



Department



Goods and
Services Tax



Taxpayer

GST compliance booklet

August 2021

#GTBharat
SHAPING A VIBRANT INDIA



Foreword

The concept of assigning compliance ratings to the taxpayers, if implemented in the right earnest, will go a long way in ushering in an era of a tax-compliant society.



India embraced a new indirect tax regime with the introduction of the Goods and Services Tax (GST) in 2017. The key objectives of the GST were to introduce one tax regime for the entire country, avoid multiple compliances, reduce the cascading impact of taxes, avoid unnecessary disputes and litigation on classification and other issues.

Like any new fiscal legislation of this magnitude, GST had its challenges. The government has taken various steps in the past four years to address these concerns and support the industry.

Henry Wadsworth Longfellow once said, “It takes less time to do things right than to explain why you did it wrong”. This quote is apt for compliances under the GST law, as they are the backbone of any tax statute and GST law is no different. The concept of assigning compliance ratings to the taxpayers, if implemented in the right earnest, will go a long way in ushering in an era of a tax-compliant society.

One of the prime objectives of introducing GST was to make compliances digital and paperless, however, considering the present system where certain documents are still required to be filed offline, it can be said that GST is less-paper, instead of paperless. We feel it's

a journey and, gradually, we shall move towards a paperless compliance regime.

To help taxpayers, Grant Thornton Bharat has published this booklet as a ready reckoner and a guide to help understand different compliance requirements under the GST laws.

The booklet is updated till June 2021. We hope you find this publication informative and useful.

Vikas Vasal

National Managing Partner, Tax
Grant Thornton Bharat

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Chapter - 1

Registration

[Section 22-30 of CGST Act, read with Rule 8-26 of CGST Rules]

Under Goods and Services Tax (GST) law, a supplier is required to obtain registration (subject to certain conditions) in every state from where he makes taxable supply of goods or services or both.

The law provides for various conditions/situations/circumstances under which the supplier of goods or services (or both) is required to obtain registration. These are:

Registration based on aggregate turnover¹ (Section 22)

A supplier is required to obtain registration if the aggregate turnover of all the supplies made by him during a financial year (FY) exceeds:

- **INR 10 lakh:** For the suppliers located in special category states² (can be enhanced to INR 20 lakh on request of the state)
- **INR 20 lakh:** For the suppliers located in other states (can be enhanced to INR 40 lakh on request of the state)

Mandatory registration for the following category of persons (Section 24)

- Person making inter-state taxable supply of goods
- Casual taxable person making taxable supply
- Person liable to pay tax under reverse charge
- Input service distributor
- Person who make taxable supply on behalf of other taxable persons
- Non-resident taxable person making taxable supply
- Person liable to deduct tax deducted at source (TDS)
- E-commerce operator required to collect tax at source (TCS) under Section 52
- Person supplying online information and database access or retrieval (OIDAR) services from a place outside India (other than the registered person)
- Person who supplies goods through e-commerce operator who is required to collect TCS
- Such other person or class of person as may be notified by the government

Voluntary registration

A person who is not liable for registration may still choose to obtain voluntarily registration. Such person shall be required to comply with all the provisions of the law as a normal registered taxpayer.

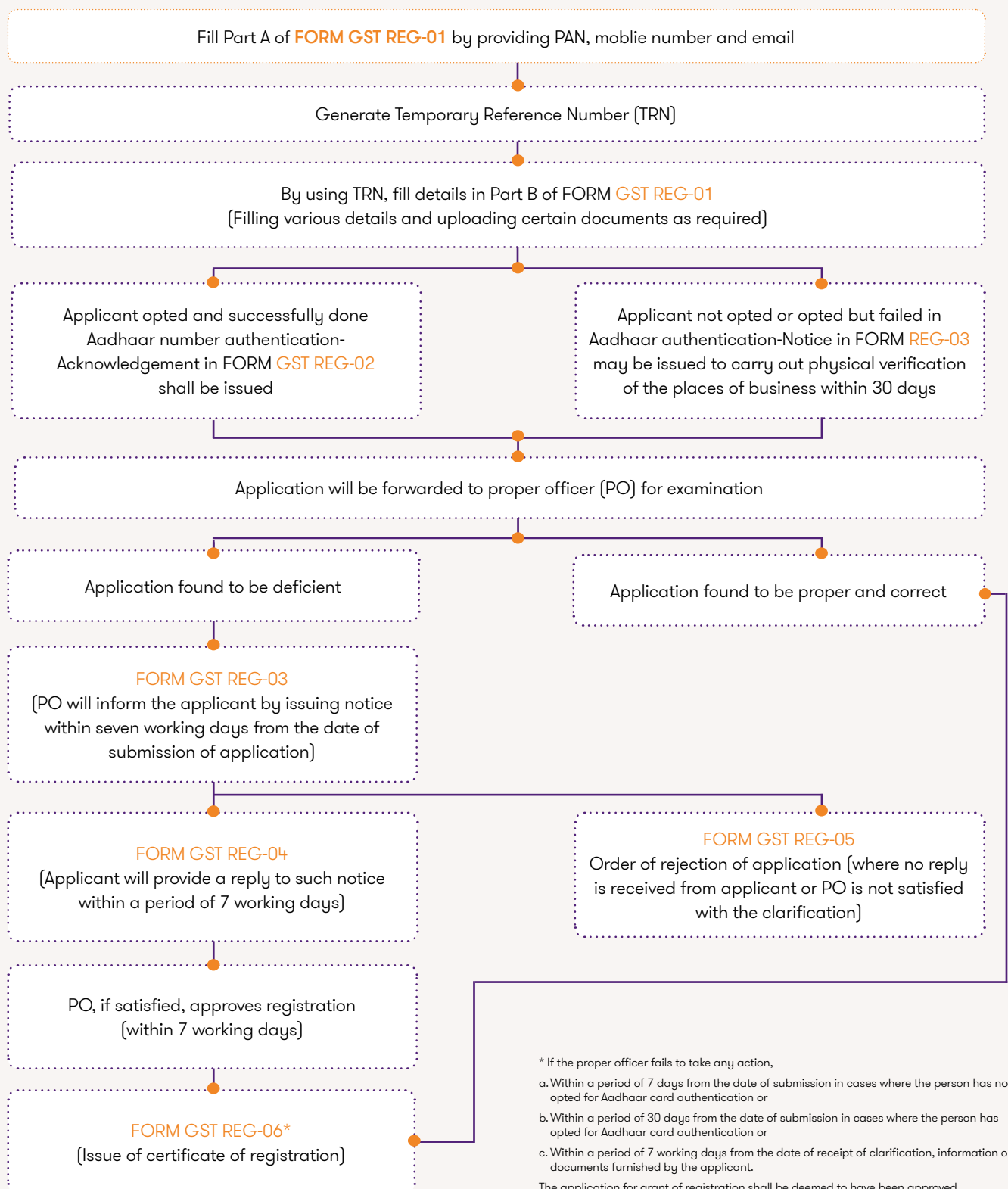


¹ Aggregate turnover¹ shall include all supplies (except inward supplies under reverse charge) made under the same PAN by a taxable person whether on his own account or on behalf of all his principals

² Special Category States are Manipur, Mizoram, Nagaland and Tripura

Process of obtaining registration: (Rule 8-Rule 10A)

Applicable for every supplier except non-resident, person liable to deduct TCS, person liable to collect TCS and person providing online information data access and retrieval services to non-taxable online recipient

