000. There is no late fee on IGST in case of delayed filing.

Along with late fee, interest has to be paid at 18% per annum. It has to be calculated by the taxpayer on the tax to be paid. The time period will be from the next day of filing to the date of payment.

For not filing

If you don't file any GST return then subsequent returns cannot be filed. For example, if GSTR-2 return of August is not filed then the next return GSTR-3 and subsequent returns of September cannot be filed. Hence, late filing of GST return will have a cascading effect leading to heavy fines and penalty (see below).

Compounding of Offences Under GST

Compounding of offenses is a shortcut method to avoid litigation. In case of prosecution for an offense in a criminal court, the accused has to appear before the Magistrate at every hearing through an advocate. This becomes expensive and time-consuming.

In compounding, the accused is not required to appear personally and can be discharged on payment of compounding fee which cannot be more than the maximum fine as applicable under GST.

Compounding will save time and money. However, compounding under GST is not available for cases where the value involved exceeds 1 crore.

Prosecution Under GST

The prosecution is conducting legal proceedings against someone in respect of a criminal charge.

A person committing an offense with the **deliberate intention of fraud** becomes liable to prosecution under GST, i.e., face criminal charges. A few examples of these offenses are-

1. Issue of an invoice without supplying any goods/services- thus taking input credit or refund by fraud
2. Obtaining refund of any CGST/SGST by fraud
3. Submitting fake financial records/documents or files, and fake returns to evade tax
4. Helping another person to commit fraud under GST

Unit IV

DEMAND AND APPEALS - Demand - Appeals - CGST - SGST – IGST-
ALTERNATEDISPUTE RESOLUTION MECHANISM - Authority Of Advance Ruling -
Settlement Of Cases.

DEMAND AND APPEAL

What is a Demand?

The **demand** under **GST** and recovery provisions will be initiated if there is a failure to pay the tax, in a manner similar to the provisions of current tax

In the GST regime Proper Officer is empowered to issue show cause notice to seek recovery of any tax not paid

The Provisions Prescribed under GST Act for demand and recovery of tax are similar to existing Provisions under Customs, Excise and Service Tax. The provisions relating to conclusion of proceedings before preferring an appeal is detailed out as below:

| SL No | Situation 1 (Cases not involving Fraud or willful misstatement or suppression of facts) | Situation II(Cases not involving Fraud or willful misstatement or suppression of facts) | Implication |
|-------|---|--|---|
| 1 | If tax and interest paid before Issuance of Show cause notice. | If tax , interest and 15% penalty paid before issuance of Show cause notice | No Show cause notice to be issued and proceedings will be deemed to be concluded. |
| 2 | If tax and interest paid within 30 days of issuance of Show cause notice | If tax, interest and 25% penalty paid within 30 days of issuance of Show cause notice. | The proceedings will be deemed to be concluded. |
| 3 | If tax, interest and 10% penalty or Rs. 10,000, whichever is higher, paid within 30 days of communication of order adjudicating the Show cause notice | If tax , interest and 50% penalty paid within 30 days of communication of order adjudicating the Show cause notice | The proceedings will be deemed to be concluded |
| 4 | If order is not issued within 3 years from the due date or the actual date for filing of annual return, whichever is earlier | If order is not issued within 5 Years from the due date or the actual date for filing of annual return, whichever is earlier | The proceedings will be deemed to be concluded |

However the GST act does not specifies any time limit for issuance of show cause notice and it only specifies maximum time for limit for issuance of order and now the revenue authorities can issue notice and conclude the proceedings at any time before 3/5 years .Further interest on Tax Short Paid Or not paid is payable whether interest is specified in the order or not.

What is an Appeal?

Any **appeal under** any law is an application to a higher court for a reversal of the decision of a lower court. **Appeals** arise when there are any legal disputes.

The GST Act provides three set of provisions for appeals. viz CGST, SGST and common provisions applicable to CGST as well as SGST .However the discussion in this article is confined only to CGST

What are disputes?

Tax laws (or any law) impose obligations. Such obligations are broadly of two kinds: tax-related and procedure-related. The taxpayer’s compliance with these obligations is verified by the tax officer (through audit, anti-evasion, examining etc.). Sometimes there are situations of actual or perceived non-compliance. If the difference in views persists, it results into a dispute, which is then required to be resolved.

The initial resolution of this dispute is done by a departmental officer by a quasi-judicial process resulting into the issue of an initial order known by various names -assessment order, adjudication order, order-in-original, etc.

GST Act defines the phrase “adjudicating authority” as any authority competent to pass any order or decision under this Act, but does not include the Board, the First Appellate Authority and the Appellate Tribunal. Thus, in a way, any decision or order passed under the Act is an act of “adjudication”.

