18 Simple Steps to Know about GST

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GST – CONCEPT & STATUS – As on 01st May, 2017

Introduction

The introduction of Goods and Services Tax (GST) would be a very significant step in the field of indirect tax reforms in India. By amalgamating a large number of Central and State taxes into a single tax, it would mitigate cascading or double taxation in a major way and pave the way for a common national market. From the consumer point of view, the biggest advantage would be in terms of a reduction in the overall tax burden on goods, which is currently estimated to be around 25%-30%. Introduction of GST would also make Indian products competitive in the domestic and international markets. Studies show that this would have a boosting impact on economic growth. Last but not the least, this tax, because of its transparent and self-policing character, would be easier to administer.

Genesis

2. The idea of moving towards the GST was first mooted by the then Union Finance Minister in his Budget for 2006-07. Initially, it was proposed that GST would be introduced from 1st April, 2010. The Empowered Committee of State Finance Ministers (EC) which had formulated the design of State VAT was requested to come up with a roadmap and structure for the GST. Joint Working Groups of officials having representatives of the States as well as the Centre were set up to examine various aspects of the GST and draw up reports specifically on exemptions and thresholds, taxation of services and taxation of inter-State supplies. Based on discussions within and between it and the Central Government, the EC released its First Discussion Paper (FDP) on GST in November, 2009. This spells out the features of the proposed GST and has formed the basis for discussion between the Centre and the States so far.

GST and Centre-State Financial Relations

3. Currently, fiscal powers between the Centre and the States are clearly demarcated in the Constitution with almost no overlap between the respective domains. The Centre has the powers to levy tax on the manufacture of goods (except alcoholic liquor for human consumption, opium, narcotics etc.) while the States have the powers to levy tax on sale of goods. In case of inter-State sales, the Centre has the power to levy a tax (the Central Sales Tax) but, the tax is collected and retained entirely by the originating States. As for services, it is the Centre alone that is empowered to levy service tax. Since the States are not empowered to levy any tax on the sale or purchase of goods in the course of their importation into or exportation from India, the Centre levies and collects this tax as additional duties of customs, which is in addition to the Basic Customs Duty. This additional duty of customs (commonly known as CVD and

SAD) counter balances excise duties, sales tax, State VAT and other taxes levied on the like domestic product. Introduction of GST would require amendments in the Constitution so as to concurrently empower the Centre and the States to levy and collect the GST.

3.1 The assignment of concurrent jurisdiction to the Centre and the States for the levy of GST would require a unique institutional mechanism that would ensure that decisions about the structure, design and operation of GST are taken jointly by the two. For it to be effective, such a mechanism also needs to have Constitutional force.

Constitution (One Hundred and First) Amendment Act, 2016

4.To address all these and other issues, the Constitution (122nd Amendment) Bill was introduced in the 16th Lok Sabha on 19.12.2014. The Bill provides for a levy of GST on supply of all goods or services except for Alcohol for human consumption. The tax shall be levied as Dual GST separately but concurrently by the Union (central tax - CGST) and the States (including Union Territories with legislatures) (State tax - SGST) / Union territories without legislatures (Union territory tax- UTGST). The Parliament would have exclusive power to levy GST (integrated tax - IGST) on inter-State trade or commerce (including imports) in goods or services. The Central Government will have the power to levy excise duty in addition to the GST on tobacco and tobacco products. The tax on supply of five specified petroleum products namely crude, high speed diesel, petrol, ATF and natural gas would be levied from a later date on the recommendation of GST Council.

4.1 A Goods and Services Tax Council (GSTC) shall be constituted comprising the Union Finance Minister, the Minister of State (Revenue) and the State Finance Ministers to recommend on the GST rate, exemption and thresholds, taxes to be subsumed and other features. This mechanism would ensure some degree of harmonization on different aspects of GST between the Centre and the States as well as across States. One half of the total number of members of GSTC would form quorum in meetings of GSTC. Decision in GSTC would be taken by a majority of not less than three-fourth of weighted votes cast. Centre and minimum of 20 States would be required for majority because Centre would have one-third weightage of the total votes cast and all the States taken together would have two-third of weightage of the total votes cast.

4.2 The Constitution Amendment Bill was passed by the Lok Sabha in May, 2015. The Bill was referred to the Select Committee of Rajya Sabha on 12.05.2015. The Select Committee had submitted its Report on the Bill on 22.07.2015. The Bill with certain amendments was finally passed in the Rajya Sabha and thereafter by Lok Sabha in August, 2016. Further the bill had been ratified by required number of States and received assent of the President on 8th September, 2016

and has since been enacted as Constitution (101st Amendment) Act, 2016 w.e.f. 16th September, 2016.

Goods and Services Tax Council (GSTC)

5. The GSTC has been notified with effect from 12th September, 2016. GSTC is being assisted by a Secretariat. Thirteen meetings of the GSTC have been held so far. The following major decisions have been taken by the GSTC:

(i) The threshold exemption limit would be Rs. 20 lakh. For special category States enumerated in article 279A of the Constitution, threshold exemption limit has been fixed at Rs. 10 lakh.

(ii) Composition threshold shall be Rs. 75 lakh. Composition scheme shall not be available to inter-State suppliers, service providers (except restaurant service) and specified category of manufacturers.

(iii) Existing tax incentive schemes of Central or State governments may be continued by respective government by way of reimbursement through budgetary route. The schemes, in the present form, would not continue in GST.

(iv) There would be four tax rates namely 5%, 12%, 18% and 28%. Besides, some goods and services would be under the list of exempt items. Rate for precious metals is yet to be fixed. A cess over the peak rate of 28% on certain specified luxury and demerit goods would be imposed for a period of five years to compensate States for any revenue loss on account of implementation of GST. The Council has asked the Committee of officers to fit various goods and services in these four slabs keeping in view the present incidence of tax.

(v) The five laws namely CGST Law, UTGST Law, IGST Law, SGST Law and GST Compensation Law have been recommended.

(vi) In order to ensure single interface, all administrative control over 90% of taxpayers having turnover below Rs. 1.5 crore would vest with State tax administration and over 10% with the Central tax administration. Further all administrative control over taxpayers having turnover above Rs. 1.5 crore shall be divided equally in the ratio of 50% each for the Central and State administration.

(vii) Powers under the IGST Act shall also be cross-empowered on the same basis as under CGST and SGST Acts with few exceptions.

(viii) Power to collect GST in territorial waters shall be delegated by Central Government to the States.

(ix) Formula and mechanism for GST Compensation Cess has been finalised.

(x) Four rules on input tax credit, composition levy, transitional provisions and valuation have been recommended. Further five Rules on registration, invoice, payments, returns and refund, finalized in September, 2016 and as amended in light of the GST bills introduced in the Parliament, have also been recommended.

Salient Features of GST

6. The salient features of GST are asunder:

(i) GST would be applicable on "supply" of goods or services as against the present concept of tax on the manufacture of goods or on sale of goods or on provision of services.

(ii) GST would be based on the principle of destination based consumption taxation as against the present principle of origin based taxation.

(iii) It would be a dual GST with the Centre and the States simultaneously levying it on a common base. The GST to be levied by the Centre would be called Central GST (CGST) and that to be levied by the States [including Union territories with legislature] would be called State GST (SGST). Union territories without legislature would levy Union territory GST (UTGST).

(iv) An Integrated GST (IGST) would be levied on inter-State supply (including stock transfers) of goods or services. This would be collected by the Centre so that the credit chain is not disrupted.

(v) Import of goods would be treated as inter-State supplies and would be subject to IGST in addition to the applicable customs duties.

(vi) Import of services would be treated as inter-State supplies and would be subject to IGST.

(vii) CGST, SGST /UTGST & IGST would be levied at rates to be mutually agreed upon by the Centre and the States under the aegis of the GSTC.

(viii) GST would replace the following taxes currently levied and collected by the Centre:

a) Central Excise Duty;

b) Duties of Excise (Medicinal and Toilet Preparations);

c) Additional Duties of Excise (Goods of Special Importance);

d) Additional Duties of Excise (Textiles and Textile Products);

e) Additional Duties of Customs (commonly known as CVD);

f) Special Additional Duty of Customs (SAD);

g) Service Tax;

h) Cesses and surcharges insofar as they relate to supply of goods or services.

(ix) State taxes that would be subsumed within the GST are:

a) State VAT;

b) Central Sales Tax;

c) Purchase Tax;

d) Luxury Tax;

e) Entry Tax (All forms);

f) Entertainment Tax (except those levied by the local bodies);

g) Taxes on advertisements;

h) Taxes on lotteries, betting and gambling;

i) State cesses and surcharges insofar as they relate to supply of goods or services.

(x) GST would apply to all goods and services except Alcohol for human consumption.

(xi) GST on five specified petroleum products (Crude, Petrol, Diesel, ATF & Natural gas) would be applicable from a date to be recommended by the GSTC.

(xii) Tobacco and tobacco products would be subject to GST. In addition, the Centre would continue to levy Central Excise duty.

(xiii) A common threshold exemption would apply to both CGST and SGST. Taxpayers with an annual turnover of Rs. 20 lakh (Rs. 10 lakh for special category States as specified in article 279A of the Constitution) would be exempt from GST. A compounding option (i.e. to pay tax at a flat rate without credits) would be available to small taxpayers (including to specified category of manufacturers and service providers) having an annual turnover of up to Rs. 75 lakh. The threshold exemption and compounding scheme would be optional.

(xiv) The list of exempted goods and services would be kept to a minimum and it would be harmonized for the Centre and the States as well as across States as far as possible.

(xv) Exports would be zero-rated.

(xvi) Credit of CGST paid on inputs may be used only for paying CGST on the output and the credit of SGST/UTGST paid on inputs may be used only for paying SGST/UTGST. In other words, the two streams of input tax credit (ITC) cannot be cross utilized, except in specified circumstances of inter-State supplies for payment of IGST. The credit would be permitted to be utilized in the following manner:

a) ITC of CGST allowed for payment of CGST & IGST in that order;

b) ITC of SGST allowed for payment of SGST & IGST in that order;

c) ITC of UTGST allowed for payment of UTGST & IGST in that order;

d) ITC of IGST allowed for payment of IGST, CGST & SGST/UTGST in that order.

ITC of CGST cannot be used for payment of SGST/UTGST and vice versa.

(xvii) Accounts would be settled periodically between the Centre and the State to ensure that the credit of SGST used for payment of IGST is transferred by the originating State to the Centre. Similarly the IGST used for payment of SGST would be transferred by Centre to the destination State. Further the SGST portion of IGST collected on B2C supplies would also be transferred by Centre to the destination State. The transfer of funds would be carried out on the basis of information contained in the returns filed by the taxpayers.

(xviii) Input Tax Credit (ITC) to be broad based by making it available in respect of taxes paid on any supply of goods or services or both used or intended to be used in the course or furtherance of business.

(xix) Electronic filing of returns by different class of persons at different cut-off dates.

(xx) Various modes of payment of tax available to the taxpayer including internet banking, debit/ credit card and National Electronic Funds Transfer (NEFT) / Real Time Gross Settlement (RTGS).

(xxi) Obligation on certain persons including government departments, local authorities and government agencies, who are recipients of supply, to deduct tax at the rate of 1% from the payment made or credited to the supplier where total value of supply, under a contract, exceeds two lakh and fifty thousand rupees (Rs. 2.5 lac).

(xxii) Refund of tax to be sought by taxpayer or by any other person who has borne the incidence of tax within two years from the relevant date.

(xxiii) Obligation on electronic commerce operators to collect ‘tax at source’, at such rate not exceeding two per cent. (2%) of net value of taxable supplies, out of payments to suppliers supplying goods or services through their portals.

(xxiv) System of self-assessment of the taxes payable by the registered person.

(xxv) Audit of registered persons to be conducted in order to verify compliance with the provisions of Act.

(xxvi) Limitation period for raising demand is three (3) years from the due date of filing of annual return or from the date of erroneous refund for raising demand for short-payment or non-payment of tax or erroneous refund and its adjudication in normal cases.

(xxvii) Limitation period for raising demand is five (5) years from the due date of filing of annual return or from the date of erroneous refund for raising demand for short-payment or non-payment of tax or erroneous refund and its adjudication in case of fraud, suppression or willful mis-statement.

(xxviii) Arrears of tax to be recovered using various modes including detaining and sale of goods, movable and immovable property of defaulting taxable person.

(xxix) Officers would have restrictive powers of inspection, search, seizure and arrest.

(xxx) Goods and Services Tax Appellate Tribunal would be constituted by the Central Government for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority. States would adopt the provisions relating to Tribunal in respective SGST Act.

(xxxi) Provision for penalties for contravention of the provision of the proposed legislation has been made.

(xxxii) Advance Ruling Authority would be constituted by States in order to enable the taxpayer to seek a binding clarity on taxation matters from the department. Centre would adopt such authority under CGST Act.

(xxxiii) An anti-profiteering clause has been provided in order to ensure that business passes on the benefit of reduced tax incidence on goods or services or both to the consumers.

(xxxiv) Elaborate transitional provisions have been provided for smooth transition of existing taxpayers to GST regime.

Benefits of GST

7. **(A) Make in India**

(i) Will help to create a unified common national market for India, giving a boost to Foreign investment and "Make in India" campaign;

(ii) Will prevent cascading of taxes as Input Tax Credit will be available across goods and services at every stage of supply;

(iii) Harmonization of laws, procedures and rates of tax;

(iv) It will boost export and manufacturing activity, generate more employment and thus increase GDP with gainful employment leading to substantive economic growth;

(v) Ultimately it will help in poverty eradication by generating more employment and more financial resources;

(vi) More efficient neutralization of taxes especially for exports thereby making our products more competitive in the international market and give boost to Indian Exports;

(vii) Improve the overall investment climate in the country which will naturally benefit the development in the states;

(viii) Uniform SGST and IGST rates will reduce the incentive for evasion by eliminating rate arbitrage between neighboring States and that between intra and inter-State sales;

(ix) Average tax burden on companies is likely to come down which is expected to reduce prices and lower prices mean more consumption, which in turn means more production thereby helping in the growth of the industries . This will create India as a "Manufacturing hub".

(B) Ease of Doing Business

(i) Simpler tax regime with fewer exemptions;

(ii) Reductions in the multiplicity of taxes that are at present governing our indirect tax system leading to simplification and uniformity;

(iii) Reduction in compliance costs - No multiple record keeping for a variety of taxes - so lesser investment of resources and manpower in maintaining records;

(iv) Simplified and automated procedures for various processes such as registration, returns, refunds, tax payments, etc;

(v) All interaction to be through the common GSTN portal - so less public interface between the taxpayer and the tax administration;

(vi) Will improve environment of compliance as all returns to be filed online, input credits to be verified online, encouraging more paper trail of transactions;

(vii) Common procedures for registration of taxpayers, refund of taxes, uniform formats of tax return, common tax base, common system of classification of goods and services will lend greater certainty to taxation system;

(viii) Timelines to be provided for important activities like obtaining registration, refunds, etc;

(ix) Electronic matching of input tax credits all - across India thus making the process more transparent and accountable.

(C) Benefit to Consumers:

(i) Final price of goods is expected to be lower due to seamless flow of input tax credit between the manufacturer, retailer and service supplier;

(ii) It is expected that a relatively large segment of small retailers will be either exempted from tax or will suffer very low tax rates under a compounding scheme- purchases from such entities will cost less for the consumers;

(iii) Average tax burden on companies is likely to come down which is expected to reduce prices and lower prices mean more consumption.

Goods and Services Tax Network

8. Goods and Services Tax Network (GSTN) has been set up by the Government as a private company under erstwhile Section 25 of the Companies Act, 1956. GSTN would provide three front end services to the taxpayers namely registration, payment

and return. Besides providing these services to the taxpayers, GSTN would be developing back-end IT modules for
27 States who have opted for the same. The migration of existing taxpayers has already started from November, 2016. The Revenue department of both Centre and States are pursuing the presently registered taxpayers to complete the necessary formalities on the IT system operated by Goods and Services Tax Network (GSTN) for successful migration. About 70 percent of existing registrants have already migrated to the GST systems. GSTN has already appointed M/s Infosys as Managed Service Provider (MSP) at a total project cost of around Rs 1380 crores for a period of five years.