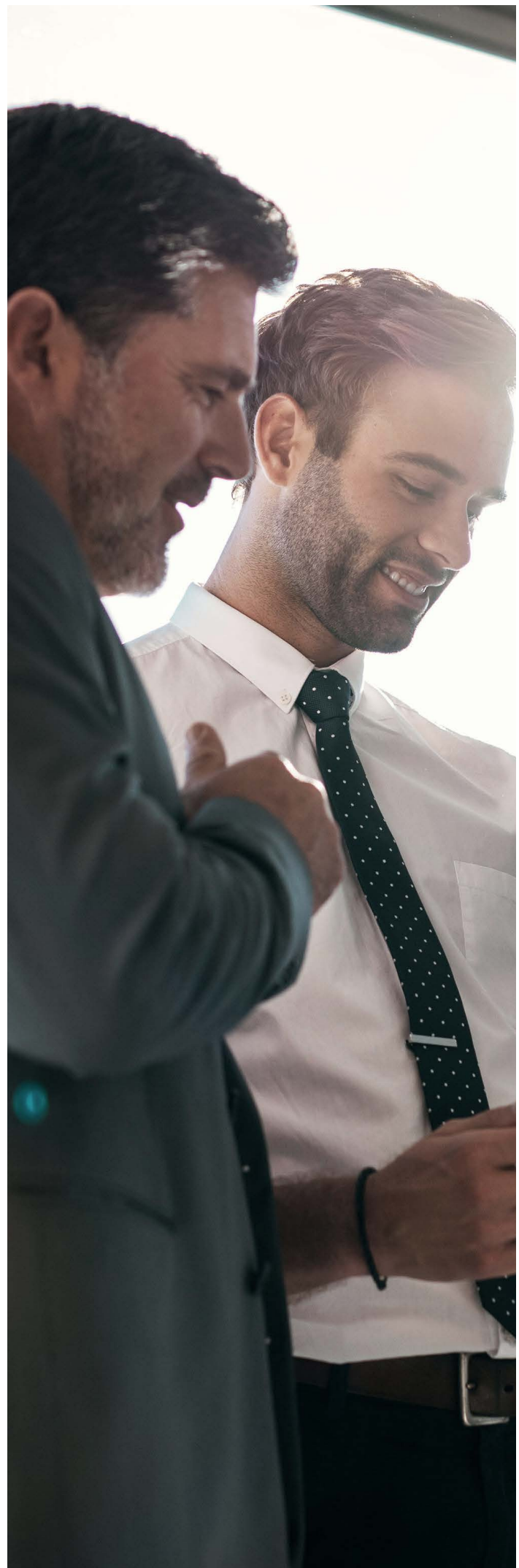


Persons exempted from obtaining registration (Section 23)

- Person exclusively engaged in the supply of those goods/ services, which are not liable to tax or wholly exempt from tax
- An agriculturist to the extent of supply of produce out of cultivation of land
- Person who are only engaged in making supplies of taxable goods or services or both, the total tax on which is liable to be paid on reverse charge basis by the recipient
- All persons (including casual taxable persons) making inter-state taxable supplies of handicraft goods and other prescribed goods provided that the aggregate value of such supplies does not exceed an amount of INR 20 lakh (INR 10 lakh in case of special category states) in a FY. The aggregate value shall be computed on all India basis (Notification 56/2018-CT and 3/2018-IT)
- Persons exclusively engaged in supply of goods are not required to obtain registration if aggregate turnover is below INR 40 lakh except where:
 - Persons required compulsory GST registration (Section 24)
 - Persons engaged in supply of ice cream, edible ice, pan masala, tobacco and its substitutes
 - Persons making intra state supplies within Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura and Uttarakhand
 - Persons exercising voluntary registration

Point to be noted

From 1 April 2020, the e-commerce operators without any physical presence in a particular state/union territory (UT) are allowed to apply for TCS registration based on their registered head office/premises address.





Invoice, debit note and credit note

(Section 31-34 of CGST Act, read with Rule 46-55 of CGST Rules)

Tax invoice (Section 31)

Every registered person supplying goods or services is required to issue invoice within prescribed period.

Timelines for issuance of invoice

For supply of goods

- In cases where supply involves movement of goods, invoice is to be issued before or at the time of removal of goods
- In other cases, invoice is to be issued before or at the time of delivery of goods

For supply of service

- Within 30 days from the date of supply of services
- Within 45 days from the date of supply of services in case of insurer, banking company, financial institution and non-banking financial companies (NBFCs)

For continuous supply of goods

- Where successive statements of accounts or successive payments are involved, the invoice shall be issued before or at the time each such statement is issued/payment is received

For continuous supply of services

- Where the due date of payment is ascertainable from the contract, the invoice shall be issued on or before the due date of payment
- Where the due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment
- Where the payment is linked to the completion of an event, the invoice shall be issued on or before the date of completion of that event

Manner of issuance of invoice (Rule 48)

In case of supply of goods, the invoice shall be prepared in triplicate in the following manner:

- The original copy being marked as **original for recipient**
- The duplicate copy being marked as **duplicate for transporter**
- The triplicate copy being marked as **triplicate for supplier**

In case of supply of services, the invoice shall be prepared in duplicate, in the following manner:

- The original copy being marked as **original for recipient**
- The duplicate copy being marked as **duplicate for supplier**

Credit note (Section 34)

The supplier of goods/services may issue a credit note in below cases:

- Taxable value/tax charged on the invoice exceeds the actual taxable value/tax payable
- Goods returned by the customer
- Goods/services supplied by the supplier found to be deficient

Time-limit for taking tax adjustment in respect of credit notes

The supplier would be eligible to reduce his output tax liability in respect of credit notes, if the credit notes have been issued and reported in, earliest of:

- Monthly return for the month in which such credit note has been issued (not later than the GST return for September of the next FY in which supply was made)
- Date of furnishing annual return for the year in which supply was made

Debit note (Section 34)

The supplier of goods/services is required to issue debit note where the value of taxable supply or tax charged on the invoice issued by him is found to be less than the actual value/tax payable in respect of such supply. Debit note is to be reported in the periodical returns for the month in which such debit note is issued.

A single consolidated credit note/debit note can also be issued against multiple invoices.



Bill of supply [Section 31(3)(c)]

A registered person supplying exempted goods/services or a supplier paying tax under composition scheme is required to issue bill of supply instead of a regular tax invoice.

Payment voucher [Section 31(3)(g)]

A registered person (recipient) is required to issue payment voucher at the time of making payment in respect of supplies covered under reverse charge.

In addition to the above, the person receiving supplies covered under reverse charge, is also required to issue invoice (where the supplier is not registered).

Receipt voucher [Section 31(3)(e)]

A receipt voucher is a document required to be issued for receipt of advance against the supply.

Refund voucher [Section 31(3)(d)]

When the amount received in advance against supply is refunded by the supplier, refund voucher is required to be issued by the supplier.

Invoice-cum-bill of supply (Rule 46A)

Where a registered person is supplying taxable as well as exempted goods or services or both to an unregistered person, a single invoice-cum-bill of supply can be issued for all such supplies.

Prescribed contents in case of various documents

Sr. no.	Particulars	Tax invoice	Bill of supply	Receipt voucher	Payment voucher	Revised tax invoice or credit or debit note	ISD-invoice	Delivery challan
1	Name, address and GSTIN of the supplier/consignor as the case maybe	✓	✓	✓	✓	✓	✓	✓
2	Serial number	✓	✓	✓	✓	✓	✓	✓
3	Date of its issue	✓	✓	✓	✓	✓	✓	✓
4	Name, address and GSTIN or UIN, if registered, of the recipient/consignee as the case maybe	✓	✓	✓	✓	✓	✓	✓
5	Name and address of the unregistered recipient and the address of delivery, along with the name of state and its code where value of taxable supply is INR 50,000 or more (Where the value of taxable supply is less than INR 50,000 then above information is required only if recipient requests to record such details)	✓				✓ (However, no such relaxation here)		
6	HSN/SAC	✓	✓					✓
7	Description of goods or services	✓	✓	✓	✓			✓
8	Quantity in case of goods and unit or unique quantity code thereof	✓						✓
9	Total value of supply of goods or services or both	✓	✓					
10	Taxable value of supply taking into account discount or abatement*	✓				✓	✓	✓
11	Rate of tax*	✓		✓	✓	✓	✓	✓
12	Amount of tax charged in respect of taxable goods or services*	✓		✓	✓	✓		✓
13	Place of supply along with the name of state, in case of an interstate supply	✓		✓	✓			✓
14	Address of delivery where the same is different from the place of supply	✓						
15	Whether the tax is payable on reverse charge basis	✓		✓				
16	Signature or digital signature of the supplier or his representative	✓	✓	✓	✓	✓	✓	✓
17	Details of amount paid				✓			
18	Amount of advance taken			✓				
19	Serial number and date of the corresponding tax invoice or, as the case may be, bill of supply					✓		
20	Amount of the credit distributed						✓	
21	Nature of document (revised invoice, debit or credit note)*					✓		
22	Quick Response [QR] Code, with an embedded Invoice Reference Number [IRN] in case invoice is issued in manner prescribed under sub-rule (4) of Rule 48							

*These particulars are not required in revised tax invoice

Notes

- A revised invoice may be issued within one month from the date of issuance of registration certificate against the invoice already issued during the period beginning with the effective date of registration till the date of issue of such certificate. For revised tax invoice, the word revised invoice, wherever applicable, is required to be indicated.
- In case of export of goods or services, the invoice shall carry an endorsement 'supply meant for export/supply to SEZ unit or SEZ developer for authorised operations on payment of integrated tax' or 'supply meant for export/supply to SEZ unit or SEZ developer for authorised operations under bond or letter of undertaking (LOU) without payment of integrated tax', as the case may be, and shall contain the following details:
 - Name and address of the recipient
 - Address of delivery
 - Name of the destination

A registered person may issue a consolidated invoice at the end of a month for supplies received from unregistered persons on which tax is to be paid on reverse charge basis.