Steps of appeals under GST

| Appeal level | Orders passed by.... | Appeal to —— | Sections of Act |
|-----------------------|-----------------------------|---------------------------|------------------------|
| 1st | Adjudicating Authority | First Appellate Authority | 107 |

| | | | |
|-----------------|---------------------------|--------------------|---------|
| 2 nd | First Appellate Authority | Appellate Tribunal | 109,110 |
| 3 rd | Appellate Tribunal | High Court | 111-116 |
| 4 th | High Court | Supreme Court | 117-118 |

Should every appeal be made to both CGST & SGST authorities?

No. As per the GST Act, CGST & SGST/UTGST officers are both empowered to pass orders. As per the Act, an order passed under CGST will also be deemed to apply to SGST. However, if an officer under CGST has passed an order, any appeal/review/revision/rectification against the order will lie only with the officers of CGST. Similarly, for SGST, for any order passed by the SGST officer the appeal/review/revision/rectification will lie with the proper officer of SGST only.

General rules for filing GST appeals

All appeals must be made in prescribed forms along with the required fees.

Fee will be-

–The full amount of tax, interest, fine, fee and penalty arising from the challenged order, as admitted by appellant,

AND

–10% of the disputed amount

In cases where an officer or the Commissioner of GST is appealing then fees will not be applicable.

The appeal needs to be filed before the First Appellate Authority within 3 months from the date communication of order sought to be appealed against. The delay in filing appeal by 1 month can only be condone by the First Appellate Authority

Every appeal should be filed in prescribed form and duly verified in prescribed manner. The appeal should be accompanied by a . mandatory pre-deposit of 10 per cent of the amount in dispute. Amount in dispute shall include tax, interest, fine, fee and penalty.

The First Appellate Authority shall hear and decide appeal within one year of filing, wherever possible. The order need to be issued in writing and must state all points of determination along with reasons for such decision. The First Appellate Authority can grant adjournment of hearing a case up to 3 times to any party.

The Central Government shall constitute a National Goods and Service Tax Appellate Tribunal (‘National Appellate Tribunal’) headed by a national president any person aggrieved by decision of first Appellate Authority may prefer an appeal before Appellate Tribunal. Discretionary power has been given to Tribunal to admit an appeal wherein the amount under dispute does not exceed Rs. 1 Lakh including amount of fine, fee or penalty. An Appeal before the tribunal needs to be filed within 3 months from the date of communication of the order sought to be appealed against. No time limit for tribunal to accept condonation of delay application if it is satisfied that there was sufficient reason for not filing the appeal within time.

CGST - SGST – IGST-

1.What is Central Goods and Services Tax (CGST)?

Under GST, CGST is a tax levied on Intra State supplies of both goods and services by the Central Government and will be governed by the CGST Act. SGST will also be levied on the same Intra State supply but will be governed by the State Government.

This implies that both the Central and the State governments will agree on combining their levies with an appropriate proportion for revenue sharing between them. However, it is clearly mentioned in Section 8 of the GST Act that the taxes be levied on all Intra-State supplies of goods and/or services but the rate of tax shall not be exceeding 14%, each.

2. What is State Goods and Services Tax (SGST)?

The meaning of SGST or State Goods and Services Tax (SGST) is a tax collected in the case of the intrastate transaction when the state of consumption and state of production are the same. The State GST, as the name implies, is a tax collection medium for the State Government. It is collected as a separate tax in the case of intrastate transactions.

Examples

Let’s suppose Rajesh is a dealer in Tamilnadu who sold goods to Anand in Tamilnadu worth Rs. 10,000. The rates 18% comprising of CGST rate of 9% and SGST rate of 9%. In such case, the dealer collects Rs. 1800 of which Rs. 900 will go to the Central Government and Rs. 900 will go to the Tamilnadu Government.

Salient features of SGST

1. Levied by the states through a statute on all transactions of goods and services made for a consideration.
2. State GST would be paid to the accounts of the respective State.
3. Exceptions would be exempted goods and services, goods kept out of GST and transactions below prescribed threshold limits.
4. Basic features of law such as chargeability, taxable event, measure, valuation, classification would be uniform across these statutes / States as far as practicable.

Advantages

1. Reduction of cascading effect of Taxes, as there will not be tax at two levels
2. It enhances the revenue capacity of the states and reduces their dependence on the centre.

3.What is Integrated Goods and Service Tax (IGST)?

The meaning of IGST or Integrated Goods and Services Tax (IGST) is the tax collected on interstate transactions when the seller and the consumer are located in different states. Further, IGST is also charged on the imports and exports of goods and services, and on supplying activities related to SEZs or Special Economic Zones. In the case of interstate tax collection, instead of separately charging taxes for the Centre and the State, the Government collects IGST, which is later divided equally. However, this adds no extra burden on the consumer's pocket since IGST is equal to the SGST and CGST clubbed together. It is collected by the Government to ensure that the tax is equally divided amongst the Centre and the State Government

Example of IGST

Asim from Haryana sold goods to Pankaj from Rajasthan, amounting to 1,00,000. If the GST charged is 12%, then this 12% is IGST. Instead of two, only one tax is charged that is handed over to the Central Government, out of which 6% is credited to the state of consumption.