8.1 GSTN has selected 34 IT, ITeS and financial technology companies, to be called GST Suvidha Providers (GSPs). GSPs would develop applications to be used by taxpayers for interacting with the GSTN.

Other Legislative Requirements

9. Four Laws namely CGST Act, UTGST Act, IGST Act and GST (Compensation to States) Act have been passed by the Parliament and since been notified on 12th April, 2017. The State of Telangana, Bihar, Rajasthan, Jharkhand and

Chhattisgarh have also passed SGST Act. Other States are expected to pass them in the month of May, 2017.

9.1 The levy of the tax can commence only after the GST Law has been enacted by all the legislatures. Also, unlike the State VAT, the date of commencement of this levy would have to be synchronized across the Centre and the States. This is because the IGST model cannot function unless the Centre and all the States participate simultaneously.

Role of CBEC

10. CBEC is playing an active role in the drafting of GST law and procedures, particularly the CGST and IGST law, which will be exclusive domain of the Centre. This apart, the CBEC would need to prepare, in advance, for meeting the implementation challenges, which are quite formidable. The number of taxpayers is likely to go up significantly. The existing IT infrastructure of CBEC would also need to be suitably scaled up to handle such large volumes of data. Based on the legal provisions and procedure for GST, the content of work-flow software such as ACES (Automated Central Excise & Service Tax) would require re-engineering. DG Systems has already constituted a Steering Committee for implementation of GST System for CBEC. The IT
project of CBEC under GST has been approved by the Cabinet on 28th

September, 2016. The name of this project is 'SAKSHAM' involving a total project value of Rs. 2,256 crores.

10.1 It was also felt that the organizational structure and deployment of human resources needed a review for smooth and effective implementation of GST. A Working Group has after extensive deliberations and studies, submitted its Report which has been approved by the Government.

10.2 Augmentation of human resources would be necessary to handle large taxpayers' base in GST scattered across the length and breadth of the country.

Capacity building, particularly in the field of Accountancy and Information Technology for the departmental officers has to be taken up in a big way. A massive four-tier training programme is being conducted under the leadership of NACEN. This training project is aimed at imparting training on GST law and procedures to more than 60,000 officers of CBEC and Commercial Tax officers of State Governments. Officers of the office of CAG are also participating and getting trained in this training programme. More than 50000 officers (including around 20000 officers from States) have already been trained.

10.3 It is expected that a momentous reform like GST is popularized and familiarized to the trade and industry who are the vital stakeholders in successful implementation of this reform. Massive Public outreach and knowledge sharing programs being conducted by various formations of CBEC which, after Model GST Law was put in public domain, has reached to an audience of more than 20,000.

10.4 CBEC would be responsible for administration of the CGST and IGST law. In addition, excise duty regime would continue to be administered by the CBEC for levy and collection of central excise duty on five specified petroleum products as well as on tobacco products. CBEC would also continue to handle the work relating to levy and collection of customs duties.

10.5 The following information is available on the CBEC website **www.cbec.gov.in** :

(i) Presentation on GST

(ii) GST – Concept & Status

(iii) FAQs on GST in English and Hindi

(iv) CGST, IGST, UTGST and GST (Compensation to States) Act

(v) Draft Rules

(vi) Constitutional Amendment Act

Way Forward

11. Looking forward, there are number of goal posts that need to be met before GST can be rolled out in the country. The following tasks are required to be completed within defined time frame:

(i) Passage of SGST laws by all State legislatures;
(ii) Recommendation of Model GST Rules by GST Council;
(iii) Notification of GST Rules;
(iv) Recommendation of GST Tax rates by GST Council;
(v) Establishment and upgradation of IT framework;
(vi) Meeting implementation challenges;
(vii) Effective coordination between Centre & State tax administrations;
(viii) Reorganization of field formations;
(ix) Training of Officials; and
(x) Outreach programs for all stakeholders including Trade & Industry.

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Benefits of Goods and Services Tax (GST)

GST stands for Goods and Services Tax, which will be levied on the supply of goods or services or both in India. GST will subsume a number of existing indirect taxes being levied by the Center and State Governments, including Central Excise duty, Service Tax, VAT, Purchase Tax, Central Sales Tax, Entry Tax, Local Body Taxes, Octroi, Luxury Tax, etc.

" GST: The Single Biggest Tax Reform Undertaken Since Independence to Ease Compliance "

It brings benefits to all the stakeholders viz. industry, government and the citizens. It is expected to lower the cost of goods and services, boost the economy and make our products and services globally competitive. GST aims to make India a common national market with uniform tax rates and procedures and removes the economic barriers, thereby paving the way for an integrated economy at the national level. By subsuming most of the Central and State indirect taxes into a single tax and by allowing a set-off of prior-stage taxes for the transactions across the entire value chain, GST would mitigate the ill effects of cascading and thereby improve our competitiveness.

GST is a destination based consumption tax. It has been designed in a manner so that the tax is collected at every stage and the credit of tax paid at the previous stage is available to set off the tax to be paid at the next stage of transaction, thereby eliminating cascading of taxes. This eradicates “tax on tax”and allows cross utilization of input tax credits, which benefit the industry by making the entire supply chain tax neutral.

GST BRINGS BENEFITS FOR ALL

GST will give a major boost to the ‘**Make in India**’ initiative of the Government by making goods or services produced or provided in India competitive in the national and international markets. Further, all imported goods will be charged with integrated tax (IGST), which will be more or less equivalent to Central GST + State GST. This brings parity in taxation on local and imported products.

Under the GST regime, exports will be zero rated in entirety unlike the present system where refund of some taxes is not allowed due to fragmented nature of indirect taxes between the Center and the States. All taxes paid on the goods or services exported or on the inputs or input services used in the supply of such export goods or services shall be refunded. The principle of exporting only the cost of goods or services and not taxes would be followed. This will boost Indian exports, thereby improving the balance of payments position. Exporters will be facilitated by grant of provisional refund of 90% of their claims within seven days of issue of acknowledgement of their application, thereby resulting in the easing of position with respect to cash flows.

GST is expected to bring buoyancy to the Government Revenue by widening the tax base and improving the taxpayer compliance. GST is likely to improve India’s ranking in the **Ease of Doing Business** Index and is estimated to increase the GDP by 1.5% to 2%.

GST will prevent cascading of taxes by providing a comprehensive input tax credit mechanism across the entire supply chain. The seamless availability of Input Tax Credit across goods or services at every stage of supply will enable streamlining of business operations.

Uniform GST rates will reduce the incentive for evasion by eliminating rate arbitrage between neighboring States and that between intra and inter-State sales.

Harmonization of laws, procedures and rates of tax will make compliance easier and simple. There would be common definitions, common forms/ formats, common interface through GST portal, resulting in efficiencies and synergies across the board. This will also remove multiple taxation of same transactions and inter-State disputes like the ones on entry tax and e-commerce taxation existing today. All this will also help in reduction of compliance costs, alleviate the need for multiple record keeping for a variety of taxes, leading to lesser investment of resources and manpower in maintaining records.

Common procedures for registration of taxpayers, refund of taxes, uniform formats of tax return, common tax base, common system of classification of goods or services along with timelines for every activity will lend greater certainty to taxation system.

GST is largely technology driven. The interface of the taxpayer with the tax authorities will be through the common portal (GSTN). There will be simplified and automated procedures for various processes such as registration, returns, refunds, tax payments, etc. All processes, be it of applying for registration, filing of returns, payment of taxes, filing of refund claims etc., would be done online through GSTN. The input tax credit will be verified online. Electronic matching of input tax credit across India will make the process more transparent and accountable. This will encourage a culture of compliance. This will also greatly reduce the human interface between the taxpayer and the tax administration, leading to speedy decisions.

Average tax burden on trade and industry is likely to come down, which is expected to reduce prices, resulting in more consumption, which in turn means more production and thereby boosting the growth of the industries. The removal of cascading of taxes and increased transparency will make the citizens more informed about the taxes they pay while purchasing goods or services. GST will boost domestic demand, create more opportunities for domestic business and drive job creation. GST might not be the panacea for all the ills of indirect tax system but is also not far from that.

Registration under Goods and Services Tax (GST) law

Introduction

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

Need and advantages of registration

Registration will confer the following advantages to a taxpayer:

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

Liability to register

GST being a tax on the event of “supply”, every supplier needs to get registered. However, **small businesses** having all India aggregate turnover below Rupees 20 lakh (10 lakh if business is in Assam, Arunachal Pradesh, J&K, Himachal Pradesh, Uttarakhand, Manipur, Mizoram, Sikkim, Meghalaya, Nagaland or Tripura) need not register. The small businesses, having turnover below the threshold limit can, however, voluntarily opt to register.

The aggregate turnover includes supplies made by him on behalf of his principals, but excludes the value of job-worked goods if he is a job worker. But persons who are engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax or an agriculturist, to the extent of supply of produce out of cultivation of land are not liable to register under GST.

Nature of registration

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

A given PAN based legal entity would have one GSTIN per State, that means a business entity having its branches in multiple States will have to take separate State wise registration for the branches in different States. But within a State, an entity with different branches would have single registration wherein it can declare one place as

principal place of business and other branches as additional place of business. However, a business entity having separate business verticals (as defined in section 2 (18) of the CGST Act, 2017) in a state may obtain separate registration for each of its business verticals.

Generally, the liability to register under GST arises when you are a supplier within the meaning of the term, and also your aggregate turn over in the financial year is above the exemption threshold of 20 lakh rupees. However, the GST law enlists certain categories of suppliers who are required to get compulsory registration irrespective of their turnover that is to say, the threshold exemption of 20 lakh is not available to them. Some of such suppliers who need to register compulsorily irrespective of the size of their turnover are:

- Inter-state suppliers
- A person receiving supplies on which tax is payable by recipient on reverse charge basis
- Casual taxable person who is not having fixed place of business in the State or Union Territory from where he wants to make supply
- Non-resident taxable persons who are not having fixed place of business in India
- A person who supplies on behalf of some other taxable person (i.e. an Agent of some Principal)
- E-commerce operators, who provide platform to the suppliers to supply through it
- Suppliers who supply through an e-commerce operator
- Those eCommerce operators who are notified as liable for GST payment under Section 9(5)
- TDS Deductor
- Those supplying online information and data base access or retrieval services from outside India to a non-registered person in India.

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

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

Standardisation of procedures

A total of 30 forms/ formats have been prescribed in the GST registration rules. For every process in the registration chain such as application for registration, acknowledgement, query, rejection, registration certificate, show cause notice for cancellation, reply, cancellation, amendment, field visit report etc, there are standard formats. This will make the process uniform all over the country. The decision making process will also be fast. Strict time lines have been stipulated for completion of different stages of registration process.

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

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

Amendment of registration

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

Cancellation of registration

The GST law provides for two scenarios where cancellation of registration can take place; the one when the taxable person no more requires it (voluntary cancellation), and another when the Proper Officer considers the registration liable for cancellation in view of certain specified defaults (Suo-motu cancellation) like when the registrant is not doing business from the registered place of business or if he issues tax invoice without making the supply of goods or services. The taxable person desirous of cancellation of registration will apply on the common portal within 30 days of the event warranting cancellation. He will also declare in the application, the stock held on the date with effect from which he seeks cancellation. He will also work out and declare the quantum of dues of payments and credit reversal, and the particulars of payments made towards discharge of such liabilities. In case of voluntary registration (taken despite not being liable for), no cancellation is allowed until expiry of one year from the effective date of registration. If satisfied, the Proper Officer has to cancel the registration within 30 days from the date of application or the date of reply to notice (if issued, when
rejection is concluded by the officer).

Revocation of cancellation

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

Physical verification for registration

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

Transition Provisions under GST- What you Must Know

GST is a significant reform in the field of indirect taxes in our country. Multiple taxes lev-ied and collected by the Centre and States would be replaced by one tax called Goods and Services Tax (GST). GST is a multi-stage value added tax on consumption of goods or ser-vices or both.

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 transi-tion 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. Transitional arrangements for ITC

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. ITC of various taxes under the existing laws (CENVAT credit, VAT etc.) would be carried forward as under:

(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. In order to claim this credit, declaration in form GST TRAN 1 is required to be furnished on the common portal within ninety days from the appointed day i.e. the day on which the GST law would come into force.

(b) Un-availed credit on capital goods:

The balance instalment 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. It is not the intention of the Govern-ment to collect tax twice on the same goods. Hence, in such cases, it has been provided that the credit of the duty/tax paid earlier would be admissible as credit. Such credit can be taken as under:

(i) Credit shall be taken on the basis of invoice evidencing payment of duty of excise or VAT

(ii) Such invoices should be less than one-year old

(iii) Declare the stock of duty paid goods within the prescribed time on the common portal

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

For traders who do not have excise or VAT invoice, there is a scheme to allow credit to them on the duty paid stock. The features of this scheme are as under:

(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 rate 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 are 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-voice 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 have 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 un-der 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 forward-ed in return furnished under the existing law, if the original/revised return under the ex-isting 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 ob-tained.

(i) Reclaim the reversed Input Service credit

CENVAT credit reversed on account of non-payment of consideration within three months can be reclaimed if the payment is made to the supplier of service within 3 months from the appointed day

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

This provision is specific to SGST law. In such cases, agent shall be entitled to take credit, subject to the following conditions:

(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. Transition provisions relating to job work, goods returned/sent on approval etc.

(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.

If not returned within the prescribed period, then ITC shall be liable to be recovered from the principal as per second provisionto section 141(1) of the Act. In addition, the job worker will have to pay the GST on such supplies. In case of semi-finished goods, the manufacturer may transfer the goods to premises of a Registered Person without pay-ment of tax within the prescribed period. In case of finished goods, the manufacturer may transfer the goods on payment of tax or clear for export within the prescribed period.

(b) Goods removed before 6 months of the appointed day but returned within 6 months from the appointed day

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 but re-turned within 6 months from the appointed day

No tax is payable by the person returning the goods. Commissioner may extend the peri-od by 2 months. If returned after that, tax is payable if the supply is taxable under GST (by the recipient). If not returned, tax is payable by the person who sent the goods on ap-proval basis.

(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.

In case of downward revision, Registered Person may issue credit note within 30 days from such revision and credit note shall be deemed to have been issued in respect of outward supply made under this Act. A Registered Person will reduce his tax liability for such credit note, subject to reversal of credit by the recipient.

C. Proceedings under the existing laws

GST law would become operational w.e.f. the appointed day and existing laws would be repealed. Elaborate provisions have been made to save the pending as well future claims relating to existing law made before, on or after the appointed day. Such proceedings may pertain to refund claims of CENVAT credit/VAT or export related rebate or service tax, and the proceedings may either result in recovery of tax or refund.

All such cases would be disposed of under the existing law. If any claim for refund of CENVAT credit is fully or partially rejected, the amount so rejected shall lapse. Refund of CENVAT credit shall be paid in cash. There will be no refund of CENVAT if already carry forwarded. If any amount becomes recoverable, the same shall be recovered as arrear of tax under GST Act.

Statutory provisions relating to transition are contained in chapter XX (section 139 to 142) of the GST law and the transition rules available at department website www.cbec.gov.in may be referred.

Meaning and Scope of Supply Under GST- What you Must Know

The taxable event in GST is supply of goods or services or both. Various taxable events like manufacture, sale, rendering of service, purchase, entry into a territory of state etc. have been done away with in favour of just one event i.e. supply. The constitution defines “Goods and Services Tax” as any tax on supply of goods, or services or both, except for taxes on the supply of the alcoholic liquor for human consumption.

The Central and State governments will have simultaneous powers to levy the GST on Intra-State supply. However, the Parliament alone shall have exclusive power to make laws with respect to levy of Goods and Services Tax on Inter-State supply.

The term, “supply” has been inclusively defined in the Act. The meaning and scope of supply under GST can be understood in terms of following six parameters, which can be adopted to characterize a transaction as supply:

1. Supply of goods or services. Supply of anything other than goods or services does not attract GST

2. Supply should be made for a consideration

3. Supply should be made in the course or furtherance of business

4. Supply should be made by a taxable person

5. Supply should be a taxable supply

6. Supply should be made within the taxable territory

While these six parameters describe the concept of supply, there are a few exceptions to the requirement of supply being made for a consideration and in the course or furtherance of business. Any transaction involving supply of goods or services without consideration is not a supply, barring few exceptions, in which a transaction is deemed to be a supply even without consideration. Further, import of services for a consideration, whether or not in the course or furtherance of business is treated as supply.