Requirement of mentioning HSN code on invoice

Sr. no.	Annual turnover in preceding FY	No. of digits in HSN code
1	Up to INR 5 crore	4*
2	More than INR 5 crore	6

*Optional in case of supplies to unregistered persons

- In respect of certain specified supplies, the registered person is required to mention an eight digit HSN code
- In case of supply to an unregistered person, where recipient does not require invoice, supplier (other than the supplier engaged in making supply of services by way of admission to exhibition of cinematograph films in multiplex screens) can issue a consolidated tax invoice for such supplies at the close of each day with respect to all such supplies.
- In case of insurer, banking company, financial institution or NBFC, the supplier may issue a consolidated tax invoice or any other document in lieu thereof, by whatever name called for the supply of services made during a month at the end of the month; whether or not serially numbered; and whether or not it contains the address of the recipient of taxable service but other information as mentioned.
- In case of passenger transportation service, a tax invoice shall include ticket in any form, by whatever name, whether or not serially numbered, and whether or not containing the address of the recipient of service but containing other information.
- In case of services by way of admission to exhibition of cinematograph films in multiplex screens, the electronic ticket shall deemed to be a tax invoice for all purposes of the Act, even if such ticket does not contain the details of the recipient of service but contains the other information.
- In case of services in relation to transportation of goods by road in a goods carriage by Goods Transport Agency (GTA). GTA shall issue a tax invoice or any other document in lieu thereof, by whatever name called, containing the gross weight of the consignment, name of the consigner, consignee, registration number of goods carriage, details of goods transported, details of place of origin and destination, GSTIN of the person liable for paying tax and also containing other information as mentioned.





Chapter - 3

Electronic invoicing

[Rule 46 & 48 of CGST Rules]

The GST Council has implemented the system of electronic invoicing (e-invoicing) and quick response (QR) code for specified persons. E-invoice is the concept of digital invoice for goods and services provided by the registered persons. It is the process of submitting standard invoice on GST portal, which, in turn, would provide unique invoice reference number (IRN) and QR code.

Applicability

IRN: The registered persons whose aggregate turnover in any preceding financial year (from 2017-18 onwards) exceeds 50 crore are required to issue an e-invoice and generate IRN in respect of supply to registered persons (i.e., business-to-business or B2B transactions), or for exports

QR code: The registered persons whose aggregate turnover in a FY exceeds INR 500 crore are required to issue invoice having QR code in respect of supply to unregistered persons (i.e. business-to-consumer or B2C transactions)

- Validation of data at IRP: On the basis of the JSON uploaded by the supplier, IRP will generate and add IRN, QR code and its signature on the JSON file. It is important to upload the JSON file on the IRP
- Sharing of e-invoice: The IRP shares e-invoice data with IRN to the seller, GST system and E-way Bill system. E-invoice signed by the IRP would be a valid invoice.

The invoice would also be sent to a supplier and a recipient on their email ids provided in the invoice.

Exceptions

The following category of taxpayers are not required to generate IRN and QR code on their invoices:

- A government department or a local authority
- Insurer or a banking company, or a financial institution, including an NBFC
- Goods transport agency
- Passenger transportation service provider
- A registered person supplying services by way of admission to exhibition of cinematograph films in multiplex screens

Steps to generate IRN

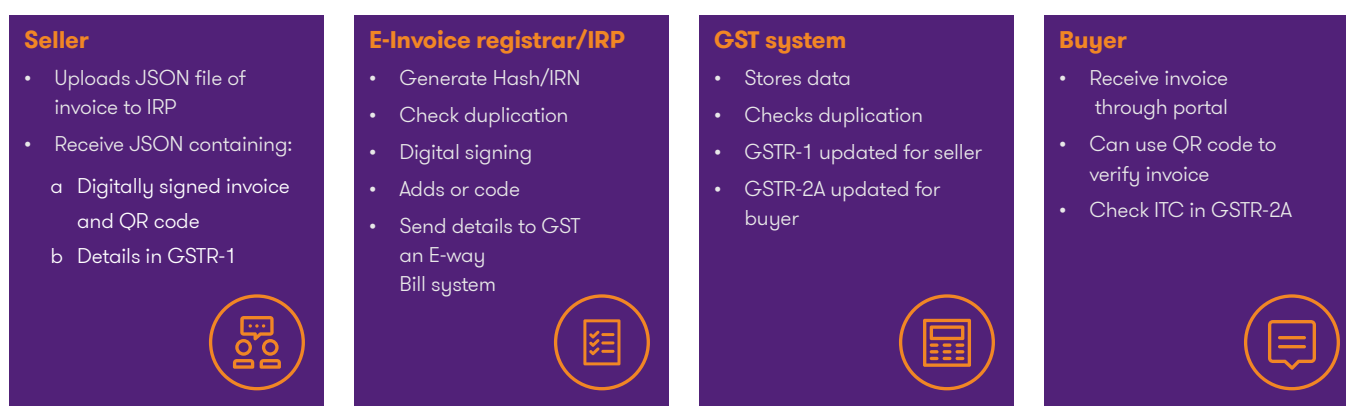
The e-invoicing requires generation of unique IRN on invoices. Steps to generate IRN by supplier are:

- Generation of invoice and JSON: The supplier is required to generate invoice from its software/ERP in the Form INV-01 in JSON format
- Uploading of JSON: The supplier is required to upload the JSON file on the Invoice Registration Portal (IRP)





Process flow



Notes

- The standard format for invoice (Form INV-01) would be used by the supplier for creation of JSON file in the proposed system. Standard format is required so that the invoice generated from one software can be read by another.
- Multiple modes are available to generate invoices through IRP like web/API/mobile app/offline tool/GSP
- Ten IRP has been notified for the purpose of preparation of e-invoices (e.g. www.einvoice1.gst.gov.in)

Cancellation/amendment of invoices

E-invoice cannot be cancelled partially. It would have to be cancelled fully within 24 hours on IRP. Amendments related to

e-invoice would be done on the GST portal in accordance with the GST laws.

Contents of invoice format Form INV-01

The details of particulars required on invoice are as follows:

Sr. no.	Section		Fields	
	Heading	Nature	Mandatory	Optional
1	Basic invoice details	Mandatory	6	3
2	Supplier information	Mandatory	6	4
3	Receipt information	Mandatory	6	6
4	Invoice item details	Mandatory	1	0
5	Document total	Mandatory	1	0
6	Item details	Mandatory	8	21
7	Document total details	Mandatory	2	11
8	Document period	Optional	2	0
9	Preceding document reference	Optional	2	9
10	Payee information	Optional	0	9
11	Delivery information	Optional	0	2
12	Extra information	Optional	1	7
13	Additional supporting documents	Optional	0	3
14	E-way bill details	Optional	1	7
15	Ship to details	Optional	5	3
16	Dispatch from details	Optional	5	1
17	Batch details	Optional	1	2
18	Attribute details of item	Optional	0	2
Total		18 Sections	47	90

- There are a total of 18 sections, out of which 7 are mandatory and 11 are optional. Further, within the seven mandatory sections, there are 30 mandatory fields and 45 optional fields. Accordingly, every invoice format must have 30 mandatory fields on it.

Other key points

- ERP configuration:** Mandatory filed required on the invoice should be incorporated in ERP. ERP should possess utility to generate JSON
- Invoices would have to be reported on IRP one at a time
- Maximum number of line items supported by e-invoice would be 1,000
- Discount can be captured both ways i.e., line item wise as well as total discount on invoice value
- Reconciliation:** IRN should be captured on the ERP system against original invoice for reconciliation purpose
- Invoice, credit note and debit note issued by supplier are required to be reported on e-invoice system
- Original, duplicate and triplicate copy of invoice would not be required



Accounts, records and audit

[Section 35-36 of CGST Act, read with Rule 56-58 of CGST Rules]

Accounts and records to be maintained by the registered person

Inward and outward supplies of goods and services [Section 35 (1)]

Every registered person shall keep and maintain records in respect of inward supply of goods and service and outward supply of goods and service.

Persons supplying services shall maintain the accounts showing quantitative details of goods used in the provision of services, details of input services utilised and the services supplied.

Production or manufacture of goods [Rule 56 (12)]

Showing monthly details of 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.

Stock of goods [Rule 56 (2)]

Every registered person, other than paying tax under composition scheme, shall maintain the accounts of stock in respect of goods received and supplied by him. Such accounts shall contain details of opening balance, receipt, supply, goods lost, stolen, destroyed, written-off or disposed of by way of gift or free sample and closing balance.