Salient features of IGST

1. Continuance of uninterrupted ITC chain on inter-State transactions.
2. No requirement to pay tax upfront or substantial blockage of funds for the inter-State seller or buyer.
3. No claim of refund of taxes paid in exporting State, as ITC is used up while paying the tax. Self-monitoring model.

4.What is UTGST?

Union Territory Goods and Services Tax (UTGST) is covered under Union Territory Goods and Services Tax Act, 2017.

But there is an exception to such a provision. In other words, UT's of Delhi and Pondicherry have Legislatures that have powers and perform functions which are necessary for their Administration.

Thus, under the GST Law, State is defined as a Union Territory has a legislature. Although Delhi and Puducherry are Union Territories, they have Legislature of their own. Thus for the purpose of the GST Law, the UT's of Delhi and Puducherry are taken as a State and therefore are governed by their respective SGST Laws passed by them in place of the UTGST Act so passed by the Central Government.

ALTERNATIVE DISPUTE RESOLUTION MECHANISMS (ADR)

Introduction

For smooth implementation of GST in our country it is important to have an inbuilt parallel dispute resolution mechanism assuming various issues in GST regime. In international arena two approaches are followed:

1. There must be **resolution** mechanism
2. There should be a **prevention** system.

APPROACHES FOR DISPUTE SETTLEMENT MECHANISM;

There are various ways of settlement between the department and the parties:

1. Judicial Dispute Resolution mechanism

* Very country has courts, which acts to resolve disputes between the tax authorities and the parties.

** Direct taxes we have Commissioner Appeal as First Appellate Authority

2. GST Dispute Settlement Authority

Dispute Settlement Authority to adjudicate any dispute or complaint referred to it by a State Government or the Central Government arising out of deviation from any of the recommendations of the Goods and Services Tax Council constituted under Article 279A of the Constitution of India.

3. Extra Judicial Dispute Resolution

This is also known as Alternative Dispute Resolution, this involves Arbitration, Collaborative Law and Mediation.

4. Online Dispute resolution in

Some cases disputes are resolved on line or using digital technology. Online dispute resolution, is a growing field of a growing of dispute resolution, which uses new technologies to solve the disputes.

Features

1. The subjects are the **classification** of goods/or services, a method of **valuation**, the **rate** of tax, admissibility of **Input Tax Credit**, liability to pay tax, **registration** liability and whether a particular transaction amounts to a **supply** under GST law.
2. An advance ruling can be sought not only for new activities but also for existing activities.
3. The facility of **appeal** has been provided in the GST Law. The Applicants or the Department, if aggrieved by the advance ruling, would get the opportunity to file an appeal before the Appellate Authority for revision of the ruling.
4. The provision of Settlement Commission has been included in the IGST Law.

TYPES OF ALTERNATIVE DISPUTE RESOLUTION MECHANISMS

1. Negotiation.
2. Mediation.
3. Collaborative law.
4. Arbitration and sometimes
5. Neutral evaluation
6. Settlement conference

1.Negotiation

Negotiation means form of direct or indirect communication whereby parties who have opposing interest discuss the form of any joint action which they might take to manage and ultimate resolve the dispute between them.

2.MEDIATION

The most common form of ADR authorized by the federal courts is mediation. At present 50 federal trial court authorize the use of mediation, with relying on magistrate judge.

3.COLLABORATIVE LAW

Collaborative Dispute resolution is an alternative dispute resolution process that has many advantages over traditional court based dispute resolution. The client have skilled, collaboratively trained, legal advisers at every stage of the process.

4.ARBITRATION

The arbitration means services provided by the arbitral Tribunal shall be exempted if it is other than business entity. If it is business entity then the taxable amount is 10 lakhs if it is located in taxable territory. (under reverse charge mechanism)

5. NEUTRAL EVALUATION

Neutral evaluation is exactly the process in which a third party neutral examines the evidences and listens to the disputant's position and then parties give his or her evaluation of the case.

6. SETTLEMENT CONFERENCE

Settlement conference is a meeting in which the judge assigned to the case presides over the process. The purpose of the settlement conference is to try to settle a case before the hearing or trial.

'AUTHORITY FOR ADVANCE RULING' (AAR)

Introduction: Advance Ruling

- An advance ruling helps the applicant in planning his activities which are liable for payment of GST, well in advance. It also brings certainty in determining the tax liability, as the ruling given by the Authority for Advance Ruling is binding on the applicant as well as Government authorities.
- It helps in avoiding long drawn and expensive litigation at a later date. Seeking an advance ruling is inexpensive and the procedure is simple and expeditious.
- It thus provides certainty and transparency to a taxpayer with respect to an issue which may potentially cause a dispute with the tax administration

Objectives of Advance Ruling

- Provide certainty in tax liability in advance in relation to an activity proposed to be undertaken by the applicant
- Attract Foreign Direct Investment (FDI)
- Reduce litigation
- Pronounce ruling expeditiously in a transparent and inexpensive manner

What is an Advance Ruling?