Supply of Goods or Services or Both

Goods as well as services have been defined in the GST Law. The securities are excluded from the definition of goods as well as that of services. Money is also excluded from the definition of goods as well as services, however, activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged are included in services. Schedule II to the CGST Act, 2017 lists a few activities which are to be treated as supply of goods or supply of services. For instance, any transfer of title in goods would be a supply of goods, whereas any transfer of right in goods without transfer of title would be considered as services. Further Schedule III to the CGST Act, 2017 spells out activities which shall be treated as neither supply of goods nor supply of services or outside the scope of GST.

This includes:

1. Services by an employee to the employer in the course of or in relation to his employment.

2. Services of funeral, burial, crematorium or mortuary including transportation of the deceased.

3. Sale of land and sale of building where the entire consideration has been received after completion certificate is issued or after its first occupation. Actionable claims are included in the definition of goods, however, Schedule III provides that actionable claims other than lottery, betting and gambling shall be neither goods nor services.

Supply for Consideration

Consideration has specifically been defined in the CGST Act, 2017. It can be in money or in kind. Any subsidy given by the Central Government or a State Government is not considered as consideration. It is immaterial whether the payment is made by the recipient or by any other person.

A deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply.

Further, when there is barter of goods of services, the same activity constitutes supply as well as a consideration. When a barber cuts hair in exchange for a painting, hair cut is a supply of services by the barber. It is a consideration for the painting received.

However, there are exceptions to the requirement of 'Consideration' as a pre-condition for a supply to be called a supply as per GST. As per schedule to CGST Act, 2017, activities as mentioned below shall be treated as supply even if made without consideration:

1. Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.

2. Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business: Provided that gifts not exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.

3. Supply of goods— (a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or (b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.

4. Import of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

Supply in the Course or Furtherance of Business

GST is essentially a tax only on commercial transactions. Hence, only those supplies that are in the course or furtherance of business qualify as supply under GST. Hence, any supplies made by an individual in his personal capacity do not come under the ambit of GST unless they fall within the definition of business as defined in the Act. Sale of goods or service even as a vocation is a supply under GST. Therefore, even if a famous politician paints paintings for charity and sells the paintings even as a one-time occurrence, the sale would constitute supply.

However, there is one exception to this 'Course or Furtherance of Business' rule i.e., import of services for a consideration.

Supply by a Taxable Person

A supply to attract GST should be made by a taxable person. Hence, a supply between two non-taxable persons does not constitute supply under GST. A “taxable person” is a person who is registered or liable to be registered under section 22 or section 24. Hence, even an unregistered person who is liable to be registered is a taxable person. Similarly, a person not liable to be registered but has taken voluntary registration and got himself registered is also a taxable person.

It should be noted that GST in India is State-centric. Hence, a person making supplies from different States needs to take separate registration in each State. Further, the person may take more than one registration within a State if the person has multiple business verticals. A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of GST. Hence, a supply between these entities constitutes supply under GST.

Taxable Supply

For a supply to attract GST, the supply must be taxable. Taxable supply has been broadly defined and means any supply of goods or services or both which, is leviable to tax under the Act. Exemptions may be provided to the specified goods or services or to a specified category of persons/ entities making supply.

Supply in the Taxable Territory

For a supply to attract GST, the place of supply should be in India except for the State of Jammu and Kashmir. The place of supply of any goods or services is determined based on Sections 10, 11, 12 and 13 of IGST Act 2017.

Inter/Intra State Supply

The location of the supplier and the place of supply determines whether a supply is treated as an Intra State supply or an Inter State supply. Determination of the nature of supply is essential to ascertain whether integrated tax is to be paid or Central plus State tax are to be paid. Inter- State supply of goods means a supply of goods where the location of the supplier and place of supply are in different States or Union territories. Intra State supply of goods means supply of goods where the location of the supplier and the place of supply are in the same State or Union territory. Imports, Supplies from and to SEZs are treated as deemed Inter-State supplies.

Composite/Mixed Supply

A composite supply means a supply made by a taxable person to a recipient comprising two or more supplies of goods or services or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply. For instance, a travel ticket from Mumbai to Delhi may include service of food being served on board, free insurance, and the use of airport lounge. In this case, the transport of passenger, constitutes the pre-dominant element of the composite supply, and is treated as the principal supply and all other supplies are ancillary.

The GST Law lays down the tax liability on a composite or mixed supply in the following manner.

1. Composite Supply comprising two or more supplies one of which, is a principal supply, shall be treated as supply of such principal supply.

2. Mixed Supply comprising two or more supplies, shall be treated as supply of that particular supply which attracts the highest rate of tax.

Input Tax Credit Mechanism under Goods and Services Tax

Uninterrupted and seamless chain of input tax credit (hereinafter referred to as, “ITC”) is one of the key features of Goods and Services Tax. ITC is a mechanism to avoid cascading of taxes. Cascading of taxes, in simple language, is ‘tax on tax’. Under the present system of taxation, credit of taxes being levied by Central Government is not available as set-off for payment of taxes levied by State Governments, and vice versa. One of the most important features of the GST system is that the entire supply chain would be subject to GST to be levied by Central and State Government concurrently. As the tax charged by the Central or the State Governments would be part of the same tax regime, the credit of tax paid at every stage would be available as set-off for payment of tax at every subsequent stage.

Let us understand how ‘cascading’ of taxes takes place in the present regime. Central excise duty charged on inputs used for manufacturing of final product can be availed as credit for payment of central excise duty on the final product. For example, to manufacture a pen, the manufacturer requires, plastic granules, refill tube, metal clip, etc. All these ‘inputs’ are chargeable to central excise duty. Once a ‘pen’ is manufactured by using these inputs, the pen is also chargeable to central excise duty. Let us assume that the cost of all the above mentioned inputs is say, Rs. 1o/- on which central excise duty @10% is paid, means Re. 1. The cost of the manufactured pen is say Rs. 2o/-, the central excise duty payable on the pen 20% will be Rs. 2/-. Now the manufacturer of the pen can use the duty paid on inputs, i.e. Re. 1/- for payment of duty on the pen. So he will use Re. 1 paid on inputs and he will pay Re.1/-through cash (1+1=2), the price of the pen becomes Rs. 22/-. In effect, he actually pays duty on the ‘value added’ over and above the cost of the inputs. This mechanism eliminates cascading of taxes. However, when the pen is sold by the manufacturer to a trader, he is required to levy VAT on such sale. But under the present system, the manufacturer cannot use the credit of central excise duty paid on the pen for payment of VAT, as the two levies are being levied by Central and State government respectively with no statutory linkage between the two. Hence, he is required to pay VAT on the entire value of the pen, i.e. Rs.22/-, which actually includes the central excise duty to the tune of Rs.2/-. This is cascading of taxes or tax on tax, as now VAT is not only paid on the value of pen i.e. Rs. 2o/-but also on tax i.e. Rs. 2/-.

Goods and Services Tax (GST) would mitigate such cascading of taxes. Under this new system, most of the indirect taxes levied by Central and the State Governments on supply of goods or services or both, would be combined together under a single levy. The major taxes/levies which are going to be clubbed together or subsumed in the **GST regime** are as under**:**

Central Taxes –

- Central Excise duty
- Additional duties of excise
- Excise duty levied under Medicinal & Toilets Preparation Act
- Additional duties of customs (CVD & SAD)
- Service Tax
- Surcharges & Cesses

State Taxes –

- State VAT/Sales Tax
- Central Sales Tax

- Purchase Tax
- Entertainment Tax (other than those levied by local bodies)
- Luxury Tax
- Entry Tax (All forms)
- Taxes on lottery, betting & gambling
- Surcharges & Cesses

GST comprises of the following levies:

a. Central Goods and Services Tax (CGST) [also known as Central Tax] on intra-state or intra-union territory without legislature supply of goods or services or both.

b. State Goods and Services Tax (SGST) [also known as State Tax] on intra-state supply of goods or services or both.

c. Union Territory Goods and Services Tax (UTGST) [also known as Union territory Tax] on intra-union territory supply of goods or services or both.

d. Integrated Tax] on inter-state supply of goods or services or both. In case of import of goods also, the present levy of Countervailing Duty (CVD) and Special Additional Duty (SAD) would be replaced by integrated tax.

The protocol to avail and utilise the credit of these taxes is as follows:-

Credit of	To be utilised first for payment of	May be utilised further for payment of
CGST	**CGST**	**IGST**
SGST/UTGST	SGST/UTGST	**IGST**
IGST	**IGST**	CGST, then SGST/UTGST

Credit of CGST cannot be used for payment of SGST/UTGST and credit of SGST/UTGST cannot be utilised for payment of CGST.

Some of the technical aspects of the scheme of Input Tax Credit are as under:

A. Any registered person can avail credit of tax paid on the inward supply of goods or services or both, which is used or intended to be used in the course or furtherance of business.

B. The pre-requisites for availing credit by registered person are:

a. He is in possession of tax invoice or any other specified tax paying document.

b. He has received the goods or services. “Bill to ship” scenarios also included.

c. Tax is actually paid by the supplier.

d. He has furnished the return.

e. If the inputs are received in lots, he will be eligible to avail the credit only when the last lot of the inputs is received.

f. He should pay the supplier, the value of the goods or services along with the tax within 180 days from the date of issue of invoice, failing which the amount of credit availed by the recipient would be added to his output tax liability, (2) of ITC Rules]. However, once the amount is paid, the recipient will be entitled to avail the credit again. In case part payment has been made, proportionate credit would be allowed.

C. Documents on the basis of which credit can be availed are:

a. Invoice issued by a supplier of goods or services or both

b. Invoice issued by recipient alongwith proof of payment of tax

c. A debit note issued by supplier

d. Bill of entry or similar document prescribed under Customs Act

e. Revised invoice

f. Document issued by Input Service Distributor

D. No ITC beyond September of the following FY to which invoice pertains or date of filing of annual return, whichever is earlier

E. The Input Service Distributor (ISD) may distribute the credit available for distribution in the same month in which, it is availed. The credit of **CGST, SGST, UTGST** and IGST shall be distributed as per the provisions of Rule 4(1) (d) of ITC Rules. ISD shall issue invoice in accordance with the provisions made under Rule 9(1) of Invoice Rules.

F. ITC is not available in some cases as mentioned in section 17(5) of CGST Act, 2017. Some of them are as follows:

a. motor vehicles and other conveyances except under specified circumstances.

b. goods and/or services provided in relation to:

i. Food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, except under specified circumstances;

ii. Membership of a club, health and fitness center;

iii. Rent-a-cab, life insurance, health insurance except where it is obligatory for an employer under any law;

iv. Travel benefits extended to employees on vacation such as leave or home travel concession;

c. Works contract services when supplied for construction of immovable property, other than plant & machinery, except where it is an input service for further supply of works contract;

d. Goods or services received by a taxable person for construction of immovable property on his own account, other than plant & machinery, even when used in course or furtherance of business;

e. Goods and/or services on which tax has been paid under composition scheme;

f. Goods and/or services used for private or personal consumption, to the extent they are so consumed;

g. Goods lost, stolen, destroyed, written off, gifted, or free samples;

h. Any tax paid due to short payment on account of fraud, suppression, mis-declaration, seizure, detention.

G. Special circumstances under which ITC is available:

a. A person who has applied for registration within 3o days of becoming liable for registration is entitled to ITC of input tax in respect of goods held in stock (inputs as such and inputs contained in semi-finished or finished goods) on the day immediately preceding the date from which he becomes liable to pay tax.

b. A person who has taken voluntary registration under section 23(3) of the CGST Act, 2017 is entitled to ITC of input tax in respect of goods held in stock (inputs as such and inputs contained in semi-finished or finished goods) on the day, immediately preceding the date of registration.

c. A person switching over to normal scheme from composition scheme under section 10 is entitled to ITC in respect of goods held in stock (inputs as such and inputs contained in semi-finished or finished goods) and capital goods on the day immediately goods) capital goods day immediately preceding the date from which he becomes liable to pay tax as normal taxpayer.

d. Where an exempt supply of goods or services or both become taxable, the person making such supplies shall be entitled to take ITC in respect of goods held in stock (inputs as such and inputs contained in semi-finished or finished goods) relatable to exempt supplies. He shall also be entitled to take credit on capital goods used exclusively for such exempt supply, subject to reductions for the earlier usage as prescribed in the rules.

e. ITC, in all the above cases, is to be availed within 1 year from the date of issue of invoice by the supplier.

f. In case of change of constitution of a registered person on account of sale, merger, demerger etc, the unutilised ITC shall be allowed to be transferred to the transferee.

g. A person switching over from composition scheme under section 10 to normal scheme or where a taxable supply become exempt, the ITC availed in respect of goods held in stock (inputs as such and inputs contained in semi-finished or finished goods) as well as capital goods will have to be paid.

h. In case of supply of capital goods or plant and machinery, on which ITC is taken, an amount equivalent to ITC availed minus the reduction as prescribed in rules (5% for every quarter or part thereof) shall have to be paid. In case the tax on transaction value of the supply is more, the same would have to be paid.

Accounts and records in GST- What you should Know

1. Assessment in GST is mainly focused on self- assessment by the taxpayers themselves. Every taxpayer is required to self-assess the taxes payable and furnish a return for each tax period i.e. the period for which return is required to be filed. The compliance verification is done by the department through scrutiny of returns, audit and/or investigation. Thus the compliance verification is to be done through documentary checks rather than physical controls. This requires certain obligations to be cast on the taxpayer for keeping and maintaining accounts and records.

2. Section 35 of the CGST Act and "Accounts and Records" Rules (hereinafter referred to as rules) provide that every registered person shall keep and maintain all records at his principal place of business. It has cast the responsibility on the owner or operator of warehouse or godown or any other place used for storage of goods and on every transporter to maintain specified records. The section also empowers the Commissioner to notify a class of taxable persons to maintain additional accounts or documents for specified purpose or to maintain accounts in other prescribed manner. It also provides that every registered person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant.

3. Section 35 provides that every registered person shall keep and maintain, at his principal place of business, as mentioned in the certificate of registration, a true and correct account of:

(a) production or manufacture of goods

(b) inward and outward supply of goods or services or both

(c) stock of goods

(d) input tax credit availed

(e) output tax payable and paid and

(f) such other particulars as may be prescribed

In addition, the rules also provide that the registered person shall keep and maintain records of-

(a) goods or services imported or exported or

(b) supplies attracting payment of tax on reverse charge along with the relevant documents, including invoices, bills of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers, refund vouchers
and e-way bills.

4. In case more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business. A registered person may keep and maintain such accounts and other particulars in electronic form in such manner as may be prescribed.

5. Following accounts and records will have to be maintained by every registered person:

a) accounts of stock in respect of goods received and supplied; and such account shall contain particulars of the opening balance, receipt, supply, goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples and balance of stock including raw materials, finished goods, scrap and wastage thereof

(b) a separate account of advances received, paid and adjustments made thereto

(c) an account containing the details of tax payable, tax collected and paid, input tax, input tax credit claimed together with a register of tax invoice, credit note, debit note, delivery challan issued or received during any tax period

(d) names and complete addresses of suppliers from whom goods or services chargeable to tax under the Act, have been received

(e) names and complete addresses of the persons to whom supplies have been made

(f) the complete addresses of the premises where the goods are stored including goods stored during transit along with the particulars of the stock stored therein

(g) monthly production accounts showing the quantitative details of raw materials or services used in the manufacture and quantitative details of the goods so manufactured including the waste and by products thereof

(h) accounts showing the quantitative details of goods used in the provision of services, details of input services utilised and the services supplied

(i) separate accounts for works contract showing –

- the names and addresses of the persons on whose behalf the works contract is executed
- description, value and quantity (wherever applicable) of goods or services received for the execution of works contract
- description, value and quantity (wherever applicable) of goods or services utilized in the execution of works contract
- the details of payment received in respect of each works contract and
- the names and addresses of suppliers from whom he has received goods or services

6. The books of account shall be kept at the principal place of business and at every related place(s) of business
mentioned in the certificate of registration and such books of account shall include any electronic form of data stored on any electronic devices. The data so stored shall be authenticated by way of digital signature.