Input tax credit availed and output tax paid and payable [Rule 56 (4)]

Every registered person, other than paying tax under composition scheme, shall keep and maintain records of tax payable, tax collected and paid, input tax, input tax credit claimed.

Register of documents [Rule 56 (4)]

Every registered person, other than paying tax under composition scheme, shall keep and maintain register of tax invoice, credit notes and debit notes, delivery challan issued and received during tax period.

Other records [Rule 56 (5)]

Every registered person shall maintain particulars in respect of:

- Names and complete addresses of suppliers from whom/ to whom the registered person has supplied/received the goods or services chargeable to tax.
- The complete address of the premises where goods are stored by registered person, including goods stored during transit along with the particulars of the stock stored therein.

Records in relation to works contract [Rule 56 (14)]

Persons executing works contract shall keep 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 of goods or services received or utilised for the execution of works contract.

- Details of payment received in respect of execution of works contract.
- The name and addresses of supplier from whom he received goods.

Accounts and records to be maintained by Agent [Rule 56 (11)]

- Particulars of authorisation received by him from each principal to receive or supply goods or services on behalf of such principal separately.
- Particulars including description, value and quantity of goods or services received or supplied on behalf of every principal.
- Details of accounts furnished to every principal.
- Tax paid on receipts or on supply of goods or services effected on behalf of every principal.

Records to be maintained by owner or operator of warehouse/godown and transporters

- Every owner or operator of warehouse or transporter, who is not registered, shall submit the details regarding their business electronically on the common portal in FORM GST ENR-01.
- Every owner or operator of warehouse/godown used for storage of goods and every transporter, whether registered or not, shall maintain records of the consigner, consignee and other relevant details of the goods.
- Any person engaged in the business of transporting goods shall maintain records of goods transported, delivered and goods stored in transit by him along with the GSTIN of the registered consigner and consignee for each of his branches.
- Every owner or operator of a warehouse/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.
- For the purposes of chapter e-way bill, a transporter who is registered in more than one state or UT having the same permanent account number (PAN), he may apply for a unique common enrolment number by submitting the details in FORM GST ENR-02 through one of his GSTIN numbers.
- Upon validation of the details furnished, a unique common enrolment number shall be generated and communicated to the said transporter. Where the said transporter has obtained a unique common enrolment number, he shall not be eligible to use any of the GSTINs for the purposes of chapter e-way bill.

Maintenance of electronic records (Section 35 and Rule 57)

- Accounts and records prescribed under this chapter may be kept in electronic form.
- Electronic records shall be authenticated by digital signature.
- Proper electronic back-up of records shall be maintained and preserved so the information can be restored.

Retention period (Section 36)

Every registered person required to keep and maintain books of account shall retain them until the expiry of 72 months from due date of furnishing of annual return for the year pertaining to such accounts and records.

Points to be noted

- Any entry in registers, accounts and documents shall not be erased, effaced or overwritten, and all incorrect entries 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.
- Each volume of books of account maintained manually by the registered person shall be serially numbered.
- Where 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.

Simplification of Annual Compliances for FY 2020-21 (Section 44)

- Reconciliation statement is required to be self-certified by the taxpayer instead of getting it certified by Chartered Accountants/Cost and Management Accountants.
- Filing of annual return in Form GSTR-9 / 9A for FY 2020-21 will be optional for taxpayers having aggregate annual turnover upto INR 2 crore.
- The reconciliation statement in Form GSTR-9C for FY 2020-21 will be required to be filed by taxpayers with annual aggregate turnover above INR 5 crore.



Chapter - 5

Time of supply

[Section 12-14 of CGST Act]

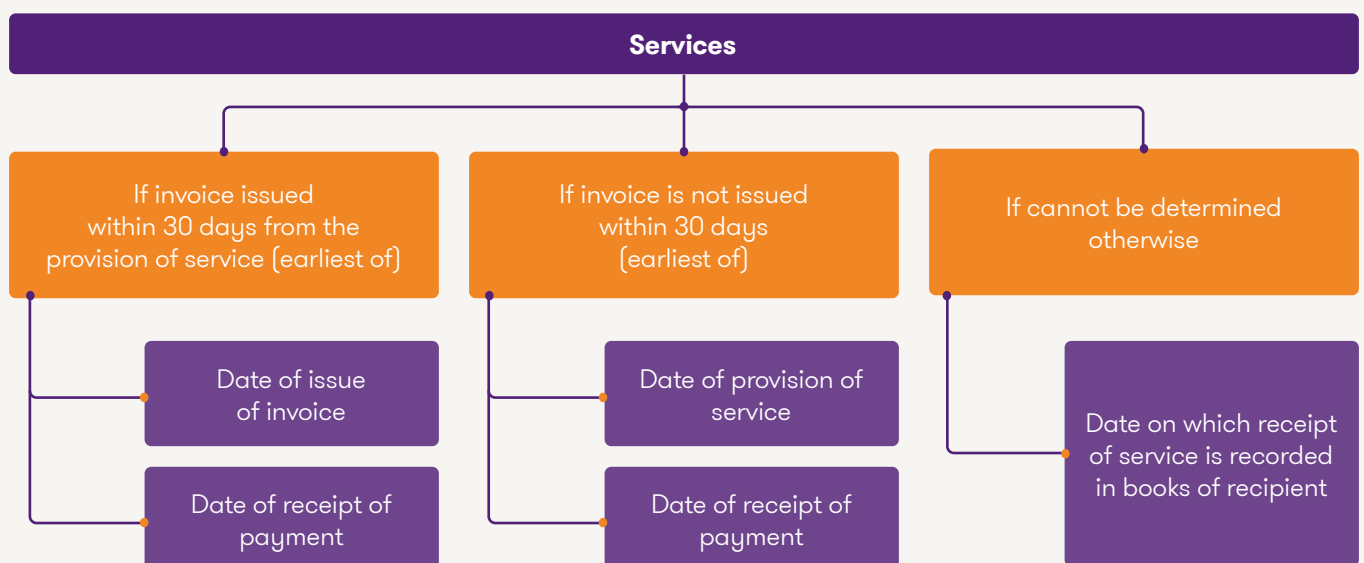
Meaning

Time of supply refers to the point of time, when the liability to pay tax arises

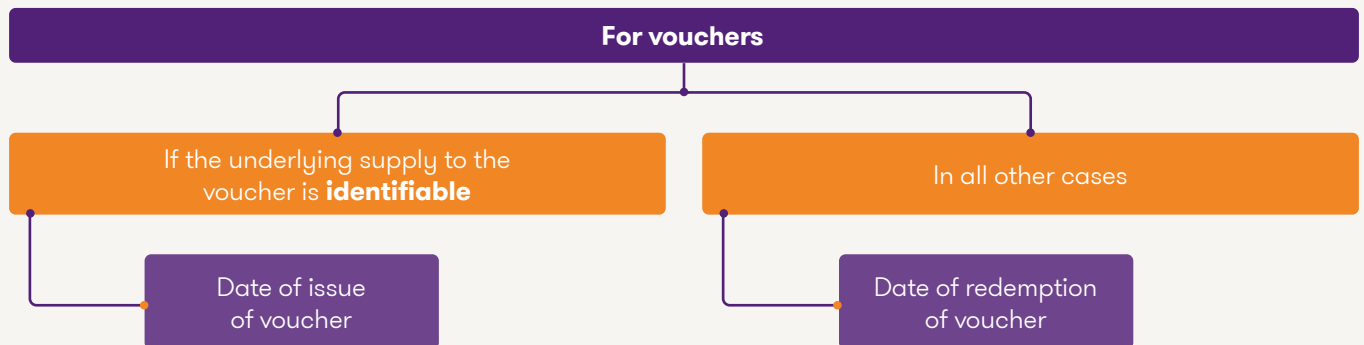
Time of supply in case of goods [Section 12(2)]