- Classification of any goods or services or both (b)
- Applicability of a notification issued under the provisions of CGST Act

- Determination of time and value of supply of goods or services or both
- Admissibility of input tax credit of tax paid or deemed to have been paid
- Determination of the liability to pay tax on any goods or services or both
- Whether applicant is required to be registered
- Whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

‘Authority for advance ruling’ (AAR) and ‘Appellate authority for advance ruling’ (AAAR)

- The Authority for advance ruling constituted under the provisions of 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 CGST Act, 2017 also.
- 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 CGST Act, 2017 also.
- Thus it can be seen that both the Authority for Advance Ruling (AAR) & the Appellate Authority for Advance Ruling (AAAR) is constituted under the respective State/Union Territory Act and not the Central Act. This would mean that the ruling given by the AAR & AAAR will be applicable only within the jurisdiction of the concerned state or union territory

To whom the Advance Ruling is applicable

- An advance ruling pronounced by AAR or AAAR shall be binding only on the applicant and on the concerned officer or the jurisdictional officer in respect of the applicant.
- This clearly means that an advance ruling is not applicable to similarly placed other taxable persons in the State.
- It is only limited to the person who has applied for an advance ruling.

Time period for applicability of Advance Ruling

- The law does not provide for a fixed time period for which the ruling shall apply. Instead, it has been provided that advance ruling shall be binding till the period when the law, facts or circumstances supporting the original advance ruling have not changed
- However, an advance ruling shall be held to be ab initio void if the AAR or AAAR finds that the advance ruling was obtained by the applicant by fraud or suppression of material facts or misrepresentation of facts. In such a situation, all the provisions of the CGST/SGST Act shall apply to the applicant as if such advance ruling had never been made (but excluding the period when advance ruling was given and up to the period when the order declaring it to be void is issued). An order declaring advance ruling to be void can be passed only after hearing the applicant.

Powers and procedure of AAR and AAAR

- Both the AAR and AAAR are vested with the powers of a civil court under Code of Civil Procedure, 1908, for discovery and inspection, enforcing the attendance of a person and examining him on oath, and compelling production of books of account and other records.
- Both the authorities are deemed to be a civil court for the purposes of section 195 of the Code of Criminal Procedure, 1973. Any proceeding before the authority shall be deemed to be judicial proceeding under section 193 and 228 and for the purpose of section 196, of the Indian Penal Code, 1860. The AAR and AAAR also have the power to regulate their own procedure.

SETTLEMENT OF CASES

To serve as a forum for the taxpayer to apply for **settlement** of their **cases**, on the basis of true and complete disclosure of their tax liability; ... The **settlement** mechanism allows taxpayers to disclose additional Income before it over and above what has been already disclosed before the Income tax Department.

The act of **settling** is not a taxable supply for **GST** purposes but **GST** may be payable if a payment is made in respect of an earlier taxable supply or if the **settlement** creates a new taxable supply. ... In the majority of cases, the act of **settling** a dispute will not, of itself, be a taxable supply.

GENERAL PURPOSE SETTLEMENT CASE OF GST

1. The “Bench” means a Bench of the Settlement Commission;
2. A “case” means any proceeding under this Act for the levy, assessment and collection of **IGST** before an **IGST** officer, or before a First Appellate Authority in connection with such levy.
3. Provided also that where any Court or Appellate Tribunal or the First Appellate Authority refers a case back to the original adjudicating authority
4. Designated Officer” means an officer of the **IGST** appointed in the Settlement Commission to conduct inquiry or investigation.
5. “Member” means a Member of the Settlement Commission and includes the National/State Chairman;

6. “Settlement Commission” means the National Goods and Services Tax Settlement Commission constituted under section 12.

Settlement Commission

Settlement Commission is a premier Alternative Dispute Resolution (ADR) body in India. Its mandate is to resolve tax disputes in respect of Indian Income Tax & Wealth Tax Laws between the two disputing parties, Income Tax Department on one side and litigating tax payer on the other.

The basic objectives of setting up of the Settlement Commission under GST

1. To provide an alternative channel for dispute resolution for the taxpayer;
2. To expedite payment of GST involved in disputes by avoiding costly and time consuming litigation process;
3. To provide an opportunity to tax payers to come with clean who may have evaded payment of tax;
4. To service as a forum for the taxpayer to apply for settlement of their cases, on the basis of true and complete disclosure of their tax liability;
5. To encourage quick settlement of disputes and save the business from the worries of prosecution in certain situations.

Limitations of Settlement Commission:

1. Cases relating to Customs duty where no Bill of Entry or Shipping Bill, as the case may be, has been filed.
2. Cases relating to Central Excise duty where no monthly returns showing production, Clearances and Central Excise Duty paid in the prescribed manner has been filed.
3. Cases relating to Service Tax where no return has been filed.
4. Cases where no Show Cause Notice has been issued to the applicant.