7. Any entry in registers, accounts and documents shall not be erased, effaced or overwritten and all incorrect entries, other than those of clerical nature, shall be scored out under attestation and thereafter the correct entry shall be recorded and where the registers and other documents are maintained electronically, a log of every entry edited or deleted shall be maintained. Further each volume of books of account maintained manually by the registered person shall be serially numbered.

8. Period for preservation of accounts: All accounts maintained together with all invoices, bills of supply, credit and debit notes, and delivery challans relating to stocks, deliveries, inward supply and outward supply shall be preserved for seventy- two months (six years) from the due date of furnishing of annual return for the year pertaining to such accounts and records and shall be kept at every related place of business mentioned in the certificate of registration.

9. Electronic Records: The following requirements have been prescribed for maintenance of records in electronic form.

- Proper electronic back-up of records
- Produce, on demand, the relevant records or documents, duly authenticated, in hard copy or in any electronically readable format

10. Records to be maintained by owner or operator of godown or warehouse and transporters: The transporters, owners or operators of godowns, if not already registered under the GST Act(s), shall submit the details regarding their business electronically on the Common Portal in FORM GST ENR-01. A unique enrolment number shall be generated and communicated to them. A person in any other State or Union territory shall be deemed to be enrolled in the State or Union Territory.

11. Every person engaged in the business of transporting goods shall maintain records of goods transported, delivered and goods stored in transit by him and for each of his branches. Every owner or operator of a warehouse or godown shall maintain books of accounts, with respect to the period for which particular goods remain in the warehouse, including the particulars relating to dispatch, movement, receipt, and disposal of such goods. The goods shall be stored in such manner that they can be identified item wise and owner wise and shall facilitate any physical verification or inspection, if required at any time.

Goods & Services Tax (GST) Returns-What you must know

The basic features of the returns mechanism in GST include electronic filing of returns, uploading of invoice level information and auto-population of information relating to Input Tax Credit (ITC) from returns of supplier to that of recipient, invoice-level information matching and auto reversal of Input Tax Credit in case of mismatch. The returns mechanism is designed to assist the taxpayer to file returns and avail ITC.

Under GST, a regular taxpayer needs to furnish monthly returns and one annual return. There are separate returns for a taxpayer registered under the composition scheme, nonresident taxpayer, taxpayer registered as an Input Service Distributor, a person liable to deduct or collect the tax (TDS/ TCS) and a person granted Unique Identification Number. It is important to note that a taxpayer is NOT required to file all types of returns. In fact, taxpayers are required to file returns depending on the activities they undertake.

All the returns are to be filed online. Returns can be filed using any of the following methods:

1. GSTN portal (www.gst.gov.in)

2. Offline utilities provided by GSTN

3. GST Suvidha Providers (GSPs) – If you are already using the services of ERP providers such as Tally, SAP, Oracle etc., there is a high likelihood that these ERP providers would provide inbuilt solutions in the existing ERP systems

Following table lists the various types of returns under GST Law:

Return	Description	Who Files?	Date for filing
GSTR-1	Monthly Statement of Outward supplies of Goods or Services	Registered Person	10th of the next month
GSTR-2	Monthly Statement of Inward supplies of Goods or Services	Registered Person	15th of the next month
GSTR-3	Monthly Return for a normal taxpayer	Registered Person	20th of the next month
GSTR-4	Quarterly Return	Taxable Person opting for Composition Levy	18th of the month succeeding the quarter
GSTR-5	Monthly Return for a non-resident taxpayer	Non-resident Taxpayer	20th of the month succeeding the tax period & within 7 days after expiry of registration
GSTR-6	Monthly Return for an Input Service Distributor (ISD)	Input Service Distributor	13th of the next month

GSTR-7	Monthly Return for authorities deducting tax at source	Tax Deductor	10th of the next month
GSTR-8	Monthly Statement for E-Commerce Operator depicting supplies effecting through it	E-Commerce Operator	10th of the next month
GSTR-9	Annual Return	Registered Person other than an ISD, TDS/TCS Taxpayer, Casual Taxable Person and Non-resident Taxpayer	31st December of next Financial Year
GSTR-10	Final Return	Taxable Person whose registration has been surrendered or cancelled	Within three months of the date of cancellation or date of order of cancellation, whichever is later.

Filing Process

A normal taxpayer has to file the following returns:

1. GSTR-1 (Statement of Outward Supplies):

a. This return signifies the tax liability of the supplier for the supplies effected during the previous month.

b. It needs to be filed by the 10th of every month in relation to supplies effected during the previous month. For example, a statement of all the outward supplies made during the month of July 2017 needs to be filed by 10th August, 2017.

2. GSTR-2 (Statement of Inward Supplies):

a. This return signifies accrual of ITC (Input Tax Credit) from the inputs received during the previous month.

b. It is auto-populated from the GSTR-1s filed by the corresponding suppliers of the Taxpayer except for a few fields like imports, and purchases from unregistered suppliers.

c. It needs to be filed by the 15th of every month in relation to supplies received during the previous month. For example, a statement of all the inward supplies received during the month of July 2017 needs to be filed by 15th August, 2017.

3. GSTR-3: This is a consolidated return. It needs to be filed by the 20th of every month. It consolidates the following details

a. Outward Supplies (Auto-Populated from GSTR-1)

b. Inward Supplies (Auto-Populated from GSTR-2)

c. ITC availed

d. Tax Payable

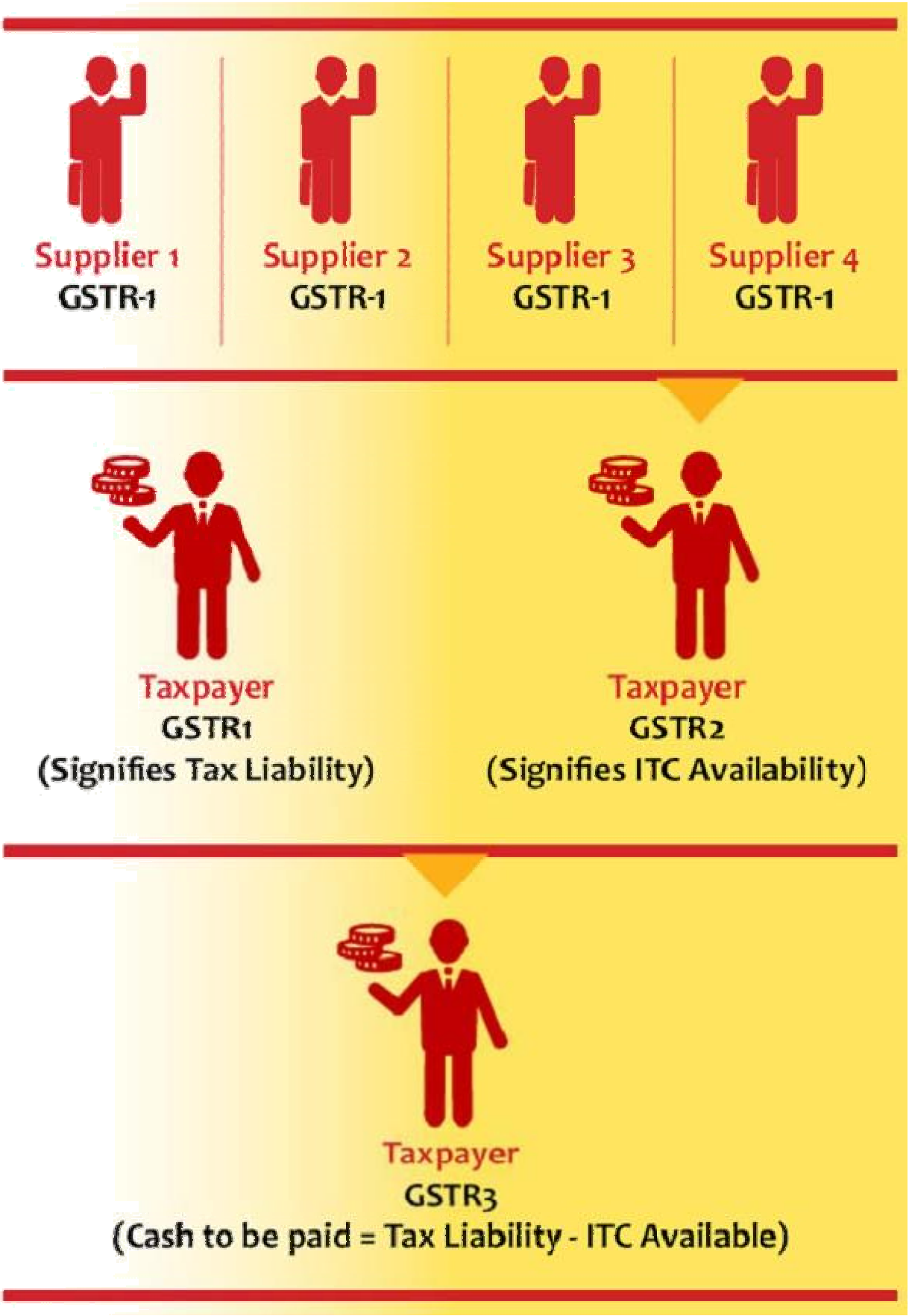
e. Tax Paid (Using both Cash and ITC)

NOTE: Payment should be made on or before 20th of every month.

Annual Return

This return needs to be filed by 31st December of the next Financial Year. In this return, the taxpayer needs to furnish details of expenditure and details of income for the entire Financial Year.

The population of these returns is explained by the following graphic:



NOTE:

1. Taxpayer's GSTR-2 is auto-populated from the Suppliers' GSTR-1s

2. Taxpayer's GSTR-3 is significantly auto-populated from tax payer's GSTR-1 and GSTR-2

Return Filing Milestones:

GSTR-1

- File via GSTN/Easy upload tools provided by GSTN/GSPs
- Periodical uploading allowed
- Filed by 10th
- Frozen after 10th

GSTR-2

- Auto-populated from GSTR-1s filed by a Tax Payer's
- Suppliers Changes allowed between 10th and 15th Filed by
- 15th

Option to Review

- Occurs between 15th and 17th. Tax Payer can add additional invoices.
- Supplier has the option to accept/reject additional invoices. Supplier's GSTR-1 gets amended to that effect.

GSTR-3

- Auto-populated from GSTR-1 and GSTR-2
- Filed by 20th
- Payment can be made anytime before or on 20th

Revision of Returns:

The mechanism of filing revised returns for any correction of errors/ omissions has been done away with.The rectification of errors/ omissions is allowed in the subsequent returns. However, no rectification is allowed after furnishing the return for the month of September following the end of the financial year to which, such details pertain, or furnishing of the relevant annual return, whichever is earlier.

Penal Provisions Relating to Returns:

Any registered person who fails to furnish form GSTR-1, GSTR-2, GSTR-3 or Final Return within the due dates, shall be liable to pay a
late fee of Rs. 100 per day, subject to a maximum of Rs. 5,000.

ITC Matching and Auto-Reversal:

1. It is a mechanism to prevent revenue leakage.

2. The process of ITC Matching begins after the due date for filing of the return (20th of every month). This is carried out by GSTN.

3. The details of every inward supply furnished by the taxable person (i.e. the "recipient" of goods and/or services) in form GSTR-2 shallbe matched with the corresponding details of outward supply furnished by the corresponding taxable person

(i.e. the “supplier” of goods and/or services) in his valid return. A return may be considered to be a valid return only when the appropriate GST has been paid in full by the taxable person, as shown in such return for a given tax period.

4. In case the details match, then the ITC claimed by the recipient in his valid returns shall be considered as finally accepted and such acceptance shall be communicated to the recipient. Failure to file valid return by the supplier may lead to denial of ITC in the hands of the recipient.

5. In case the ITC claimed by the recipient is in excess of the tax declared by the supplier or where the details of outward supply are not declared by the supplier in his valid returns, the discrepancy shall be communicated to both the supplier and the recipient. Similarly, in case, there is duplication of claim of ITC, the same shall be communicated to the recipient.

6. The recipient will be asked to rectify the discrepancy of excess claim of ITC and in case the supplier has not rectified the discrepancy communicated in his valid returns for the month in which, the discrepancy is communicated, then such excess ITC as claimed by the recipient shall be added to the output tax liability of the recipient in the succeeding month.

7. Similarly, duplication of ITC claimed by the recipient shall be added to the output tax liability of the recipient in the month in which, such duplication is communicated.

8. The recipient shall be liable to pay interest on the excess or duplicate ITC added back to the output tax liability of the recipient from the date of availing of ITC till the corresponding additions are made in their returns.

9. Re-claim of ITC refers to taking back the ITC reversed in the Electronic Credit Ledger of the recipient by way of reducing the output tax liability. Such re-claim can be made by the recipient only in case the supplier declares the details of the Invoice and/or Debit Notes in his valid return within the prescribed timeframe. In such case, the interest paid by the recipient shall be refunded to him by way of crediting the amount to his Electronic Cash Ledger.

GST Refunds- What you should Know

Introduction

Timely refund mechanism is essential in tax administration, as it facilitates trade through the release of blocked funds for working capital, expansion and modernisation of existing business.

The provisions pertaining to refund contained in the GST law aim to streamline and standardise the refund procedures under **GST regime**. Thus, under the GST regime, there will be a standardised form for making any claim for refunds. The claim and sanctioning procedure will be completely online and time bound, which is a marked departure from the existing time consuming and cumbersome procedure.

Situations Leading to Refund Claims

The relevant date provision embodied in Section 54 of the CGST Act, 2017, provision contained in Section 77 of the CGST Act, 2017 and the requirement of submission of relevant documents as listed in Rule 1(2) of Refund Rules is an indicator of the various situations that may necessitate a refund claim. A claim for refund may arise on account of:

1. Export of goods or services

2. Supplies to SEZs units and developers

3. Deemed exports

4. Refund of taxes on purchase made by UN or embassies etc.

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

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

7. Finalisation of provisional assessment

8. Refund of pre-deposit

9. Excess payment due to mistake

10. Refunds to International tourists of GST paid on goods in India and carried abroad at the time of their departure from India

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

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

Thus, practically every situation is covered. The GST law requires that every claim for refund is to be filed within 2 years from the relevant date.

Credit Notes

Further, Section 34 of the CGST Act, 2017 provides for issuance of credit notes for post supply discounts or if goods are returned back within a stipulated time. When such credit notes are issued, obviously it would call for reduction in output liability of the supplier. Hence, the taxes paid initially on the supply would be higher than what is actually payable. In such a scenario, the excess tax paid by the supplier needs to be refunded. However, instead of refunding it outright, it is sought to be adjusted after verifying the corresponding reduction in the input tax credit availed by the recipient. Section 43 of the CGST Act, 2017 provides for procedure for reduction in output liability on account of issuance of such credit notes. This is another form of refund by adjustments in the output tax liability. Such refund is not governed under the general refund provisions contained in Section 54 of the CGST Act, 2017.

Treatment for Zero Rated Supplies

One of the major categories under which, claim for refund may arise would be, on account of exports. All exports (whether of goods or services) as well as supplies to SEZs have been categorised as Zero Rated Supplies in the IGST Act. “Zero rated supply” under Section 16 of the IGST Act, 2017 means any of the following supplies of goods or services or both, namely:

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

(b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit

On account of zero rating of supplies, the supplier will be entitled to claim input tax credit in respect of goods or services or both used for such supplies even though they might be non-taxable or even exempt supplies. Every person making claim of refund on account of zero rated supplies has two options. Either he can export under Bond/LUT and claim refund of accumulated Input Tax Credit or he may export on payment of integrated tax and claim refund of thereof as per the provisions of Section 54 of CGST Act, 2017. Thus, the GST law allows the flexibility to the exporter (which, will include the supplier making supplies to SEZ) to claim refund upfront as integrated tax (by making supplies on payment of tax using ITC) or export without payment of tax by executing a Bond/LUT and claim refund of related ITC of taxes paid on inputs and input services used in making zero rated supplies.

Grant of Provisional Refund in Case of Zero Rated Supplies

GST law also provides for grant of provisional refund of 90% of the total refund claim, in case the claim relates for refund arising on account of zero rated supplies. The provisional refund would be paid within 7 days after giving the acknowledgement. The acknowledgement of refund application is normally issued within a period of 14 days but in case of refund of integrated tax paid on zero rated supplies, the acknowedgement would be issued within a period of three days. The provisional refund would not be granted to such supplier who was, during any period of five years immediately preceding the refund period, was prosecuted.