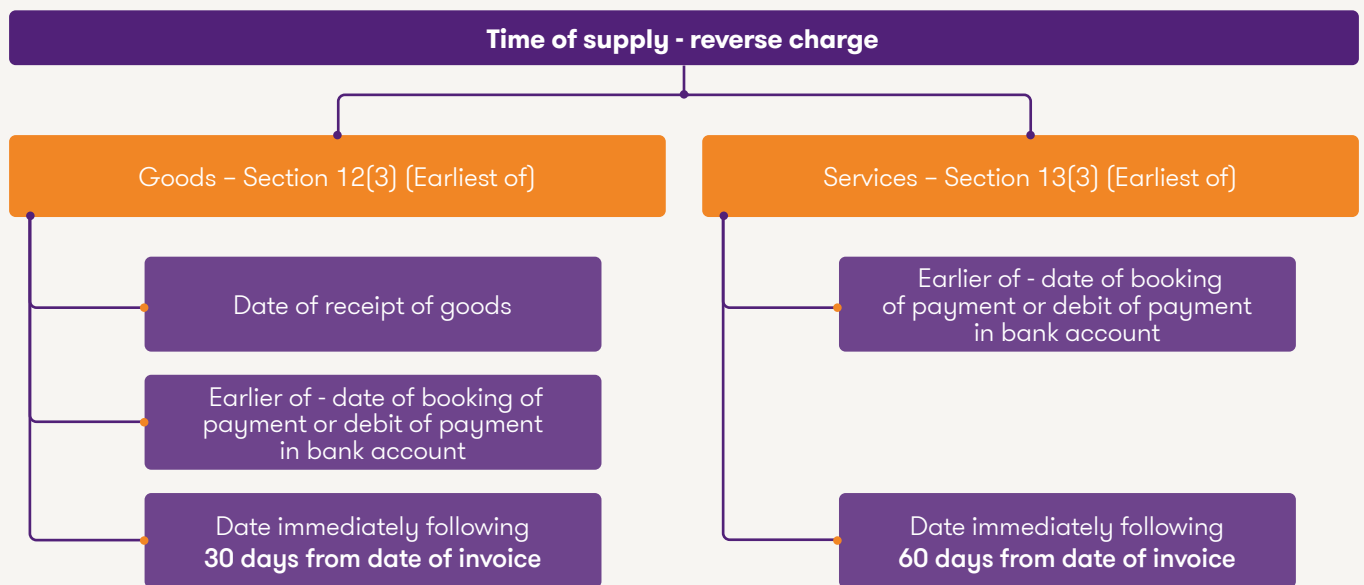
Time of supply in case of services [Section 13(2)]



Time of supply in case of vouchers [Section 12(4)]



Time of supply in case of supplies liable to GST on reverse charge



Miscellaneous points

Time of supply, if not determined as per above method, shall be the date of entry in books of the recipient.

For supply of service by associated enterprise outside India, time of supply will be the earliest of the date of entry in books of the recipient or date of payment.

Notes

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



Chapter - 6

Place of supply

[Section 10-13 of IGST Act]

Meaning

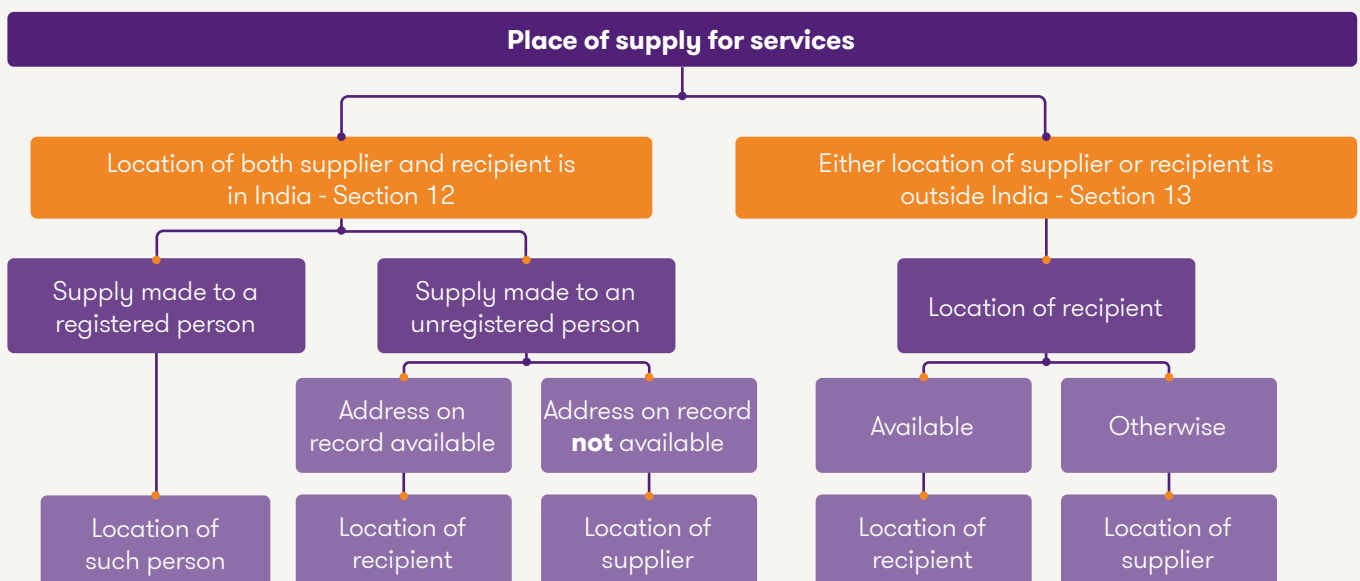
Place of supply is a place where supply of goods or services is made. Determination of place of supply is essential to determine the nature of supply, (i.e. intra-state supply or inter-state supply), consequently for charging applicable taxes [CGST and SGST or IGST]

Place of supply in case of goods (Section 10 and 11)

Nature of transaction	Place of supply
Supply involving movement of goods	Location where movement terminates for delivery to the recipient
Goods delivered to recipient or any other person on direction of third person (Bill to - Ship to transaction)	Location of person on whose direction goods were supplied (Location of 'Bill to' person)
Supply of goods on board a conveyance	Location at which goods are taken on board
Supply not involving movement of goods	Location of goods at time of delivery to recipient
Goods assembled/installed at site	Place of assembly/installation
Goods imported into India	Location of importer
Goods exported from India	Location outside India

Place of supply in case of services

General provisions





Specific provisions for certain supplies

Nature of services	Place of supply – both supplier and recipient are located in India	Place of supply – either location of supplier or recipient is outside India
Services in relation to immovable property		
<ul style="list-style-type: none"> Lodging accommodation by hotel, guesthouse, club, houseboat, vessel etc. Accommodation for any function (official, social, cultural, religious etc.) 	<ul style="list-style-type: none"> Location at which the immovable property is located or intended to be located (if in India) Location of recipient, if location of immovable property or boat or vessel is outside India 	<ul style="list-style-type: none"> Place where such immovable property is located or intended to be located
Performance-based services		
<ul style="list-style-type: none"> Services such as restaurant services, personal grooming, beauty treatment, etc. 	<ul style="list-style-type: none"> Location where the services are actually performed 	
Transportation services		
Transportation of passengers	<ul style="list-style-type: none"> If supplied to registered person – location of such person If supplied to unregistered person – the Place where the passenger embarks on the conveyance for continuous journey 	Place where the passenger embarks on the conveyance for continuous journey
Transportation of goods	<ul style="list-style-type: none"> If supplied to registered person- location of such person If supplied to unregistered person – the place at which goods are handed over for their transportation <p>In case transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods</p>	Place of destination of goods* *not applicable for transportation by way of mail or courier
Financial and business services		
Banking and other financial services	<ul style="list-style-type: none"> If location of recipient exists on records – location of recipient Otherwise – location of supplier 	Location of supplier
Insurance services	<ul style="list-style-type: none"> If supplied to registered person – location of such person If supply to unregistered person – location of recipient on records of supplier 	-
Advertisement services provided to government, statutory body and other prescribed authorities	<ul style="list-style-type: none"> Each state or UT in respect of which service is provided 	-

Nature of services**Place of supply –
both supplier and recipient
are located in India****Place of supply –
either location of supplier or recipient is
outside India****Other services**

Organisation of a cultural, artistic, sporting, scientific, educational, or entertainment event etc., or ancillary services to organisation of above events

- If supplied to registered person - location of such person
- If supplied to unregistered person - location where the event is actually held (if held outside India, location of recipient shall be the place of supply)

Place where event is actually held

Admission to cultural, artistic, sporting, scientific, educational or entertainment event etc.

Place where event is actually held

Place where event is actually held

Services in relation to training and performance appraisal

- If supplied to **registered** person - location of such person
- If supplied to **unregistered** person - location where services are actually performed

Services supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services, or to a person acting on behalf of the supplier of services in order

-

Location where services are actually performed

(This clause shall not apply for goods, which are temporarily imported into India for repairs/other process and exported after such repairs or process without being put to any use in India, other than that which is required for such repairs or treatment or process)

Supply of service on board a conveyance

Location of first scheduled point of departure

Location of first scheduled point of departure

Intermediary services and services of hiring means of transport other than aircrafts and vessels up to one month

-

Location of supplier

Online information and database access or retrieval services

-

Location of recipient





Chapter - 7

Reverse charge mechanism

[Section 9, 12 & 13 of CGST Act]

Meaning

Generally, tax on a supply, is to be paid by a person who supplies goods and services. However, in certain specified cases, the liability to pay tax is shifted to the recipient of such goods/services. This mechanism to pay tax by recipient is called reverse charge mechanism (RCM).