UNIT V

Recovery and Liability to Pay Tax - Recovery of Tax - Liability to Pay Tax in Specified Cases - Transitional Provisions.

LIABILITY TO PAY TAX IN SPECIFIED CASES

GST Law has provisions for special **cases** like transfer of business, where the transferee and transferor are both held **liable to pay** unpaid **GST**. ... These provisions come into force when there is an amount due **under GST** (tax, interest, and penalty) which cannot be recovered from the taxpayer directly.

There are **liability to pay in certain cases under** Section 85 to 94 of Central Goods and Services **Tax** Act, 2017 which includes **Liability** in case of Transfer of Business, **Liability** of Agent and Principal, **Liability** in case of Amalgamation or Mergers of Companies, **Liability** in case of company in Liquidation, **Liability** of

| Sections | Rules |
|---|---|
| 85 Liability in case of transfer of business | 19. Amendment of registration |
| 86. Liability of agent and principal | 20. Application for cancellation of registration |
| 87. Liability in case of amalgamation or merger of Companies | 22. Cancellation of registration |
| 88. Liability in case of company in liquidation | 41. Transfer of credit on sale, merger, amalgamation, lease or transfer of business |
| 89. Liability of directors of private company | 160. Recovery from company in liquidation |
| 90. Liability of partners of a firm to pay tax | |
| 91. Liability of guardians, trustees, etc. | |
| 92. Liability of Court of Wards etc., | |
| 93. Special provisions regarding liability to pay tax, interest or penalty in certain cases | |
| 94. Liability in other cases | |

Statutory Provisions

85. Liability in case of Transfer of Business

1. Where a taxable person, liable to pay tax under this Act, transfers his business in whole or in part, by sale, gift, lease, leave and license, hire or in any other manner whatsoever, 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 up to the time of such transfer, whether such tax, interest or penalty has been determined before such transfer, but has remained unpaid or is determined thereafter.

2. Where the transferee of a business referred to in subsection (1) carries on such business either in his own name or in some other name, he shall be liable to pay tax on the supply of goods or services or both effected by him with effect from the date of such transfer and shall, if he is a registered person under this Act, apply within the prescribed time for amendment of his certificate of registration.

Liability To Pay Unpaid GST Dues in Certain Cases

GST Law has provisions for special cases like transfer of business, where the transferee and transferor are both held liable to pay unpaid GST. Learn more.

These provisions come into force when there is an amount due under GST (tax, interest, and penalty) which cannot be covered from the taxpayer directly. This article will deal with the liability to pay GST in such cases.

Liability in case of Transfer of Business

If a taxable person transfers his business, either wholly or partly, to another, then the taxable person (**transferor**) and the person to whom the business is transferred (**transferee**) **will be liable**, jointly and severally, wholly or to the extent of such transfer, to pay the GST due.

They will be held liable to pay:

- tax
- interest
- penalty, if it so applies;

which was due from the taxable person (transferor) up to the time of such transfer. It is immaterial if such tax, interest, or penalty has been determined before or after the transfer, as long it is unpaid.

This transfer can be made through:

- sale
- gift
- lease
- leave and license
- hire
- or in any other manner

Apart from unpaid amounts, the transferee will be liable to pay GST from the date of transfer. If the transferee carries on the business in a new name (which is different from original) then he must apply for amendment of his registration certificate.

Liability of Agent and Principal

If an agent supplies or receives any taxable goods on behalf of his principal, then **both the agent and the principal will be liable** to pay GST, jointly and severally.

Liability of Directors of Private Company

This section overrides the Companies Act 2013.

If a private company does not pay its dues then **the directors** of the company will become **jointly and severally liable** for the dues. In this case, only the directors who were in office during the period when the tax was due will be held liable.

If a director can prove to the Commissioner that the non-payment was not due to any negligence or breach of duty due to his part, then he will not be held liable.

However, if the company has been converted from a private to a public limited company, then the above will not apply.

Note: This is only for unpaid dues of the company. Any personal penalty imposed on the directors under GST (for example, the penalty for helping in fraud) is not covered here. The director(s) will be responsible for all their personal dues.

Liability for Public Limited Companies

Nothing has been mentioned in the GST Act regarding conversion/transfer of a private company to public company. Considering that this provision does not apply when a private company is converted to a public company, it can be interpreted to mean that **this provision does not apply to public companies.**

Liability of Partners of a Partnership Firm

In a partnership firm, **all the partners have unlimited liability**. Similarly, under GST the partners of the firm are jointly and severally liable to pay any GST dues irrespective of any clause of Partnership Deed or any other law.

Commissioner must be informed by the firm or the retiring partner in case of retirement of a partner. The retiring partner could be held liable for dues under GST until the date of his retirement.

If any intimation regarding the retirement is not given within 1 month, the retiring partner will be continued to be held liable till such intimation is received by the Commissioner.