Payment of Wrong Tax

Under GST it might happen that the taxable person may pay integrated tax instead of central tax plus state tax and vice versa because of incorrect application of the place of supply provisions. In such cases, while making the appropriate payment of tax, interest will not be charged and the refund claim of the wrong tax paid earlier will be entertained without subjecting it to the provision of unjust enrichment.

Claim by a Person who has Borne the Incidence of Tax

Any tax collected by the taxable person more than the tax due on such supplies must be credited to the Government account. The law makes explicit provision for the person who has borne the incidence of tax to file refund claim in accordance with the provisions of Section 54 of the CGST Act, 2017.

Refunds to Casual/Non-Resident Taxable Persons

Casual/Non-resident taxable person has to pay tax in advance at the time of registration. Refund may become due to such persons at the end of the registration period because the tax paid in advance may be more than the actual tax liability on the supplies made by them during the period of validity of registration period. The law envisages refund to such categories of taxable persons also. But the amount of excess advance tax shall not be refunded unless such person has filed all the returns due during the time their registration was effective. It is only after such compliance that refund will be granted.

Refund to UN Bodies and Other Notified Agencies

Supplies made to UN bodies and embassies may be exempted from payment of GST as per international obligations. However, this exemption is being operationalized by way of a refund mechanism. So, a taxable person making supplies to such bodies would charge the tax due and remit the same to government account. However, the UN bodies and other entities notified under Section 55 of the CGST Act, 2017 can claim refund of the taxes paid by them on their purchases. The claim has to be made before the expiry of six months from the last day of the quarter in which such supply was received.

Refund to International Tourist

An enabling mechanism has been introduced in Section 15 of the IGST Act, 2017 whereby an international tourist procuring goods in India, may while leaving the country seek refund of integrated tax paid by them. The term, “tourist” has been defined and refers to any person who is not normally a resident of India and who enters India for a stay of not more than 6 months for legitimate non-immigrant purposes.

Unjust Enrichment

Talking about unjust enrichment, a presumption is always drawn that the businessman will shift the incidence of tax to the final consumer. This is because GST is an indirect tax whose incidence is to be borne by the consumer. It is for this reason that every claim of refund (barring specified exceptions) needs to pass the test of unjust enrichment. And every such claim if sanctioned is first transferred to the Consumer Welfare Fund. The GST law makes this test inapplicable in case of refund of accumulated ITC, refund on account of exports, refund of payment of wrong tax (integrated tax instead of central tax plus state tax and vice versa), refund of tax paid on a supply, which is not provided or when refund voucher is issued or if the applicant shows that he has not passed on the incidence of tax to any other person. In all other cases, the test of unjust enrichment needs to be satisfied for the claim to be paid to the applicant. For crossing the bar of unjust enrichment, if the refund claim is less than Rs.2 Lakhs, then a self-declaration of the applicant to the effect that the incidence of tax has not been passed to any other person will suffice to process the refund claim. For refund claims exceeding Rs. 2 Lakhs, a certificate from a Chartered Accountant/Cost Accountant will have to be given.

Standardisation of Procedure

The GST laws makes standardised provisions for making a refund claim. Every claim has to be filed online in a standardised form which will be acknowledged (if complete in all aspects) in 14 days. The claim for refund of amount lying in the credit balance of the cash ledger can be made in the monthly returns also. The Proper Officer has to convey deficiencies if any in the refund claim within 14 days and in such cases the claim will be sent back to the applicant along with the notified deficiencies, and the applicant can file the refund claim again after making goods the deficiencies. No deficiency memos can be raised after the mandatory 14 day period. The claim, if in order, has to be sanctioned within a period of 60 days from the date of receipt of the claim. If this mandatory period is exceeded, interest will become payable along with refund from the expiry of 60 days till the date of payment of refund (rate of interest has been recommended as 6% and 9% under the provisions of Section 56 of the CGST Act, 2017 by the GST Council in its meeting held on 18th and 19th May, 2017). However, if the refund claim is on account of pre-deposit made before any appellate authority, the interest becomes payable from the date of making such payment.

Documentation

The applicant needs to file elaborate documents along with the refund claim. Standardised and easy to understand documents have been prescribed. Thus, for every claim, the main document prescribed is a statement of relevant invoices (NOT THE INVOICES ITSELF) pertaining to the claim. In case refund is on account of export of services, apart from the statement of invoices, the relevant bank realisation certificates evidencing receipt of payment in foreign currency is also required to be submitted. If it is a claim made by the supplier to the SEZ unit, an endorsement from the Proper Officer evidencing receipt of such goods/services in the SEZ also needs to be submitted. Further, a declaration is also required from the SEZ unit to the effect that they have not availed ITC of the taxpaid by the supplier. If the claim is for refund of accumulated ITC, only a statement containing invoice details as prescribed in the Refund rules need to be given. In case of claim of refund on account of any order or judgment of appellate authority or court, the reference number of the order giving rise to refund should also be given. For crossing the bar of unjust enrichment, if the refund claim is less than Rs.2 Lakhs, then a self-declaration by the applicant to the effect that the incidence of tax has not been passed to any other person will suffice to process the refund claim. For refund claims exceeding Rs. 2 Lakhs, a certificate from a Chartered Accountant/Cost Accountant will have to be given. It is to be noted that such document need not be given if it is a claim arising on account of zero rated supplies or claim of accumulated ITC or payment of wrong tax (integrated tax instead of central tax and state tax and vice versa) or a claim where supply is not done or a refund voucher has been issued.

Compliance with Natural Justice

In case the claim is sought to be rejected by the Proper Officer, a notice has to be given online to the applicant stating the ground on which the refund is sought to be rejected. The applicant needs to respond online within 15 days from the receipt of such notice. Thus no claim can be rejected without putting the applicant to notice.

Payment to be Credited Online

The refund claim, wherever due, will be directly credited to the bank account of the applicant. The applicant need not come to the authorities to collect the cheques or for any other issues relating to the refund claim.

Power with the Commissioner to Withhold Refund in Certain Cases

GST law provides that where an order giving rise to a refund is the subject matter of an appeal or further proceedings or where any other proceedings under this Act is pending and the Commissioner is of the opinion that grant of such refund is likely to adversely affect the revenue in the said appeal or other proceedings on account of malfeasance or fraud committed, he may, after giving the taxable person an opportunity of being heard, withhold the refund till such time as he may determine. But it has been adequately safeguarded by provision for payment of interest @ 9% if, as a result of appeal, or further proceedings, the applicant becomes eligible for refund.

Conclusion

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

GST Recovery of Tax- What you should Know

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 minimise 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:

(i) Tax short paid or erroneously refunded or Input Tax Credit wrongly availed; and

(ii) Non-payment of self-assessed tax or amount collected as representing the Tax

2. The incidence of short payment of tax or erroneous refund or wrong availment 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 Tax Payer	Amount of Penalty payable — Normal Cases	Amount of Penalty payable — Fraud Cases	Remarks
1.	Tax amount, along with the interest, paid before issuance of Notice	No Penalty and no Notice shall be issued	15% of the Tax amount and no Notice shall be issued	The penalty shall also be 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

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
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 availment 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 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	Within 5 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
3.	Any amount collected as tax but not paid	No time limit	Within one year from the date of issue of notice

4.	Non-payment of self-assessed tax	No need to issue a show cause notice	Recovery proceedings can be started directly

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. From all these provisions it is clear that the non-payment of self-assessed tax or the amount collected as representing the tax has been treated differently than the other short payments and in case of these two, the only opportunity for paying the same without incurring any penalty is, if it is paid, with interest, within 30 days from the due date of payment.

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 utilise 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 assesse, 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 realisation 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 realisation 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 instalments have also been made in the Act. A person can avail this benefit of payment in instalments, 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 instalments, subject to maximum 24 monthly instalments and on payment of applicable interest. Here it may be noted that if there is default in payment of any one instalment then the whole outstanding balance shall become due and payable immediately.

Inspection, Search, Seizure and Arrest under Goods & Services Tax Act

1. In any tax administration the provisions for **Inspection, Search, Seizure and Arrest** are provided to protect the interest of genuine tax payers (as the Tax evaders, by evading the tax, get an unfair advantage over the genuine tax payers) and as a deterrent for tax evasion. These provisions are also required to safeguard Government's legitimate dues. Thus, these provisions act as a deterrent and by checking evasion provide a level playing field to genuine tax payers.

2. It may be mentioned that the options of Inspection, Search, Seizure and Arrest are exercised, only in exceptional circumstances and as a last resort, to protect the Government Revenue. Therefore, to ensure that these provisions are used properly, effectively and the rights of tax payers are also protected, it is stipulated that Inspection, Search or Seizure can only be carried out when an officer, of the rank of Joint Commissioner or above, has reasons to believe the existence of such exceptional circumstances. In such cases the Joint Commissioner may authorize, in writing, any other officer to cause inspection, search and seizure. However, in case of arrests the same can be carried out only where the person is accused of offences specified for this purpose and the tax amount involved is more than specified limit. Further, the arrests under GST Act can be made only under authorization from the Commissioner.

3. The circumstances which may warrant exercise of these options are as follows: –

(i) Inspection

'Inspection' is a softer provision than search which enables officers to access any place of business or of a person engaged in transporting goods or who is an owner or an operator of a warehouse or go down. As discussed above the inspection can be carried out by an officer of **CGST/SGST** only upon a written authorization given by an officer of the rank of Joint Commissioner or above. A Joint Commissioner or an officer higher in rank can give such authorization only if he has reasons to believe that the person concerned has done one of the following actions:

(a) Suppression of any transaction relating to supply of goods or services or stock in hand

(b) Claimed excess input tax credit

(c) Contravention of any provisions of the Act or the Rules to evade tax

(d) Transporting or keeping goods which escaped payment of tax or manipulating accounts or stocks which may cause evasion of tax

Inspection can also be done of the conveyance, carrying a consignment of value exceeding specified limit. The person in charge of the conveyance has to produce documents/devices for verification and allow inspection. Inspection during transit can be done even without authorisation of Joint Commissioner.

(ii) Inspection in movement

(a) Any consignment, value of which, is exceeding Rs. 50,000/-, may be stopped at any place for verification of the documents/ devices prescribed for movement of such consignments.

(b) If on verification of the consignment, during transit, it is found that the goods were removed without prescribed document or the same are being supplied in contravention of any provisions of the Act then the same can be detained or seized and may be subjected to penalties as prescribed.

(c) To ensure transparency and minimise hardships to the trade, the law provides that if during verification, in transit, a consignment is held up beyond 30 minutes the transporter can feed details on the portal. This will ensure accountability and transparency for all such verifications. Moreover, for verification during movement of consignment will also be done through a Digital interface and therefore the physical intervention will be minimum and as has already been mentioned that in case of a delay beyond 30 minutes the transporter can feed the details on the portal.

(iii) Search & Seizure

The provisions of search and seizure also provides enough safeguards and the GST Law stipulates that search of any place of business etc. can be carried out only under authorisation from an officer of the rank of Joint Commissioner and if he has a reason to believe that the person concerned has done at least one of the following:-

(a) Goods liable to confiscation or any documents/ books/record/things, which may be useful for or relevant to any proceedings, are secreted in any place then all such places can be searched

(b) All such goods/documents/books/record/things may be seized, however, if it is not practicable to seize any such goods then the same may be detained. The person from whom these are seized shall be entitled to take copies/extracts of seized records

(c) The seized documents/books/things shall be retained only till the time the same are required for examination/enquiry/proceedings and if these are not relied on for the case then the same shall be returned within 30 days from the issuance of show cause notice

(d) The seized goods shall be provisionally released on execution of bond and furnishing a security or on payment of applicable tax, interest and penalty

(e) In case of seizure of goods, a notice has to be issued within six months, if no notice is issued within a period of six months then all such goods shall be returned. However, this period of six months can be extended by Commissioner for another six months on sufficient cause.

(f) An inventory of the seized goods/documents/ records is required to be made by the officer and the person, from whom the same are seized, shall be given a copy of the same.

(g) To ensure that the provisions for search and seizure are implemented in a proper and transparent manner, the Act stipulates that the searches and seizures shall be carried out in accordance with the provisions of Criminal Procedure Code, 1973. It ensures that any search or seizure should be made in the presence of two or more independent witnesses, a record of entire proceedings is made and forwarded to the Commissioner forthwith.

(iv) Arrests

In the administration of taxation the provisions for arrests are created to tackle the situations created by some unscrupulous tax evaders. To some these may appear very harsh but these are necessary for efficient tax administration and also act as a deterrent and instil a sense of discipline. The provisions for arrests under GST Law have sufficient inbuilt safeguards to ensure that these are used only under authorisation from the Commissioner. Besides this, the GST Law also stipulates that arrests can be made only in those cases where the person is involved in offences specified for the purposes of arrest and the tax amount involved in such offence is more than the specified limit. The salient points of these provisions are:

(a) Provisions for arrests are used in exceptional circumstance and only with prior authorisation from the Commissioner.

(b) The law lays down a stringent criteria and procedure to be followed for arresting a person. A person can be arrested only if the criteria stipulated under the law for this purpose is satisfied i.e. if he has committed specified offences (not any offence) and the tax amount is exceeding rupees 200 lakhs. However, the monetary limit shall not be applicable if the offences are committed again even after being convicted earlier i.e. repeat offender of the specified offences can be arrested irrespective of the tax amount involved in the case.

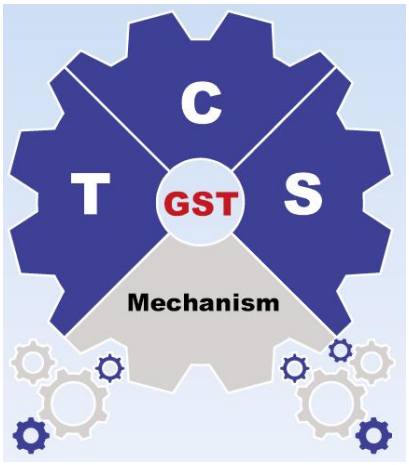
(c) Further, even though a person can be arrested for specified offences involving tax amount exceeding Rs. 200 lakhs, however, where the tax involved is less than Rs. 500 lakhs, the offences are classified as non-cognizable and bailable and all such arrested persons shall be released on Bail by Deputy/ Assistant Commissioner. But in case of arrests for specified offences where the tax amount involved is more than Rs. 500 lakhs, the offence is classified as cognizable and non-bailable and in such cases the bail can be considered by a Magistrate only.

TDS Mechanism Under GST- What you should Know

Tax Deduction at Source (TDS) is a system, initially introduced by the Income Tax Department. It is one of the modes/methods to collect tax, under which, certain percentage of amount is deducted by a recipient at the time of making payment to the supplier. It is similar to “pay as you earn” scheme also known as Withholding Tax, in many other countries. It facilitates sharing of responsibility of tax collection between the deductor and the tax administration. It also ensures regular inflow of cash resources to the Government. It acts as a powerful instrument to prevent tax evasion and expands the tax net, as it provides for the creation of an audit trail.

Under the GST regime, section 51 of the CGST Act, 2017 prescribes the authority and procedure for ‘Tax Deduction at Source’. The Government may order the following persons (the deductor) to deduct tax at source:

(a) A department or an establishment of the Central Government or State Government; or



(b) Local authority; or

(c) Governmental agencies; or

(d) Such persons or category of persons as may be notified by the Government on the recommendations of the Council.

The tax would be deducted @1% of the payment made to the supplier (the deductee) of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh fifty thousand rupees (excluding the amount of Central tax, State tax, Union Territory tax, Integrated tax and cess indicated in the invoice). Thus, individual supplies may be less than Rs. 2,50,000/-, but if contract value is more than Rs. 2,50,000/-, TDS will have to be deducted. However, no deduction shall be made if the location of the supplier and the place of supply is in a State or Union territory, which is different from the State, or as the case may be, Union Territory of registration of the recipient.

The earlier statement can be explained in the following situations:

(a) Supplier, place of supply and recipient are in the same state. It would be intra-State supply and TDS (Central plus State tax) shall be deducted. It would be possible for the supplier (i.e. the deductee) to take credit of TDS in his electronic cash ledger.

(b) Supplier as well as the place of supply are in different states. In such cases, Integrated tax would be levied. TDS to be deducted would be TDS (Integrated tax) and it would be possible for the supplier (i.e. the deductee) to take credit of TDS in his electronic cash ledger.