Situations covered under RCM

Procurement of notified supplies [Section 9(3)]

Government has notified a list of supplies (goods and services), on which recipient is required to discharge tax on reverse charge basis.

Procurement of specified supplies by specified class of registered person [Section 9(4)]

Specified class of registered persons notified by the government in respect of supply of specified categories of goods or services, or both, received from an unregistered supplier.

Note

For specified categories of supply of services, the person responsible for payment of taxes would neither be the supplier nor the recipient of supply, but the e-commerce operator through which such supply is effected [Section 9(5)].

Notified supplies liable to GST under RCM

Sr. no.	Services	Service provider (SP)	Service receiver (SR)
1	Any services supplied by a person located in a non-taxable territory	Person located in a non-taxable territory	Person located in the taxable territory other than non-taxable online recipient
2	Services of transportation of goods by road provided by GTA (w.e.f. 01/01/2019) this entry is not applicable for GTA services provided to: a Department/Establishment of the CG or SG or UT; b Local authority; c Government agencies, which are registered under GST only for deduction of TDS	GTA who has not paid integrated tax at the rate of 12%	a any registered factory b any registered society c any co-operative society d any person registered under GST e anybody corporate f any partnership firm including association of persons
3	Any legal services supplied by an individual advocate including a senior advocate and firm of advocates	An individual advocate including a senior advocate or firm of advocates	Any business entity located in taxable territory

Sr. no.	Services	Service provider (SP)	Service receiver (SR)
4	Services supplied by an arbitral tribunal	An arbitral tribunal	Any business entity located in taxable territory
5	Service provided by way of sponsorship	Any person	Any body corporate or partnership firm located in taxable territory
6	Services supplied by central or state government (CG or SG) or union territory (UT) or local authority excluding: <ol style="list-style-type: none"> 1. Renting of immovable property, and 2. Services specified below: <ul style="list-style-type: none"> - Services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than CG, SG, UT or local authority - Services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport - Transport of goods or passengers 	CG, SG, UT or local authority	Any business entity located in taxable territory
6A	Services supplied by the CG, SG, UT or local authority by way of renting of immovable property to a person registered under the GST Law (w.e.f. 25/01/2018)	CG, SG, UT or local authority	Any person registered under the GST Law
6B	Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter (w.e.f 01/04/2019)	Any person	Promoter
6C	Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter (w.e.f. 01/04/2019)	Any person	Promoter
7	Services supplied by director of a company or body corporate	A director of a company or a body corporate	Company or a body corporate located in the taxable territory
8	Services supplied by insurance agent	An insurance agent	Any person carrying on insurance business located in taxable territory
9	Services supplied by recovery agent	A recovery agent	A banking company or a financial institution or an NBFC
10	Services supplied by a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India	A person located in non-taxable territory	Importer, as defined in the Customs Act, 1962, located in the taxable territory
11	Supply of services by way of transfer or permitting the use or enjoyment of a copyright relating to original dramatic, musical or artistic works	Music composer, photographer, artist or the like	Music company, producer or the like, located in taxable territory
11A	Supply of services by way of transfer or permitting the use or enjoyment of a copyright relating to original literary works	Author	Publisher, located in taxable territory (w.e.f 01/10/2019) this entry shall not apply where author has exercised the option to pay tax under forward charge]

Sr. no.	Services	Service provider (SP)	Service receiver (SR)
12	Supply of services by the members of Overseeing Committee to the Reserve Bank of India (RBI) (w.e.f 13/10/2017)	Members of overseeing committee constituted by RBI	RBI
13	Services supplied by individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm to bank or non-banking financial company (NBFCs) (w.e.f. 27/07/2018)	Individual DSAs other than a body corporate, partnership or LLP	A banking company or NBFC, located in the taxable territory
14	Services provided by business facilitator to a banking company (w.e.f 01/01/2019)	Business facilitator	A banking company, located in the taxable territory
15	Services provided by an agent of business correspondent to business correspondent (w.e.f 01/01/2019)	An agent of business correspondent	A business correspondent, located in the taxable territory
16	<p>Security services (services provided by way of supply of security personnel) provided to a registered person (w.e.f 01/01/2019)</p> <p>This entry shall not apply to security services provided to-</p> <ul style="list-style-type: none"> Department/Establishment of the CG or SG or UT; or local authority; or government agencies, which are registered under GST only for deduction of TDS] The person paying tax under composition scheme 	Any person other than a body corporate	A registered person, located in the 'taxable territory'
17	Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, provided to a body corporate (w.e.f 01/10/2019)	Any person, other than a body corporate who supplies the service to a body corporate and does not issue an invoice charging integrated tax at the rate of 12% to the service recipient	Body corporate located in the taxable territory
18	Services of lending securities of Securities under Lending scheme, 1997 of SEBI, as amended (w.e.f 01/10/2019)	Lender	Borrower

Following categories of goods/services, provided by an unregistered person and class of registered person have been notified on which tax is fully payable by registered person (amended notification 07/2019 - Central Tax (Rate) dated 29 March 2019)

Sr. No.	Goods/services	Supplier	Recipient
1	Supply of such goods/services (other than covered under 6A and 6B above) which constitute the shortfall from the minimum value of goods or services or both required to be purchased by a promoter for construction of project, in a financial year (or part of the financial year till the date of issuance of completion certificate or first occupation, whichever is earlier) as prescribed	Unregistered person	Promoter
2	Cement falling in chapter heading 2523	Unregistered person	Promoter
3	Capital goods falling under any chapter supplied to a promoter for construction of a project on which tax is payable or paid at the rate prescribed	Unregistered person	Promoter



Following categories of goods have been notified on which tax is fully payable by person other than supplier of goods: (amended notification 04/2017- Central Tax (Rate))

Sr. no.	Goods	Supplier	Recipient
1	Cashew nuts, not shelled or peeled	Agriculturist	Any registered person
2	Bidi wrapper leaves (tendu)	Agriculturist	Any registered person
3	Tobacco leaves	Agriculturist	Any registered person
4	Silk yarn	Any person who manufactures silk yarn from raw silk or silk worm cocoons for supply of silk yarn	Any registered person
4A	Raw cotton (w.e.f. 15/11/2017)	Agriculturist	Any registered person
5	Supply of lottery tickets	SG, UT or any local authority	Lottery distributor or selling agent
6	Used vehicles, seized and confiscated goods, old and used goods, waste and scrap (w.e.f. 13/10/2017)	CG, SG, UT or a local authority	Any registered person
7	Priority sector lending certificate (w.e.f. 28/05/2018)	Any registered person	Any registered person

Following categories of supply of services have been notified on which tax is payable by the e-commerce operator through which such supply is effected (amended notification 17/2017- Central Tax Rate)

Sr. no.	Specified services provided through electronic commerce operator by way of
1	Transportation of passengers by radio-taxi, motor cab, maxi cab and motor cycle
2	Accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes except where the person supplying such service through e-commerce operator is liable for registration under GST due to turnover exceeds the threshold limit
3	Housekeeping such as plumbing, carpentering, etc. except where the person supplying such service through e-commerce operator is liable for registration under GST due to turnover exceeds the threshold limit (w.e.f 22/08/2017)



Chapter - 8

Input tax credit

[Section 16-21 of CGST Act, read with Rule 36-45 of CGST Rules]

Meaning

Input tax credit (ITC) in GST laws has been defined to mean any tax (CGST, SGST or IGST) charged on any supply received by the recipient. In addition to this, it also includes:

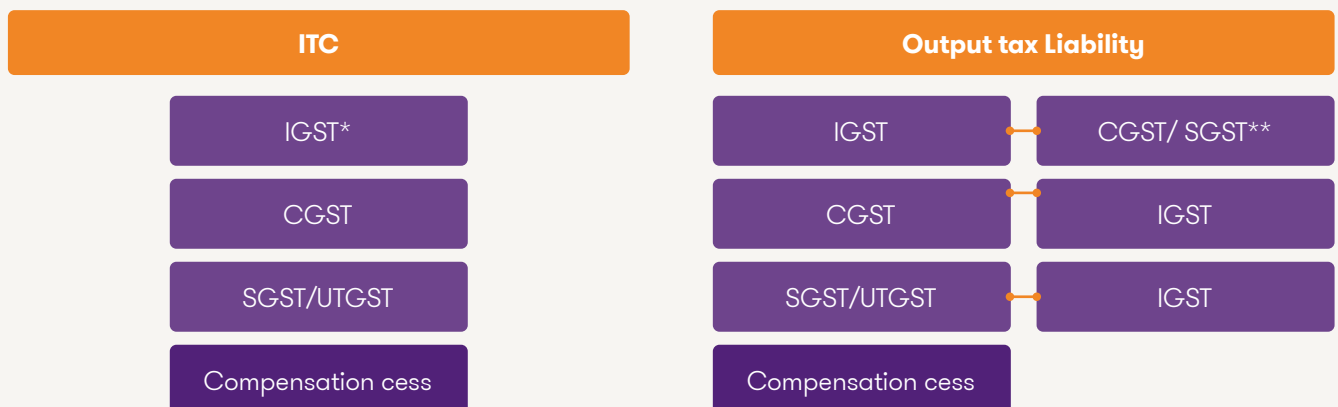
- IGST charged on import of goods
- Taxes paid under reverse charge mechanism
- But it excludes tax paid under composition levy

Conditions of availment of ITC [Section 16(2)]



Manner of utilisation of ITC

ITC availed by a registered person can be utilised in the below:



*Input tax of IGST needs to be first fully utilised for any output tax liability

** Remaining IGST credit can be utilised for CGST/SGST in any manner and in any order

Restrictions on availment of ITC (Section 17)

A registered person would not be entitled to claim/take ITC in respect of:

- Taxes paid in respect of non-business supplies
- Taxes paid in respect of exempted supplies
- Taxes paid in respect of certain inward supplies mentioned in Section-17(5) of the CGST Act (blocked credits)

Supplies on which ITC is not available (blocked credit) [Section 17(5)]

Motor vehicles for transportation of person having approved seating capacity of not more than 13 persons (including the driver) except when used for:

Credit in respect of supply of motor vehicles

1. Making following taxable supplies in respect of motor vehicle:

- Further supply of the same
- Transportation of passengers
- Training for driving

2. Vessels and aircraft except when they are used:

- For making following taxable supplies
 - Further supply of the same
 - Transportation of passengers
 - Training on navigating such vessels and on flying such aircraft
- Transportation of goods

Credit in respect of ancillary services to the motor vehicles

Services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in (i) or (ii)

Provided that the ITC in respect of such services shall be available:

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

- The following supply of goods or services or both:

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

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

- b Membership of a club, health and fitness centre; and
- c Travel benefits extended to employees on vacation such as leave or home travel concession: Provided that the ITC in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide to its employees under any law for the time being in force.

- Work contract services when supplied for construction of immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service.
- Goods and services received for own **construction**³ of an immovable property (other than plant and machinery) even if it is used for furtherance of business.
- Goods/services used for personal consumption
- Goods lost/stolen/destroyed/written off or disposed of by way of gift or free samples.
- Tax paid on account of subsequent determination of unpaid tax, erroneous refund, wrongful availment or mutilation of ITC by reason of fraud u/s 74; goods detained during transit u/s 129 and goods confiscated u/s 130.
- Goods/services received by non-resident taxable person except on goods imported by him.

Imposition of limit on availment of ITC for invoicing not appearing in GSTR-2A

- Recently with effect from 1 October 2019, a restriction on availment of ITC has been imposed vide insertion of **Rule 36(4)**.
- As per this rule, ITC, in respect of those invoices that have not been uploaded by the suppliers, would not exceed 5% of the total eligible ITC for that month (20% up to 31 December 2019 and 10% up to 31 December 2020).
- Eligible ITC means the total tax in respect of those invoices, which is otherwise available to the assessee (e.g., excluding the invoices pertaining to blocked credit and invoices attributable to exempted supplies).

³ The expression construction includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property

- This restriction would not apply on documents issued in respect of RCM supplies, credit received from ISD and IGST paid on imports
- However, with a view to provide relief to the industry, in light of the COVID-19 outbreak, the condition of 10% shall apply cumulatively for the tax period from February 2020 to August 2020 and condition of 5% shall apply cumulatively for the tax period from April 2021 to June 2021.
- Accordingly, GSTR-3B for the month of September 2020 shall be furnished with the cumulative adjustment of ITC (10%) and GSTR-3B for the month of June 2021, or quarter ending June 2021 shall be furnished with the cumulative adjustment of ITC (5%).

Key points to remember

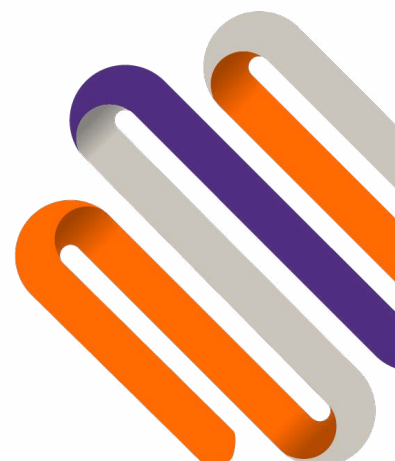
- The invoice issued by the supplier must contain GSTIN of the recipient and other necessary details as discussed under invoice chapter. Further, the recipient would be eligible for ITC even if the invoice contains below contents:
 - Amount of tax charged
 - Description of goods/services
 - Value of supply
 - GSTIN of supplier and recipient
 - Place of supply
- If the recipient fails to make payment to the supplier towards the value of a supply and tax thereon within 180 days from the date of issue of invoice, then ITC availed by the recipient in respect of such supply will be added to his output tax liability. Such ITC can be re-availed upon making payment to the supplier.
- The recipient needs to ensure that in respect of procurements made by him, the supplier makes appropriate disclosures in his GST returns and deposits the tax to the government. A default by supplier in this case will lead to loss of ITC at the part of recipient.
- No ITC shall be allowed in respect of tax paid on capital goods for which depreciation has been claimed on tax component of capital goods under the provisions of Income Tax Act, 1961.
- ITC in respect of any invoice/debit note need to be taken before the due date of filing of return for the month of September of next FY or furnishing of relevant annual return, whichever is earlier.

Reversal of ITC in case of inputs and services (Section 17 and Rule-42)

- Every registered person shall be entitled to take credit of input tax charged on any supply of goods or services or both to him, which are used or intended to be used in the course or furtherance of his business
- If such supply is to be used for non-business purpose, then no credit shall be allowed in respect of such supply
- Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business
- Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies and partly for effecting exempt supplies, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies
- Some of the inputs or input services may be used for business as well as non-business purpose and for making taxable as well as exempt supply and such identification can't be made at invoice level

Reversal of ITC in case of capital goods (Section-17 & Rule-43)

- Where the capital goods have been used commonly for both taxable and exempted supply, or business and non-business purposes, the registered person shall be required to reverse the proportionate ITC in respect of capital goods used for effecting exempted supplies and non-business purposes
- These reversals shall be on monthly basis, by considering the useful life of assets to be five years (60 months) from the date of invoice
- Rule 43 has prescribed a detailed mechanism for calculating the reversal amount in respect of exempted/ non-business supplies





Returns and payments

(Section 37-48 of CGST Act, read with Rule 59-84 of CGST Rules)

Returns

Return of outward supplies (Form GSTR-1) [Rule 59(1)]

- Applicable to every registered person, except
 - Input service distributor (ISD)
 - Non-resident taxable person
 - Composition taxpayers
 - Taxpayers required to deduct TDS
 - Taxpayers required to collect TCS
 - Taxpayers providing OIDAR services to non-taxable recipient
- For taxpayers filing quarterly GSTR-1, the government has introduced Invoice Furnishing Facility (IFF). Such taxpayers can choose to upload their B2B invoices every month on the GST portal under the Quarterly Return Filing and Monthly Payment of Taxes (QRMP) Scheme.

This facility has been introduced to facilitate the customers of such quarterly return filers so that they can view the invoices related to them and can do ITC calculations accordingly.

- Return to be filed electronically, in Form GSTR-1 on or before the 11th of the subsequent month (for taxpayers not covered under QRMP scheme) and by the end of the 13th of the month succeeding such tax period (for taxpayers covered under QRMP scheme).
- Other points which merit consideration
 - a A registered person is not allowed to furnish GSTR-1, if he has not furnished the return in FORM GSTR-3B for preceding two months;
 - b A registered person (covered in the quarterly return scheme) is not allowed to furnish FORM GSTR-1 (or IFF), if he has not furnished the return in FORM GSTR-3B for the preceding tax period.
 - c A registered person, who is restricted from using the amount available in electronic credit ledger to discharge his liability towards tax in excess of 99% of such tax liability, shall not be allowed to furnish FORM GSTR-1 (or IFF), if he has not furnished the return in FORM GSTR-3B for the preceding tax period.