For example, ABC & Co. is a partnership firm with 3 partners. C retires on 20th August 2018. ABC & Co. has GST due amount Rs.10,000 till 20th August and C informs the Commissioner on 30th August 2018 about the same, then C is liable for the due amount Rs.10,000.

Now if neither C nor the firm informs the Commissioner regarding his retirement, and ABC & Co. does not pay the dues until it stands at 25,000 on 30th Sep 2018 (when they finally inform the Commissioner), then C would be liable for Rs. 25,000 even though Rs.15,000 was incurred after he had retired.

*Note: The term 'firms' also includes **Limited Liability Partnerships**. Normally, partners have limited liabilities in LLPs. But the GST Act overrides all other laws and **the partners become jointly and severally liable for the entire GST dues.***

Liability in case of Amalgamation or Merger of Companies

If 2 or more companies merge/amalgamate:

- due to the order of a court/tribunal
- the order is to take effect from a date earlier to the date of the order (i.e. retrospective effect)
- the companies have supplied goods/services to each other during that period (from order date to order effect date)

Then the 2 companies are individually responsible for their taxes.

The companies will be **treated as separate companies under GST till the date of the order** (and not order effect date). Their registrations will get cancelled on the date of order.

For example, A Co. & B Co. have received a court order on 20th August 2018 to merge with effect from 1st July 2018. Under GST they will be treated as separate companies till 20th August 2018 and each one will be responsible for its own dues until 20th August.

Liability of Guardians, Trustees, etc.

This becomes applicable when any business is conducted by a guardian/trustee/agent **on behalf AND for the benefit of a minor/incapacitated person**. The business owes tax, interest and/or penalty under GST.

In such cases, **both the guardian/trustee/agent AND the beneficiary** (minor/incapacitated person) will be liable under GST Act. The due amount can be recovered from both parties.

Liability of Court of Wards etc.

This is applicable to the estate of a taxable person, which owns a business, is under the control of the Court of Wards, the Administrator General, the Official Trustee or any receiver or manager appointed by a court.

If the business owes any amount under GST then the Court of Wards, the Administrator General, the Official Trustee or any receiver or manager will be held liable along with the taxable person.

RECOVERY OF TAX under GST

The **GST** Act also ensures timely disposal of cases by further providing that if the Order is not issued within the stipulated time limit of three years or five years, as the case may be, the adjudication proceedings shall be deemed to be concluded.

1. Tax administration occasionally comes across situations where the tax dues are not paid correctly by the tax payers, most of the times inadvertently and sometimes deliberately. To minimize the inadvertent short payment of taxes, the concept of ‘Matching’ details of ‘Outward supplies’ of supplier with the details of ‘Inward supplies’ of recipient has been introduced in the GST Act. Moreover, the self-assessed tax has to be paid by the due date prescribed under the GST Act and in case of any failure to pay the same by the due date, the Input Tax Credit will not be available to customers and also the tax payer will not be able to file any return for further period. Effectually these provisions work as a self-policing system and take care of any mis-match in the payment of taxes. However, despite these provisions, there may arise some instances where the tax was not paid correctly. To deal with such situations, the provisions for recovery are incorporated in any tax law. Accordingly, the GST Act contains elaborate provisions for the recovery of tax under various situations, which can be broadly classified into the following two categories:

2. The incidence of short payment of tax or erroneous refund or wrong a ailment of Input Tax Credit may be because of an inadvertent bonafide mistake (Normal Cases) or it may be a deliberate attempt (Fraud Cases) to evade the tax. Since the nature of offence is totally different in both the incidences, hence, separate provisions for recovery of the tax and the amount of penalty have been made to deal with such type of cases. Besides these, there are provisions to encourage voluntary compliance such as no penalty or lesser penalty if the tax dues along with interest, are paid within the specified time limit/ incidence. The table below gives a comprehensive chart of provisions for voluntary compliance:

| S. No. | Action by | Amount of Penalty payable — Normal Cases | Amount of Penalty payable - —Fraud Cases | Remarks |
|---------------|---|---|---|----------------|
| 1 | Tax amount, along with the interest, paid before issuance | No Penalty and no Notice shall be issued | 15% of the Tax amount and no Notice shall be issued | The penalty |

| | | | | |
|----------|--|--|---|--|
| | of Notice | | | shall also be |
| 2 | Tax amount, along with the interest, paid within 30 days of issuance of Notice | No Penalty. All proceedings deemed to be concluded | 25% of the Tax amount. All proceedings deemed to be concluded | not chargeable in cases where the self assessed tax or any amount collected as tax is paid (with interest) within 30 days from the due date of payment |
| 3 | Tax amount, along with the interest, paid within 30 days of communication of Order | 10% of the Tax amount or Rs. 10,000/-, whichever is higher | 50% of the Tax amount. All proceedings deemed to be concluded | |
| 4 | Tax amount, along with the interest, paid after 30 days of communication of Order | 10% of the Tax amount or Rs. 10,000/-, whichever is higher | 100% of the Tax amount | |