(c) Supplier as well as the place of supply are in State A and the recipient is located in State B. The supply would be intra-State supply and Central tax and State tax would be levied. In such case, transfer of TDS (Central tax + State tax of State B) to the cash ledger of the supplier (Central tax + State tax of State A) would be difficult. So in such cases, TDS would not be deducted.

Thus, when both the supplier as well as the place of supply are different from that of the recipient, no tax deduction at source would be made.

Registration of TDS deductors: A TDS deductor has to compulsorily register without any threshold limit. The deductor has a privilege of obtaining registration under GST without requiring PAN. He can obtain registration using his Tax Deduction and Collection Account Number (TAN) issued under the Income Tax Act, 1961.

Deposit of TDS with the Government: The amount of tax deducted at source should be deposited to the Government account by the deductor by 10th of the succeeding month. The deductor would be liable to pay interest if the tax deducted is not deposited within the prescribed time limit.

TDS Certificate: A TDS certificate is required to be issued by deductor (the person who is deducting tax) in Form GSTR-7A to the deductee (the supplier from whose payment TDS is deducted), within 5 days of crediting the amount to the Government, failing which the deductor would be liable to pay a late fee of Rs. 100/- per day from the expiry of the 5th day till the certificate is issued. This late fee would not be more than Rs. 5000/-. For the purpose of deduction of tax specified above, the value of supply shall be taken as the amount excluding the Central tax, State tax, Union territory tax, Integrated tax and cess indicated in the invoice.

For instance, suppose a supplier makes a supply worth Rs. 1000/- to a recipient and the GST @ rate of 18% is required to be paid. The recipient, while making the payment of Rs. 1000/- to the supplier, shall deduct 1% viz Rs. 10/- as TDS. The value for TDS purpose shall not include 18% GST. The TDS, so deducted, shall be deposited in the account of Government by 10th of the succeeding month. The TDS so deposited in the Government account shall be reflected in the electronic cash ledger of the supplier (i.e. deductee) who would be able to use the same for payment of tax or any other amount. The purpose of TDS is just to enable the Government to have a trail of transactions and to monitor and verify the compliances.

TDS Return: The deductor is also required to file a return in Form GSTR-7 within 10 days from the end of the month. If the supplier is unregistered, name of the supplier rather than GSTIN shall be mentioned in the return. The details of tax deducted at source furnished by the deductor in FORM GSTR-7 shall be madeavailable to each of the suppliers in Part C of FORM GSTR-2A electronically through the Common Portal and the said supplier may include the same in FORM GSTR-2. The amounts deducted by the deductor get reflected in the GSTR-2 of the supplier (deductee). The supplier can take this amount as credit in his electronic cash register and use the same for payment of tax or any other liability.

Sr. No.	Event	Consequence
1.	TDS not deducted	Interest to be paid along with the TDS amount; else the amount shall be determined and recovered as per the law
2.	TDS certificate not issued or delayed beyond the prescribed period of five days	Late fee of Rs. 100/- per day subject to a maximum of Rs. 5000/-
3.	TDS deducted but not paid to the Government or paid later than 10th of the succeeding month	Interest to be paid along with the TDS amount; else the amount shall be determined and recovered as per the law
4.	Late filing of TDS returns	Late fee of Rs. 100/- for every day during which such failure continues, subject to a maximum amount of five thousand rupees

Any excess or erroneous amount deducted and paid to the Government account shall be dealt for refund under section 54 of the CGST Act, 2017. However, if the deducted amount is already credited to the electronic cash ledger of the supplier, the same shall not be refunded.

GST TCS Mechanism – What you should Know

Tax Collection at Source (TCS) has similarities with TDS, as well as a few distinctive features. TDS refers to the tax which is deducted when the recipient of goods or services makes some payments under a contract etc. while TCS refers to the tax which is collected by the electronic commerce operator when a supplier supplies some goods or services through its portal and the payment for that supply is collected by the electronic commerce operator. We will discuss the exact nature of TCS with an example. There are many e-Commerce operators [hereinafter referred to as an Operator], like Amazon, Flipkart, Jabong, etc. operating in India. These operators display on their portal products as well as services which are actually supplied by some other person to the consumer. The goods or services belonging to other suppliers are displayed on the portals of the operators and consumers buy such goods/services through these portals. On placing the order for a particular product/service, the actual supplier supplies the selected product/service to the consumer. The price/consideration for the product/ service is collected by the Operator from the consumer and passed on to the actual supplier after the deduction of commission by the Operator. The Government has placed the responsibility on the Operator to collect the 'tax' at a rate of 1% from the supplier. This shall be done by the Operator by paying the supplier, the price of the product/services, less the tax, calculated at the rate of 1%. The said amount will be calculated on the net value of the goods/services supplied through the portal of the Operator.

Suppose a certain product is sold at Rs. 1000/- through an Operator by a seller. The Operator would deduct tax @ 1% of the net value of Rs. 1000/- i.e. Rs. 10/-.

Let us have a look at the statutory provisions relating to TCS.

Registration: The e-Commerce Operator as well as the supplier supplying goods or services through an Operator need to compulsorily register under GST. The threshold limit of Rs. 20 lakhs (Rs. 10 lakhs for special category states) is not applicable to them. Section 24(x) of the CGST Act, 2017 makes it mandatory for every e-Commerce Operator to get registered under GST. Similarly, section 24(ix) of the CGST Act, 2017 makes it mandatory for every person who supplies goods/services through an Operator to get registered under GST.

Power to collect tax: Section 52 of the CGST Act, 2017 provides for Tax Collection at Source, by e-Commerce Operator in respect of the taxable supplies made through it by other suppliers, where the consideration in respect of such supplies is collected by him.

TCS Statement: The amount of tax collected by the Operator is required to be deposited by the 10th of the following month, during which such collection is made. The Operator is also required to furnish a monthly statement in Form GSTR-8 by the 10th of the following month. The Operator is also required to file an Annual statement in prescribed form by the 31st of December following the end of every financial year. The Operator can rectify errors in the statements filed, if any, latest by the return to be filed for the month of September, following the end of every financial year.

The details furnished by the Operator in GSTR-8 shall be made available electronically to each of the suppliers in Part C of FORM GSTR-2A on the Common Portal after the due date of filing of FORM GSTR-8.

Credit of tax collected: The tax collected by the Operator shall be credited to the cash ledger of the supplier who has supplied the goods/services through the Operator. The supplier can claim credit of the tax collected and reflected in the return by the Operator in his [supplier's] electronic cash ledger.

Matching of details of supplies: The details of the supplies, including the value of supplies, submitted by every Operator in the statements will be matched with the details of supplies submitted by all such suppliers in their returns. If there is any discrepancy in the value of supplies, the same would be communicated to both of them. If such discrepancy in value is not rectified within the given time, then such amount would be added to the output tax liability of such suppler. The supplier will have to pay the differential amount of output tax along with interest.

Notice to the Operator: An officer not below the rank of Deputy Commissioner can issue Notice to an Operator, asking him to furnish details relating to volume of the goods/services supplied, stock of goods lying in warehouses/godowns etc. The Operator is required to furnish such details within 15 working days. In case an Operator fails to furnish the information, besides being liable for penal action under section 122, it shall also be liable for penalty up to Rs. 25,000/-

Job Work Under GST

Introduction

Job-work sector constitutes a significant industry in Indian economy. It includes outsourced activities that may or may not culminate into manufacture. The term Job-work itself explains the meaning. It is processing of goods supplied by the principal. The concept of job-work already exists in Central Excise, wherein a principal manufacturer can send inputs or semi-finished goods to a job worker for further processing. Many facilities, procedural concessions have been given to the job workers as well as the principal supplier who sends goods for job-work. The whole idea is to make the principal responsible for meeting compliances on behalf of the job-worker on the goods processed by him (job-worker), considering the fact that typically the job-workers are small persons who are unable to comply with the discrete provisions of the law.

The GST Act makes special provisions with regard to removal of goods for job-work and receiving back the goods after processing from the job-worker without the payment of GST. The benefit of these provisions shall be available both to the principal and the job-worker.

What is Job work?

Section 2(68) of the CGST Act, 2017 defines job-work as 'any treatment or process undertaken by a person on goods belonging to another registered person'. The one who does the said job would be termed as 'job-worker'. The ownership of the goods does not transfer to the job-worker but it rests with the principal. The job-worker is required to carry out the process specified by the principal on the goods.

Job work Procedural aspects:

Certain facilities with certain conditions are offered in relation to job-work, some of which are as under:

a) A registered person (Principal) can send **inputs/ capital goods** under intimation and subject to certain conditions without payment of tax to a job-worker and from there to another job-worker and after completion of job-work bring back such goods without payment of tax. The principal is not required to reverse the ITC availed on inputs or capital goods dispatched to job-worker.

b) Principal can send inputs or capital goods directly to the job-worker without bringing them to his premises and can still avail the credit of tax paid on such inputs or capital goods.

c) However, inputs and/or capital goods sent to a job-worker are required to be returned to the principal within 1 year and 3 years, respectively, from the date of sending such goods to the job-worker.

d) After processing of goods, the job-worker may clear the goods to-

(i) Another job-worker for further processing

(ii) Dispatch the goods to any of the place of business of the principal without payment of tax

(iii) Remove the goods on payment of tax within India or without payment of tax for export outside India on fulfilment of conditions.

The facility of supply of goods by the principal to the third party directly from the premises of the job-worker on payment of tax in India and likewise with or without payment of tax for export may be availed by the principal on declaring premise of the job-worker as his additional place of business in registration. In case the job-

worker is a registered person under GST, even declaring the premises of the job-worker as additional place of business is not required.

Before supply of goods to the job-worker, the principal would be required to intimate the Jurisdictional Officer containing the details of the description of inputs intended to be sent by the principal and the nature of processing to be carried out by the job-worker. The said intimation shall also contain the details of the other job-workers, if any.

The inputs or capital goods shall be sent to the job-worker under the cover of a challan issued by the principal. The challan shall be issued even for the inputs or capital goods sent directly to the job-worker. The challan shall contain the details specified in Rule 10 of the Invoice Rules.

The responsibility for keeping proper accounts for the inputs or capital goods shall lie with the principal.

Input Tax credit on goods supplied to job worker

Section 19 of the CGST Act, 2017 provides that the principal (a person supplying taxable goods to the job-worker) shall be entitled to take the credit of input tax paid on inputs sent to the job-worker for the job-work. Further, the proviso also provides that the principal can take the credit even when the goods have been directly supplied to the job-worker without being brought into the premise of the principal. The principal need not wait till the inputs are first brought to his place of business.

Time Limits for the return of processed goods

As per section 19 of the CGST Act, 2017, inputs and capital goods after processing shall be returned back to principal within one year or three years respectively of their being sent out. Further, the provision of return of goods is not applicable in case of moulds and dies, jigs and fixtures or tools supplied by the principal to job-worker.

Extended meaning of input

As per the explanation provided in Section 143 of the CGST Act, 2017, where certain process is carried out on the input before removal of the same to the job-worker, such product after carrying out the process is to be referred as the intermediate product. Such intermediate product can also be removed without the payment of tax. Therefore, both input and intermediate product can be cleared without payment of duty to job-worker.

Waste clearing provisions

Pursuant to Section 143(5) of the CGST Act, 2017, waste generated at the premises of the job-worker may be supplied directly by the registered job-worker from his place of business on payment of tax or such waste may be cleared by the principal, in case the job-worker is not registered.

Transitional provisions

Inputs, as such, or partially processed inputs which are sent to a job-worker prior to introduction of GST under the provisions of existing law [Central Excise] and if such goods are returned within 6 months from the appointed day [i.e. the day on which GST will be implemented] no tax would be payable. If such goods are not returned within prescribed time, the input tax credit availed on such goods will be liable to be recovered.

If the manufactured goods are removed, prior to the appointed day, without payment of duty for testing or any other process which does not amount to manufacture, and such goods are returned within 6 months from the appointed

day, then no tax will be payable. For the purpose of these provisions during he transitional period, the manufacturer and the job-worker are required to declare the details of such goods sent/received for job-work in prescribed format GST TRAN-1, within 90 days of the introduction of GST.

Imports in GST Regime-What you must know

Under the GST regime, Article 269 A constitutionally mandates that the supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce for levy of integrated tax. So import of goods or services will be treated as deemed inter-State supplies and would be subject to Integrated tax. While IGST on import of services would be leviable under the IGST Act, the levy of the IGST on import of goods would be levied under the Customs Act, 1962 read with the Custom Tariff Act, 1975. The importer of services will have to pay tax on reverse charge basis. However, in respect of import of online information and database access or retrieval services (OIDAR) by unregistered, non-taxable recipients, the supplier located outside India shall be responsible for payment of taxes. Either the supplier will have to take registration or will have to appoint a person in India for payment of taxes. Supply of goods or services or both to a Special Economic Zone developer or a unit shall be treated as inter-State supply and shall be subject to levy of integrated tax.

Import of Goods

The import of goods has been defined in the IGST Act, 2017 as bringing goods into India from a place outside India. All imports shall be deemed as inter-State supplies and accordingly Integrated tax shall be levied in addition to the applicable Custom duties. The IGST Act, 2017 provides that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when duties of customs are levied on the said goods under the Customs Act, 1962. The integrated tax on goods shall be in addition to the applicable Basic Customs Duty (BCD) which is levied as per the Customs Tariff Act. In addition, GST compensation cess, may also be leviable on certain luxury and demerit goods under the Goods and Services Tax (Compensation to States) Cess Act, 2017.

The Customs Tariff Act, 1975 has accordingly been amended to provide for levy of integrated tax and the compensation cess on imported goods. Accordingly, goods which are imported into India shall, in addition to the Basic Customs duty, be liable to integrated tax at such rate as is leviable under the IGST Act, 2017 on a similar article on its supply in India. Further, the value of the goods for the purpose of levying integrated tax shall be, assessable value plus Customs Duty levied under the Act, and any other duty chargeable on the said goods under any law for the time being in force as an addition to, and in the same manner as, a duty of customs.

The value of the imported article for the purpose of levying cess shall be, assessable value plus Basic Customs Duty levied under the Act, and any sum chargeable on the goods under any law for the time being, in force as an addition to, and in the same manner as, a duty of customs. The integrated tax paid shall not be added to the value for the purpose of calculating cess.

Let’s take an example:

Suppose the assessable value of an article imported into India is Rs. 100/-. Basic Customs Duty is 10% ad-valorem. Integrated tax rate is 18%.

The taxes will be calculated as under:

- Assessable Value= Rs. 100/-
- Basic Customs Duty (BCD) = Rs. 10/-
- Value for the purpose of levying integrated tax= Rs. 100/- + Rs.10/-= Rs. 110/-
- Integrated Tax = 18% of Rs.110/- =Rs. 19.80
- Total taxes = Rs. 29.80

On the top of it, in case the goods are also leviable to cess under the Goods and Services Tax (Compensation to States) Cess Act, 2017, the same will be collected on the value taken for levying integrated tax. Thus, in the above example, in case, cess is leviable, the same would be levied on Rs. 110/-.

The Customs Act, 1962 provides for removal of goods from a customs station to a warehouse without payment of duty. The said Act has been amended to include 'warehouse' in the definition of "customs area" in order to ensure that an importer would not be required to pay the Integrated tax at the time of removal of goods from a customs station to a warehouse.

Input tax credit of integrated tax: The definition of "input tax" in relation to a registered person also includes the integrated tax charged on import of goods. Thus, input tax credit of the integrated tax paid at the time of import shall be available to the importer and the same can be utilized by him as Input Tax credit for payment of taxes on his outward supplies. The integrated tax shall, in essence, be a pass-through to that extent. The Basic Customs Duty (BCD), shall however, not be available as input tax credit. HSN (Harmonised System of Nomenclature) code would be used for the purpose of classification of goods under the **GST regime.**

As per section 11 of the IGST Act, 2017 the place of supply of goods, imported into India shall be the location of the importer. Thus, if an importer, say is located in Rajasthan, the state tax component of the integrated tax shall accrue to the State of Rajasthan.

Import of Services

Import of services has specifically been defined under IGST Act, 2017 and refers to supply of any service where the supplier is located outside India, the recipient is located in India, and the place of supply of service is in India.

As per the provisions contained in Section 7(1)(b) of the CGST Act, 2017, import of services under consideration of whether or not in the course or furtherance of business, shall be considered as a supply. Thus, in general, imports of services without consideration shall not be considered as supply. However, business test is not required to be fulfilled for import of service to be considered as supply.

Furthermore, in view of the provisions contained in Schedule I of the CGST Act, 2017, the import of services by a taxable person from a related person or from a distinct person as defined in Section 25 of the **CGST** Act, 2017, in the course or furtherance of business shall be treated as supply even if it is made without any consideration.

In view of the provisions contained in Section 14 of the IGST Act, 2017, import of free services from Google and Facebook by all of us, without any consideration, are not considered as supply. Import (Downloading) of a song for consideration for personal use would be a service, even though the same are not in the course or furtherance of business. Import of some services by an Indian branch from their parent company, in the course or furtherance of business, even if without consideration, will be a supply.

Thus, import of services can be considered as supply based on whether there is consideration or not and whether the service is supplied in the course or furtherance of business. The same has been explained in the table below:

Nature of Service	Consideration	Business Test
Import of services	Necessarily Required	Not required
Import of services by a taxable person from a related person or from a distinct person	Not required	Necessarily Required

As per the provisions contained in Section 21 of the IGST Act, 2017, all imports of services made on or after the appointed day will be liable to integrated tax regardless of whether the transactions for such import of services had been initiated before the appointed day. However, if the tax on such import of services had been paid in full under the existing law, no tax shall be payable on such import under the IGST Act. In case the tax on such import of services had been paid in part under the existing law, the balance amount of tax shall be payable on such import under the IGST Act. For instance, suppose a supply of service for rupees one crore was initiated prior to the introduction of GST, a payment of Rs. 20 lacs has already been made to the supplier and service tax has also been paid on the same, the. integrated tax shall have to be paid on the balance Rs. 80 lacs.

Section 13 of the IGST Act, 2017 provides for determination of place of supply in cases wherein the location of the supplier of services or the recipient of services is outside India. Thus, this section provides the place of supply in relation to international or cross-border supply of services. Place of supply of a service shall determine as to whether a service can be termed as import or export of service. The specific provisions relating to the place of supply for international supply of services are as below:

S No.	Situation	Place of Supply
1	Default Rule other than specific situations mentioned below	Location of the recipient of services; If not available, location of the supplier of services.
2	Services supplied in respect of goods which are required to be made physically available	Location where the services are actually performed
	Services which require the physical presence of the recipient or the person acting on his behalf with the supplier of services	
2.1	Services are provided on goods but from a remote location by way of electronic means	Location where goods are situated at the time of supply of services
2.2	Above provisions is not applicable in respect of goods which are temporarily imported into India for repairs and are exported after repairs	
3	Services supplied directly in relation to an immovable property	Place where the immovable property is located or intended to be located
4	Admission to, or organisation of an event	Place where the event is actually held
4.1	Above Services provided in more than one country including India	India
4,2	Above Services provided in more than one state	Proportionate Basis
5	Services supplied by a banking company, or a financial institution, or a non-banking financial company, to account holders	Location of the supplier of services
5.1	Intermediary services	

5.2	Services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of one month	
6	Transportation of goods, other than by way of mail or courier	Place of destination of such goods
7	Passenger transportation services	Place where the passenger embarks on the conveyance for a continuous journey
8	Services provided on board a conveyance	First scheduled point of departure of that conveyance for the journey
9	Online information and database access or retrieval services (OIDAR)	Location of the recipient of services

Integrated Goods and Services Tax Act- What you must know

1. The introduction of Goods and Services Tax (GST) is a significant reform in the field of indirect taxes in our country. Multiple taxes levied and collected by the Centre and the States will be replaced by one tax called the Goods and Services Tax (GST). GST is a multi-stage value added tax levied on the consumption of goods or services or both.

2. A "Dual GST" model has been adopted in view of the federal structure of our country. Centre and States will simultaneously levy GST on every supply of goods or services or both which, takes place within a State or Union Territory. Thus, there shall be two components of GST:

(i) Central tax (CGST)

(Levied & collected under the authority of CGST Act, 2017 passed by the Parliament)

(ii) State tax (SGST)

(Levied & collected under the authority of SGST Act, 2017 passed by respective State)

3. Why a third tax in the name of IGST?

Before discussing the IGST Model and its features, it is important to understand how inter-State trade or commerce is being regulated in the present indirect tax system. It is significant to note that presently the Central Sales Tax Act, 1956 regulates the inter-State trade or commerce (hereinafter referred to as "CST"), the authority for which is constitutionally derived from Article 269 of the Constitution. Further, as per article 286 of the Constitution of India, no State can levy sales tax on any sales or purchase of goods that takes place outside the State or in the course of the import of the goods into, or export of the goods out of the territory of India. Only the Parliament can levy tax on such a transaction. The Central Sales Tax Act was enacted in 1956 to formulate principles for determining when a sale or purchase of goods takes place in the course of inter-State trade or commerce. The Act also provides for the levy and collection of taxes on sales of goods in the course of inter-State trade.

4. The CST suffers from the following shortcomings

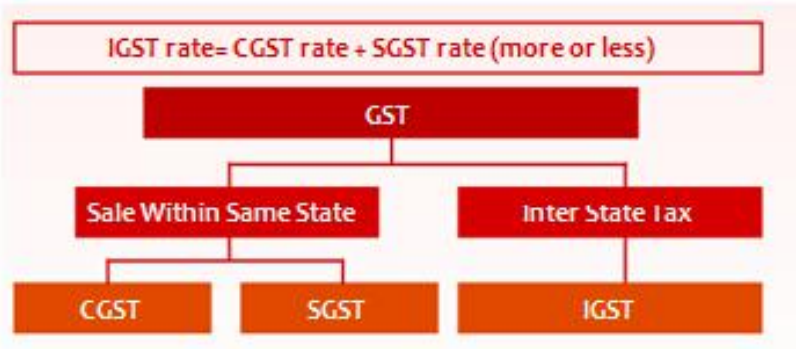
(i) CST is collected and retained by the origin State, which is an aberration. Any indirect tax, by definition, is a consumption tax, the incidence of which, is borne by the consumer. Logically, the tax must accrue to the destination State having jurisdiction over the consumer.

(ii) Input Tax Credit (hereinafter referred to as ITC) of CST is not allowed to the buyer which, results in cascading of tax (tax on tax) in the supply chain.

(iii) Various accounting forms are required to be filed in CST viz., C Form, E1, E2, F, I, J Forms etc. which add to the compliance cost of the business and impedes the free flow of trade.

(iv) Another negative feature of CST is the opportunity for "arbitrage" because of the huge difference between tax rates under VAT and CST being levied on intra-State sales and interState sales respectively.

5. The IGST model would remove all these deficiencies. IGST is a mechanism to monitor the inter-State trade of goods and services and ensure that the SGST component accrues to the consumer State. It would maintain the integrity of ITC chain in inter-State supplies. The IGST rate would broadly be equal to CGST rate plus SGST rate. IGST would be levied by the Central Government on all inter-State transactions of taxable goods or services.



6. Cross-utilisation of credit

It requires the transfer of funds between respective accounts. The utilisation of credit of CGST & SGST for payment of IGST by "B" would require the transfer of funds to IGST accounts. Similarly, the utilisation of IGST credit for payment of CGST & SGST by "C" would necessitate the transfer of funds from IGST account. As a result, CGST account and SGST (of, say, Rajasthan) would have Rs. 1300/- each, whereas, there will not be any amount left in IGST and SGST (of, say, Maharashtra) after the transfer of ITC.

7. Prescribed order of utilisation of IGST/CGST/SGST credit

The IGST payment can be done by utilising the ITC. The amount of ITC on account of IGST is allowed to be utilised towards the payment of **IGST, CGST and SGST**, in that order.

8. Nature of Supply

It is very important to determine the nature of supply – whetherit is inter-State or intra-State, as the kind of tax to be paid (IGST) or
CGST+SGST) depends on that.

(i) Inter-State Supply:

Subject to the place of supply provisions, where the location of the supplier and the place of supply are in:

(a) Two different States;

(b) Two different Union territories; or

(c) A State and a Union Territory.

Such supplies shall be treated as the supply of goods or services in the course of inter-State trade or commerce.

Any supply of goods or services in the taxable territory, not being an intra-State supply, shall be deemed to be a supply of goods or services in the course of inter-State trade or commerce. Supplies to or by SEZs are defined as inter-State supply. Further, the supply of goods imported into the territory of India till they cross the customs frontiers of India or the supply of services imported into the territory of India shall be treated as supplies in the course of inter-State trade or commerce. Also, the supplies to international tourists are to be treated as inter-State supplies.

(ii) Intra-State supply:

It has been defined as any supply where the location of the supplier and the place of supply are in the same State or Union Territory.

Intra-State supply	• Supply of goods within the State or Union Territory. • Supply of services within the State or Union Territory
Inter-State supply	• Supply of goods from one State or Union Territory to another State or Union Territory • Supply of services from one State or Union Territory to another State or Union Territory • Import of goods till they the cross customs frontier • Import of services • Export of goods or services • Supply of goods/services to/by SEZ • Supplies to international tourists • Any other supply in the taxable territory which is not intra-State supply

Thus, the nature of the supply depends on the location of the supplier and the place of supply. Both these terms have been defined in the IGST Act.

9. Location of Supplier

Broadly, it is the registered place of business or the fixed establishment of the supplier from where the supply is made. Sometimes, a service provider has to go to a client location for providing service. However, such place would not be considered as the location of the supplier. It has to be either a regular place of business or a fixed establishment, which is having sufficient degree of permanence and suitable structure in terms of human and technical resources.

10. Place of supply

10.1 (i) Places of supply provisions have been framed for goods and services, keeping in mind the destination/consumption principle. In other words, the place of supply is based on the place of consumption of goods or services. As goods are tangible, the determination of their place of supply, based on the consumption principle, is not difficult. Generally, the place of delivery of goods becomes the place of supply. However, the services being intangible in nature, it is not easy to determine the exact place where services are acquired, enjoyed and consumed. In respect of certain categories of services, the place of supply is determined with reference to a proxy.

10.2 (ii) A distinction has been made between B2B (Business to Business) & B2C (Business to Consumer) transactions, as B2B transactions are wash transactions since the ITC is availed by the registered person (recipient) and no real revenue accrues to the Government.

10.3 (iii) Separate provisions for the supply of goods and services have been made for the determination of their place of supply. Separate provisions for the determination of the place of supply in respect of domestic supplies and cross border supplies have been framed.

A. Place of supply of goods other than import and export [Section-10]

S. No.	Nature of Supply	Place of Supply
1.	Where the supply involves the movement of goods, whether by the supplier or the recipient or by any other person	Location of the goods at the time at which, the movement of goods terminates for delivery to the recipient
2.	. Where the goods are delivered to the recipient, or any person on the direction of the third person by way of transfer of title or otherwise, it shall be deemed that the third person has received the goods	The principal place of business of such person

3.	Where there is no movement of goods either by supplier or recipient	Location of such goods at the time of delivery to the recipient
4.	Where goods are assembled or installed at site	The place where the goods are assembled or installed
5.	Where the goods are supplied on-board a conveyance like a vessel, aircraft, train or motor vehicle	The place where such goods are taken on board the conveyance
6.	Where the place of supply of goods cannot be determined in terms of sub-sections (2), (3), (4) and (5)	It shall be determined in such manner as may be prescribed

B. Place of supply of goods in case of Import & Export [Section-11]

S. No.	Nature of Supply of Goods	Place of Supply
1.	Import	Location of importer
2.	Export	Location outside India

C. Place of supply of services in case of Domestic Supplies [Section12]

(Where the location of supplier of services and the location of the recipient of services is in India)

(i) In respect of the following 12 categories of services, the place of supply is determined with reference to a proxy. Rest of the services are governed by a default provision.

S. No.	Nature of Service	Place of Supply
1.	Immovable property related to services, including hotel accommodation	Location at which the immovable property or boat or vessel is located or intended to be located If located outside India: Location of the recipient
2.	Restaurant and catering services, personal grooming, fitness, beauty treatment and health service	Location where the services are actually performed
3.	Training and performance appraisal	B2B: Location of such Registered Person B2C: Location where the services are actually performed
4.	Admission to an event or amusement park	Place where the event is actually held or where the park or the other place is located
5.	Organisation of an event	B2B: Location of such Registered person B2C: Location where the event is actually held If the event is held outside India: Location of the recipient

6.	Transportation of goods, including mails	B2B: Location of such Registered Person B2C: Location at which such goods are handed over for their transportation
7.	Passenger transportation	B2B: Location of such Registered Person B2C: Place where the passenger embarks on the conveyance for a continuous journey
8.	Services on board a journey conveyance	Location of the first scheduled point of departure of that conveyance for the
9.	Banking and other financial services	Location of the recipient of services on the records of the supplier Location of the supplier of services if the location of the recipient of services is not available
10.	Insurance services	B2B: Location of such Registered Person B2C: Location of the recipient of services on the records of the supplier
11.	Advertisement services to the Government	The place of supply shall be taken as located in each of such States Proportionate value in case of multiple States
12.	Telecommunication services	Services involving fixed line, circuits, dish etc., and place of supply is the location of such fixed equipment. In case of mobile/ Internet post-paid services, it is the location of billing address of the recipient. In case of sale of pre-paid voucher, the place of supply is the place of sale of such vouchers. In other cases, it is the address of the recipient in records

(ii) For the rest of the services other than those specified above, a default provision has been prescribed as under:

Default Rule for the services other than the 12 specified services

S. No.	Description of Supply	Place of Supply
1.	B2B	Location of such Registered Person
2.	B2C	(i) Location of the recipient where the address on record exists, and (ii) Location of the supplier of services in other cases

D. Place of supply of services in case of cross-border supplies:
(Section 13)

(Where the location of the supplier of services or the location of the recipient of services is outside India)

(i) In respect of the following categories of services, the place of supply is determined with reference to a proxy. Rest of the services
are governed by a default provision.

S. No.	Nature of Service	Place of Supply
1.	Services supplied for goods that are required to be made physically available from a remote location by way of electronic means (Not applicable in case of goods that are temporarily imported into India for repairs and exported)	The location where the services are actually performed, The location where the goods are situated
2.	Services supplied to an individual and requiring the physical presence	The location where the services are

	of the receiver	actually performed
3.	Immovable property-related services, including hotel accommodation	Location at which the immovable property is located
4.	Admission to or organisation of an event	The place where the event is actually held
5.	If the said three services are supplied at more than one locations. i.e., (i) Goods & individual related (ii) Immovable property-related (iii) Event related	
5.1	At more than one location, including a location in the taxable territory	Its place of supply shall be the location in the taxable territory where the greatest proportion of the service is provided
5.2	In more than one State	Its place of supply shall be each such State in proportion to the value of services provided in each State
6.	Banking, financial institutions, NBFC Intermediary services, hiring of vehicles' services etc.	Location of the supplier of service
7.	Transportation of goods	The place of destination of the goods
8.	Passenger transportation	Place where the passenger embarks on the conveyance for a continuous journey
9.	Services on-board a conveyance	The first scheduled point of departure of that conveyance for the journey
10.	Online information and database access or retrieval services	The location of recipient of service

(ii) For the rest of the services other than those specified above, a default provision has been prescribed as under:

Default Rule for the cross border supply of services other than nine specified services		
1.	Any	Location of the recipient of service If not available in the ordinary course of business: The location of the supplier of service

11. Supplies in territorial waters

Where the location of the supplier is in the territorial waters, the location of such supplier, or where the place of supply is in the territorial waters, the place of supply is deemed to be in the coastal State or Union Territory where the nearest point of the appropriate baseline is located.