3. As can be seen from the foregoing Para that for all types of incidences of short payment or erroneous refund or wrong a ailment of Input Tax Credit, there are incentives for the person who accepts tax liability and readily discharges the same. The law provides an opportunity for the payment of tax, interest and a nil or nominal penalty (depending on the nature of offence) before the issuance of Notice and emphatically stipulates that in all such cases no Notice shall be issued and consequently there shall be no other consequences for any default. However, this is not the end of the road and there is another chance to discharge tax and interest liability with nil or nominal penalty (depending on the nature of offence) within 30 days of issuance of the Notice and the law provides that all proceedings in respect of the said Notice shall be deemed to be concluded. If it becomes inevitable to issue a show cause notice and thereafter pass an Order, the GST Act ensures timely completion of all these procedures by providing a fixed timeline for issuance of notice and order-as follows:

| S. No | Nature of Case | Time for issuance of Notice | Time for issuance of Order |
|--------------|-----------------------|--|--|
| 1 | Normal Cases | Within 2 years and 9 months from the due date of filing Annual Return for the Financial Year to which the demand pertains or from the date of erroneous refund | Within 3 years from the due date of filing of Annual Return for the Financial Year to which the demand pertains or from the date of erroneous refund |
| 2 | Fraud Cases | Within 4 years and 6 months | Within 5 years from the due |

| | | | |
|---|--|---|---|
| | | from the due date of filing of Annual Return for the Financial Year to which the demand pertains or from the date of erroneous refund | date of filing of Annual Return for the Financial Year to which the demand pertains or from the date of erroneous refund |
| 3 | Any amount collected as tax but not paid | No time limit | Within one year from the date of issue of notice |
| 4 | Nonpayment of self assessed tax | No need to issue a show causes notice. Recovery proceedings can be started directly. | Penalty, @ 10% of the Tax amount or Rs. 10,000/-, whichever is higher, shall also be payable if the period of non-payment exceeds 30 days from the due date of payment of tax |

4. All these provisions makes it clear that there are sufficient opportunities to amend and discharge the tax liability with nil or nominal penalties. However, there are disincentives also for the person who fails to utilize these beneficial provisions. Besides that, the law also provides that the Board may fix certain monetary limits for not filing an Appeal against any order. It means, if any order is passed in favour of the assessee, the department will not pursue the case further by filing appeals if the amount involved is less than the specified limit. At present, under the existing laws, the monetary limits for not filing an appeal to various judicial forums are follows:

- i. Tribunal- Rs. 10 Lakhs
- ii. High Courts- Rs. 15 Lakhs and
- iii. Supreme Court- Rs. 25 Lakhs

5. The recovery proceedings are final steps towards the realization of any tax or amount, which has been confirmed as payable after following the due process of adjudication by the proper officer. Therefore, if the tax dues and other amounts remain unpaid, despite these beneficial provisions, and the tax payer fails to pay the dues after the orders are passed and the statutory limit of 3 months is over, then the proper officer may initiate recovery proceedings. These recovery provisions under the CGST Act, 2017 lay down a well defined procedure which is as follows:

- i. Any amount payable, in pursuance to any order passed in this matter, is required to be paid within 3 months from the date of receipt of order and the tax payer should pay the same within this time limit. However, it may be mentioned that in certain cases, considering the interest of revenue, this period of 3 months may be reduced.

- ii. If the payable amount is not paid within the specified time limit of 3 months then recovery proceedings shall be initiated and various actions may be taken by the

recovery officer, for realization of Government dues. The options for recovery of Government dues include deduction of money from any amount payable to such tax payer, by detaining and selling any goods, by directing any other person from whom the money is due to such person, attaching any property belonging to the defaulter etc.

iii. However, considering various business aspects, the provisions for payment of all such amounts, other than self-assessed tax, in installments have also been made in the Act. A person can avail this benefit of payment in installments, by making an application to the Commissioner by specifying reasons for such request. On receipt of application, the Commissioner may allow the payment of amount in installments, subject to maximum 24 monthly installments and on payment of applicable interest. Here it may be noted that if there is default in payment of any one installment then the whole outstanding balance shall become due and payable immediately.

TRANSITIONAL PROVISIONS under GST

Transition provisions are incorporated under **GST** to enable existing taxpayers to migrate to **GST** in a transparent and exact manner. One of the major concerns for businesses is the availability and eligibility for claiming input tax credit when the current indirect tax regime changes to **GST**.

As GST seeks to consolidate multiple taxes into one, it is very essential to have transitional provisions to ensure that the transition to the GST regime is very smooth and hassle-free and no ITC (Input Tax Credit)/benefits earned in the existing regime are lost. The transition provisions can be categorised under three heads:

A. Relating to Input Tax Credit

B. Continuance of existing procedures such as job work for a reasonable period without any adverse consequence under GST law

C. All claims (pending as well as future) pertaining to existing laws filed before, on or after the appointed day

A. Relating to Input Tax Credit

Elaborate provisions have been made to carry forward the ITC earned under the existing law. Such credit should be permissible under the GST law. However, the taxable person opting for composition scheme would not be eligible for carry forward of the existing ITC

(a) Closing balance of the credit in the last returns:

The closing balance of the CENVAT credit /VAT in the last returns filed under the existing law can be taken as credit in electronic credit ledger. Such credit would be available only when returns for the previous last six months have been filed under the existing law.