12. Export/Import of services

A supply would be treated as import or export, if certain conditions are satisfied. These conditions are as under:

Export of services	Import of services
Means the supply of any service, where	Means the supply of any service, where
(a) the supplier of service is located in India, (b) the recipient of service is located outside India, (c) the place of supply of service is outside India, (d) the payment for such service has been received by the supplier of service in convertible foreign exchange, and (e) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with explanation 1 of section 8	(a) the supplier of service is located outside India, (b) the recipient of service is located in India, and (c) the place of supply of service is in India

13. Zero rated supply

Exports and supplies to SEZs are considered as ‘zero rated supply’ on which no tax is payable. However, ITC is allowed, subject to such
conditions, safeguards and procedure as may be prescribed, and refunds in respect of such supplies may be claimed by following either of these options:

(i) Supply made without the payment of **IGST** under Bond and claim refund of unutilied ITC or

(ii) Supply made on payment of IGST and claim refund of the same

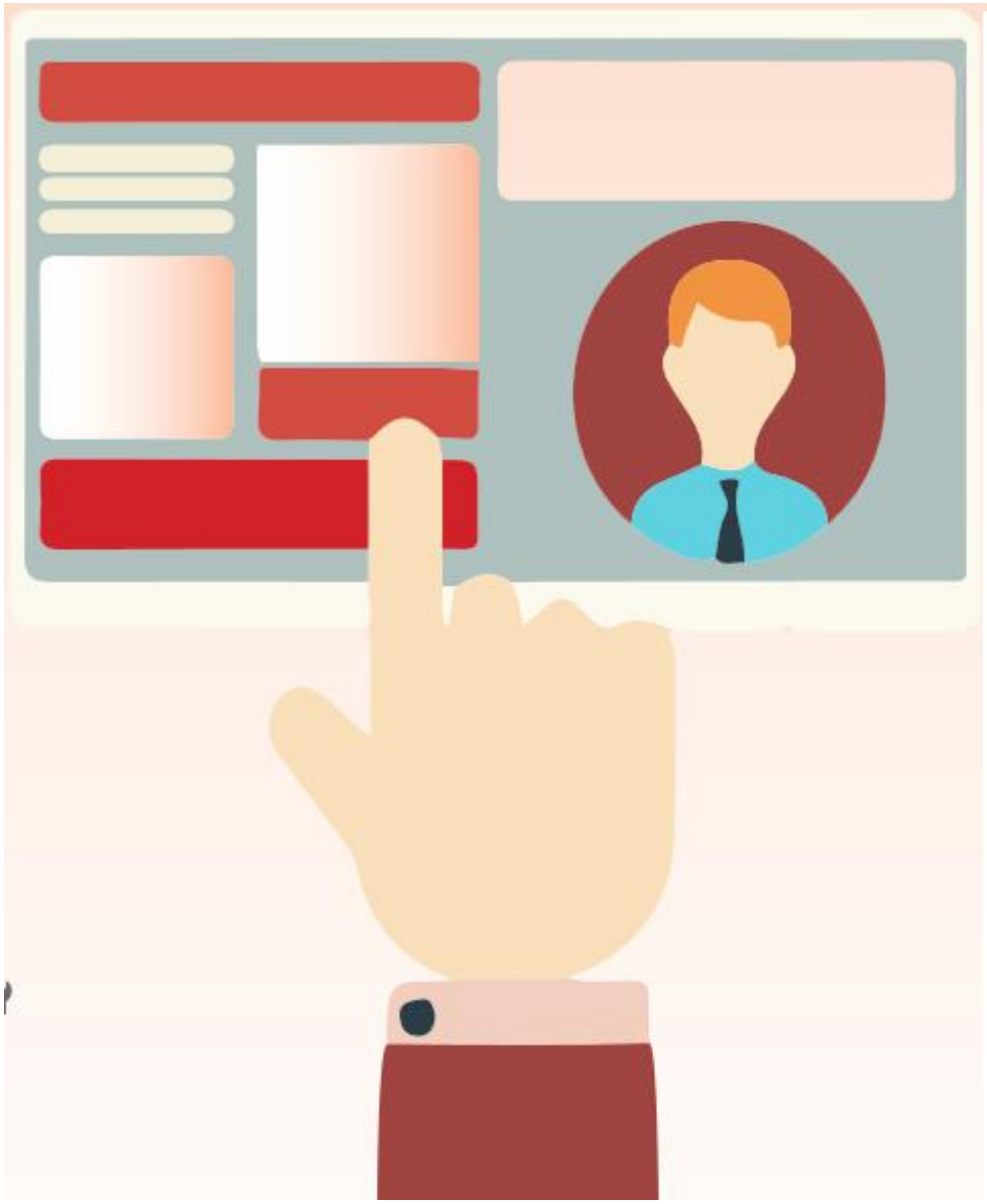
14. Refund of integrated tax paid on supply of goods to tourist leaving India

Section 15 of the IGST Act provides for refund of IGST paid to an international tourist leaving India on goods being taken outside India, subject to such conditions and safeguards as may be prescribed. An international tourist has been defined as a non-resident of India who enters India for a stay of less than 6 months. IGST would be charged on such supplies as the same in the course of export.

GST Practitioners -What you Must Know

Section 48 of the CGST Act provides for the authorisation of an eligible person to act as approved GST practitioner. A registered person may authorise an approved GST practitioner to furnish information, on his behalf, to the government. The manner of approval of goods and services tax practitioners, their eligibility conditions, duties and obligations, manner of removal and other conditions relevant for their functioning have been prescribed in the Rule 24 and 25 of the Return Rules. Standardised formats from GST PCT-1 to GST PCT- 5 have been prescribed for making application for enrolment as GST practitioner, certificate of enrolment, show cause notice for disqualification, order of rejection of application of enrolment, list of approved GST practitioners, authorisation letter and withdrawal of authorisation. A goods and services tax practitioner enrolled in any State or Union Territory shall be treated as enrolled in the other States/Union territories.

Eligibility Criteria for becoming GST practitioner



Rule 24 of the Return rules, provides the eligibility conditions to get enrolled as GST Practitioner. Any person who

(i) is a citizen of India

(ii) is a person of sound mind

(iii) is not adjudged as insolvent

(iv) has not been convicted by a competent court for an offence with imprisonment not less than two years

In addition, the person should also satisfy any of the following conditions:

(a) Is a retired officer of the Commercial Tax Department of any State Government or of the CBEC and has worked in a post not lower in rank than that of a Group-B gazetted officer for minimum period of two years or

(b) Has been enrolled as a sales tax practitioner or tax return preparer under the existing law for a period of not less than five years

(c) Has passed:

(i) a graduate or postgraduate degree or its equivalent examination having a degree in Commerce, Law, Banking including Higher Auditing, or Business Administration or Business Management from any Indian University established by any law for the time being in force or

(ii) a degree examination of any Foreign University recognized by any Indian University as equivalent to the degree examination mentioned in sub clause (i) or

(iii) any other examination notified by the Government, on the recommendation of the Council, for this purpose or

(iv) any degree examination of an Indian University or of any Foreign University recognized by any Indian University as equivalent of the degree examination or

(v) has passed any of the following examinations, namely :

(a) final examination of the Institute of Chartered Accountants of India or

(b) final examination of the Institute of Cost Accountants of India or

(c) final examination of the Institute of Company Secretaries of India

A person desirous of becoming GST Practitioner has to submit an application in the form GST PCT-1. The application shall be scrutinised and GST practitioner certificate shall be granted in the form GST PCT-2. In case, the application is rejected, proper reasons shall have to be mentioned in the form GST PCT-4. The enrolment once done remains valid till it is cancelled. But no person enrolled as a goods and services tax practitioner shall be eligible to remain enrolled unless he passes such examination conducted at such periods and by such authority as may be notified by the Commissioner on the recommendations of the Council. Any person who has been enrolled as goods and services tax practitioner by virtue of him being enrolled as a sales tax practitioner or tax return preparer under the existing law shall remain enrolled only for a period of one year from the appointed date unless he passes the said examination within the said period of one year.

Activities by GST practitioner

A goods and services tax practitioner can undertake any or all of the following activities on behalf of a registered person:

(a) furnish details of outward and inward supplies

(b) furnish monthly, quarterly, annual or final return

(c) make deposit for credit into the electronic cash ledger

(d) file a claim for refund and

(e) file an application for amendment or cancellation of registration.

But it has been provided that a confirmation from a registered person shall be sought where an application relating to a claim for refund or an application for amendment or cancellation of registration has been submitted by the goods and services tax practitioner. In addition, a GST practitioner shall also be allowed to appear as authorised representative before any officer of department, Appellate Authority or Appellate Tribunal, on behalf of such a registered person who has authorised him to be his GST practitioner.

Conditions for GST Practitioner

Any registered person may give consent and authorise a GST practitioner in the form GST PCT-5 by listing the authorised activities in which he intends to authorise the GST practitioner. The registered person authorising a GST Practitioner shall have to authorise in the standard form Part A of form GST PCT-5 and the GST practitioner will have to accept the authorisation in Part B of the form GST PCT-5. The GST practitioner shall be allowed to undertake only such tasks as indicated in the authorisation form GST PCT-5. The registered person may, at any time, withdraw such authorisation in the prescribed form GST PCT-5.

Responsibility for correctness of particulars: The responsibility for correctness of any particulars furnished in the return or other details filed by the GST practitioners shall continue to rest with the registered person on whose behalf such return and details are furnished.

Any statement furnished by the GST practitioner shall be made available to the registered person on the GST Common Portal. For every statement furnished by the GST practitioner, a confirmation shall be sought from the registered person over email or SMS. The registered person before confirming, should ensure that the facts mentioned in the return are true and correct before signature. However, failure to respond to request for confirmation shall be treated as deemed confirmation.

The GST practitioner shall prepare all statements with due diligence and affix his digital signature on the statements prepared by him or electronically verify using his credentials. If the GST practitioner is found guilty of misconduct, his enrolment will be liable tobe cancelled. A show cause notice would be issued to him in the form GST PCT-3.

GST Rates for Important Goods

Nil or 0 Percent

1. Fresh milk
2. Fresh fruits
3. Cereals
4. Puffed rice, papad, bread
5. Aquatic/poultry/cattle feed
6. Salt
7. Human blood
8. Contraceptives
9. Condoms
10. Firewood
11. Printed books
12. Bangles (non-precious metals)
13. Agricultural implements

5 Percent

1. Branded paneer
2. Frozen vegetables
3. Coffee, tea
4. Branded cereals
5. Soyabean, groundnut, sunflower seeds
6. Vegetable fats & oils
7. Beet sugar, cane sugar
8. Cocoa beans, shells, paste
9. Bakery mixes, doughs, pizza bread, vermicelli, rusks

10. Sweetmeats
11. All ores and concentrates
12. Coal
13. Lignite
14. Peat
15. Tar
16. Kerosene PDS
17. LPG for domestic consumption by IOC, HPCL, BPCL
18. Nuclear fuel
19. Nuclear grade sodium
20. Heavy water and other nuclear fuels
21. Compressed air
22. Animal or human blood vaccines: 5%
23. Diagnostic kits for detection of all types of hepatitis
24. Desferrioxamine injection or deferiprone
25. Cyclosporin
26. Medicaments (including veterinary medicaments) used in bio-chemic systems and not bearing a brand name
27. Oral re-hydration salts
28. Drugs or medicines, including their salts and esters and diagnostic test kits, specified in list 3 or list 4 appended to the notification no.12/2012- customs, dated the 17th March 2012
29. Formulations manufactured from the bulk drugs specified in list 1 of notification no.12/2012-central excise, dated the 17th March 2012
30. Handmade safety matches
31. Newsprint
32. Sand lime bricks, fly ash bricks
33. Steel utensils
34. Geometry boxes

35. Iron/ steel/ ferrous alloy - kerosene burners and stoves
36. Iron/ steel/ ferrous alloy - table or kitchen or other household articles
37. Copper utensils
38. Table or kitchen or other household articles of copper
39. Hand pumps
40. Solar water heater
41. Renewable energy devices
42. Boats, fishing vehicles
43. Coronary stents
44. Artificial kidneys
45. Broomsticks, jhadoo

12 Percent

1. Frozen meat
2. Butter, ghee, cheese
3. Dry fruits
4. Meats and fish preparations
5. Fruits and vegetable juices
6. Ready to eat namkeen/bhujiya
7. Milk beverages
8. Bio-gas
9. Medicinal grade hydrogen peroxide
10. Anaesthetics
11. Potassium iodate
12. Iodine
13. Steam
14. Glands and other organs for organo-therapeutic uses

15. Ayurvaedic, Unani, Homoeopathic siddha or Biochemic systems medicaments, put up for retail sale
16. Sterile suture materials
17. Sterile catgut
18. Sterile suture material
19. Sterile dental yarns
20. Sterile tissue adhesives for surgical wound closure
21. Dental haemostatics
22. Fertilisers
23. Fountain pen ink, ball pen ink
24. Tooth powder
25. Agarbatti
26. Candles
27. Silicon wafers
28. Natural cork Wood pulp
29. Children’s drawing books
30. Calendars
31. Ceramic tableware, kitchenware, toilet articles
32. Lenses used in spectacles
33. Barbed wire of iron and steel
34. Screw, bolts, nuts
35. Sewing/knitting needles
36. LPG stoves
37. Aluminium utensils
38. Pencil sharpeners, knives
39. Power driven water pumps
40. Cellphones

41. Tractors
42. Electric vehicles
43. Bicycles
44. Spectacle lens
45. LED lights
46. Sports goods
47. Art works
48. Antiques

18 Percent

1. Condensed milk
2. Refined sugar
3. Infant use preparations, pasta, corn flakes, waffles, pastries and cakes
4. Preserved vegetables
5. Jams, jellies
6. Tea concentrates, sauces, soups, ice cream, instant food mixes, sharbet
7. Mineral/aerated water (without sugar)
8. LPG for domestic supply by IOC, HPCL, BPCL
9. Petroleum jelly, Paraffin wax
10. Petroleum coke, Petroleum bitumen
11. Nicotine polacrilex gum
12. Essential oils
13. Hair oil
14. Dentrifices -toothpaste
15. Soap
16. Whey proteins & fitness supplements

17. Gelatin
18. Propellant powder
19. Insecticides, fungicides, disinfectants
20. Plastic products
21. Hot water bottles
22. Toilet paper
23. Notebooks
24. Helmets
25. Hats and other headgears
26. Bird feathers
27. Copper bars, rods, wires
28. Copper screws, nuts, bolts
29. Nickel bars, rods, wires
30. Nickel screw, nuts, bolts
31. Nickel tubes, pipes, netting
32. Aluminium ingots, rods, wires
33. Lead plates, sheets, strips
34. Zinc goods
35. Tin bars, rods
36. Padlocks, locks
37. Braille typewriters
38. Cellphones

28 Percent

1. Cocoa butter, fats, oils, powder, chocolates
2. Instant, aroma coffee
3. Coffee concentrates, custard powder

4. Pan masala
5. Protein concentrates, sugar syrups
6. Aerated water (with sugar)
7. Paints and varnishes
8. Artists', students' or signboard colours
9. Putty, wall fillings
10. Perfumes
11. Beauty or makeup preparations
12. Skincare preparations, including sunscreen
13. Manicure or pedicure preparations
14. Shampoos, hair cream, hair dyes
15. Dental floss
16. Toothpaste
17. Deodorants
18. Detergent
19. Aftershave
20. Shaving cream
21. Liquid soap
22. Plastic products
23. Rubber tyres
24. Leather bags
25. Fur & artificial fur apparel
26. Particle board
27. Plywood
28. Wall paper
29. Headbands, felt hats

30. Wigs, false beards, eyelashes
31. Artificial flowers
32. Marble
33. Granite
34. Plaster
35. Mica
36. Calcerous stone
37. Ceramic tiles
38. Tempered glass
39. Stoves (other than kerosene stove and LPG stoves)
40. Barbecues, braziers, gas-rings
41. Electrical hot plates
42. Electrical heaters
43. Aluminium foil
44. Razors
45. Manicure, pedicure sets
46. Airconditioners
47. Refrigerators
48. Storage water heaters
49. Dish washing machines
50. Printer, photocopier, fax machines
51. Electric shavers
52. Motor cars
53. Motor cycles
54. Yachts
55. Wrist watches

56. Pianos
57. Revolvers
58. Furniture
59. Video game consoles
60. Exercise equipment

GST Compensation Cess

1. Pan masala: 60 percent
2. Aerated waters: 12 percent
3. Cigarettes: 5 percent + Rs 1,591 – 4,970/1,000 sticks
4. Small cars (less than 4 metres, petrol): 1 percent
5. Small cars (less than 4 metres, diesel): 3 percent
6. Mid to large cars: 15 percent
7. Sports Utility Vehicles (SUVs): 15 percent
8. Hybrid motor vehicles: 15 percent
9. Motorcycles: 3 percent
10. Aircraft (personal use): 3 percent
11. Yachts: 3 percent