(b) Un-availed credit on capital goods:

The balance installment of un-availed credit on capital goods credit can also be taken by filing the requisite declaration in the GST TRAN 1.

(c) Credit on duty paid stock:

A registered taxable person, other than the manufacturer or service provider, may have duty paid goods in his stock on the appointed day. GST would be payable on all supplies of goods or services made after the appointed day.

(d) Credit on duty paid stock when Registered Person does not possess the document evidencing payment of excise duty/VAT

- i. The scheme is operative only for six months from the appointed day. It is not available to manufacturer or supplier of service. It is available to traders only.
- ii. Credit @ 60% on such goods which attract central tax @ 9% or more and @ 40% for other goods of GST paid on the stock cleared after the appointed day would be allowed. However, such goods should not be unconditionally exempted goods or taxed at nil rates under the existing law. It has also been provided that where integrated tax is paid on such goods; the amount of credit shall be allowed at @ 30% and 20% respectively of the said tax.
- iii. Credit would be allowed after the GST is paid on such goods subject to the condition that the benefit of such credit is passed on to the customer by way of reduced prices.
- iv. The statement of supply of such goods in each of the six tax periods has to be submit- ted.
- v. Stocks stored should be easily identifiable.

(e) Credit relating to exempted goods under the existing law which is now taxable

Input Tax Credit of CENVAT/VAT in respect of input, semi-finished and finished goods in stock attributable to exempted goods or services which are now taxable can also be taken in the same manner.

(f) Input/input services in transit

There might be a scenario where input or input services are received on or after the ap- pointed day but the duty or tax on the same was paid by the supplier under the existing law. Registered person (RP) may take credit of eligible duties and taxes,

provided the in-vvoice has been recorded in the books within 30 days from the appointed day. The period can be extended by the Commissioner GST by another 30 days. A statement of such in-voices has to be furnished. ISD can also distribute such credit.

(g) Tax paid under the existing law under composition scheme

Those taxpayers who paid tax at fixed rate or fixed amount in lieu of the tax payable under the existing law but are working under normal scheme under GST can claim credit on their input stock, semi-finished and finished stock on the appointed date, subject to the following conditions:

- i. Such input stock used for taxable supply under this Act
- ii. Registered Person is not covered under section 10 (composition scheme) of this Act
- iii. Registered Person is eligible for ITC under this Act
- iv. Registered Person is in possession of the invoice or other duty payment documents
- v. Such invoices are not more than twelve months old on the appointed day

(h) ITC in case of Centralised Registration under service tax

Such Registered Person can take credit of the amount of CENVAT carry forwarded in return furnished under the existing law, if the original/revised return under the existing law has been filed within three months. Such credit may be transferred to any of the Registered Persons having the same PAN for which the centralised registration was obtained.

(i) Reclaim the reversed Input Service credit

CENVAT credit reversed on account of non-payment of consideration within three months can be reclaimed if payment is made to the supplier of service within 3 months from 1st July, 2017

(j) Where any goods or capital goods belonging to the principal are lying at the premises of the agent on the appointed day

- (i) The agent is a registered taxable person
- (ii) Both the principal and the agent declare the details of stock
- (iii) The invoices are not older than twelve months
- (iv) The principal has either reversed or not been availed on the input tax credit

B. Continuance of existing procedures such as job work for a reasonable period without any adverse consequence under GST law

(a) Job work

Inputs, semi-finished goods or finished goods were sent to the job worker or any other premises without payment of duty/VAT under the existing law. No GST is payable by the job worker when such goods are returned by him within six months after the appointed day. The period can be extended by the Commissioner, GST by another two months.

(b) Goods removed before 6 months of the appointed day i.e. 1st July, 2017 but returned within 6 months from 1st July, 2017:

If such goods are returned by an unregistered person, then refund of the duty/VAT paid under the existing law can be claimed.

If returned by a Registered Person, then the return of goods shall be treated as supply of goods (ITC can be claimed).

(c) Goods sent on approval basis before 6 months of the appointed day i.e. 1st July, 2017 but returned within 6 months from 1st July, 2017:

(d) TDS deducted in VAT

Where a supplier has made any sale of goods, and tax was required to be deducted under VAT Act, and invoice was issued before the appointed day. However, the payment was made on or after the appointed day. In such cases, no TDS under GST is to be deducted.

(e) Price revision in respect of existing contracts

In case of upward price revision, a registered person will issue a supplementary invoice or debit notes within 30 days from the date of revision and such revision shall be treated as supply under GST, and tax is payable under this Act.