Return of inward supplies (Form GSTR-2) – [Rule 60(1)] – presently deferred

- The details of outward supplies furnished in GSTR-1 or through IFF along with IGST on import of goods would be made available to the registered recipient in Form GSTR-2A.
- GSTR 2B i.e. auto-populated ITC statement is a static statement, and it can be accessed after the due date of furnishing the details of GSTR-1 and IFF Facility.

Monthly return (Form GSTR-3B) [Rule 61]

- Taxpayers are required to file return in Form GSTR-3B on a monthly basis.
- Every registered person (who has to file GSTR-1) is required to file GSTR-3B on or before the 20th of the succeeding month, containing the summary of inward supplies, outward supplies, net taxes payable and taxes paid.
- However, the government has provided certain relaxation in due-dates for small taxpayers who have opted for QRMP scheme, as below:

State	Due-date
Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, UTs of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep	22nd day of the succeeding month
Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, UTs of Jammu, Kashmir, Ladakh, Chandigarh or Delhi	24th day of the succeeding month

Returns for specific types of registered persons

Input service distributors [Rule 65]

- Tax period – monthly
- Due date – on or before 13th day of succeeding month
- Form – GSTR-6

Person opted for composition scheme [Rule 62]

- Tax period – quarterly
- Due date – within 18 days from the end of the quarter
- Form - statement in Form GST CMP-08
- Additionally, such taxpayer is required to file GSTR-4 on or before 30 April of the succeeding FY (annually)

Person required to deduct TDS (government and related departments/authorities) [Rule – 66(1)]

- Tax period – monthly
- Due date – 10th of the succeeding month
- Form – GSTR-7

Person required to collect TCS (electronic commerce operators) [Rule 67(1)]

- Tax period – monthly
- Due date – 10th of the succeeding month
- Form – GSTR-8

Person providing OIDAR services [Rule 64]

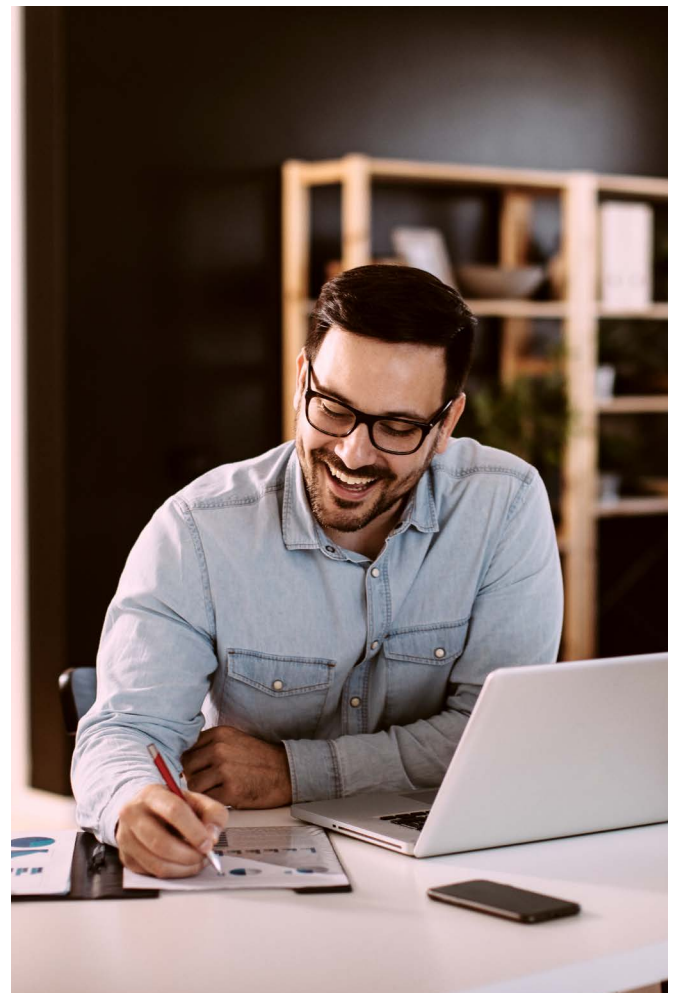
- Tax period – monthly
- Due date – on or before 20th of the succeeding month
- Form – GSTR-5A

Final return (Form GSTR-10) (Section 45)

Every registered person, whose registration has been cancelled, is required to file final return in Form GSTR-10, containing the details of tax payable/paid in respect of stock held by him and other related details. Such return is required to be filed within three months of the date of cancellation or date of order of cancellation, whichever is later.

Annual return (Form GSTR-9/Form GSTR-9A) (Section 44)

- Every registered person other than ISD, casual taxable person, non-resident, person liable to deduct tax at source, person liable to collect tax at source and person providing online information data access and retrieval services to non-taxable recipient shall furnish an annual return in FORM GSTR-9.
- However, taxpayers opting to pay tax under composition scheme are required to furnish annual return in FORM GSTR-9A.
- Due Date: On or before 31 December of the subsequent FY.



Notes

- **Auto generation of return in Form GSTR-3B from Form GSTR-1:** From 1 January 2021, the facility to auto-calculate liability from GSTR-1 shall be made available while filing GSTR-3B. Further, the facility will auto-populate the input tax credit (ITC) from suppliers' GSTR-1, through the newly developed facility in Form GSTR-2B, which shall be made available monthly to taxpayers for return filing.
- **Mandatory filing of return in Form GSTR-1 before Form GSTR-3B:** In order to ensure auto-population of ITC and auto-calculation of liability in GSTR-3B, Form GSTR-1 would mandatorily be required to be filed before filing of Form GSTR-3B from 1 April 2021.



Payments

Payment of tax – (Section 49)

- The amount deposited by registered person gets credited online to the electronic cash ledger of the registered person, under respective head.
- Similarly, any amount of ITC availed by the registered person gets credited to the electronic credit ledger under respective heads.
- Every registered person is required to make payment of his tax liabilities by debiting:
 - Electronic credit ledger, and/or;
 - Electronic cash ledger
- Every registered person is required to make payment of taxes on or before the last day on which periodical return (e.g. Form GSTR-3B in case of regular taxpayer) is required to be filed.
- Tax payment would deem to be made only when the amount of liability gets debited/set-off from the electronic cash ledger or electronic credit ledger of the taxpayer.

Interest on delayed payment of tax (Section 50)

- In case the registered person fails to make payment till due date of filing periodical return, it shall be required to pay interest in respect of its tax dues.
- Interest is required to be paid @ 18% on the portion of tax, which requires to be paid through debit of electronic cash ledger.
- However, even if the taxpayer has deposited the amount in electronic cash ledger, but has not debited the amount from its electronic cash ledger, it shall be deemed that no payment of taxes has been made.

Various forms in respect of payment of taxes

Sr. no.	Form no.	Title of the form
1	Form GST PMT-01	Electronic Liability Register of registered person (Part-I: Return related liabilities) Electronic Liability Register of taxable person (Part-II: Other than return related liabilities)
2	Form GST PMT-02	Electronic credit ledger of registered person
3	Form GST PMT-03	Order for re-credit of the amount to cash or credit ledger on rejection of refund claim
4	Form GST PMT-04	Application for intimation of discrepancy in electronic credit ledger/cash ledger/liability register
5	Form GST PMT-05	Electronic cash ledger
6	Form GST PMT-06	Challan for deposit of Goods and Services Tax
7	Form GST PMT-07	Application for intimating discrepancy relating to payment
8	Form GST PMT-09	Transfer of amount from one account head to another in electronic cash ledger



Chapter - 10

Simplified new returns

[Sec. No. 43A of CGST Act]

GST Council has decided to introduce the new return filling system from 1 October 2020 or the later date as notified. The proposed return formats are **FORM GST RET 1**, **FORM GST RET 2** and **FORM GST RET 3** along with its annexure in **FORM GST ANX-1** and **Form GST ANX 2**.

Key features/principles of new return system:

- Simplified returns procedure
- Amendment in returns would be possible
- Invoices can be uploaded anytime during the month i.e. 24*7 and buyer has the facility to view the uploaded invoices on continuous basis
- There is no requirement to upload the purchase invoices
- Reporting of six digit HSN for supplies to registered persons (B2B) by taxpayers having annual aggregate turnover more than INR 5 crore

Comparison of current return system vs new return system

Current system

GSTR-1 | Outward supplies

- To be filed by 11th of next month

GSTR-2 | Inward supplies

- To be filed by 15th of next month (Not operational)

GSTR-3/3B | Summary return

- To be filed by 20th of next month

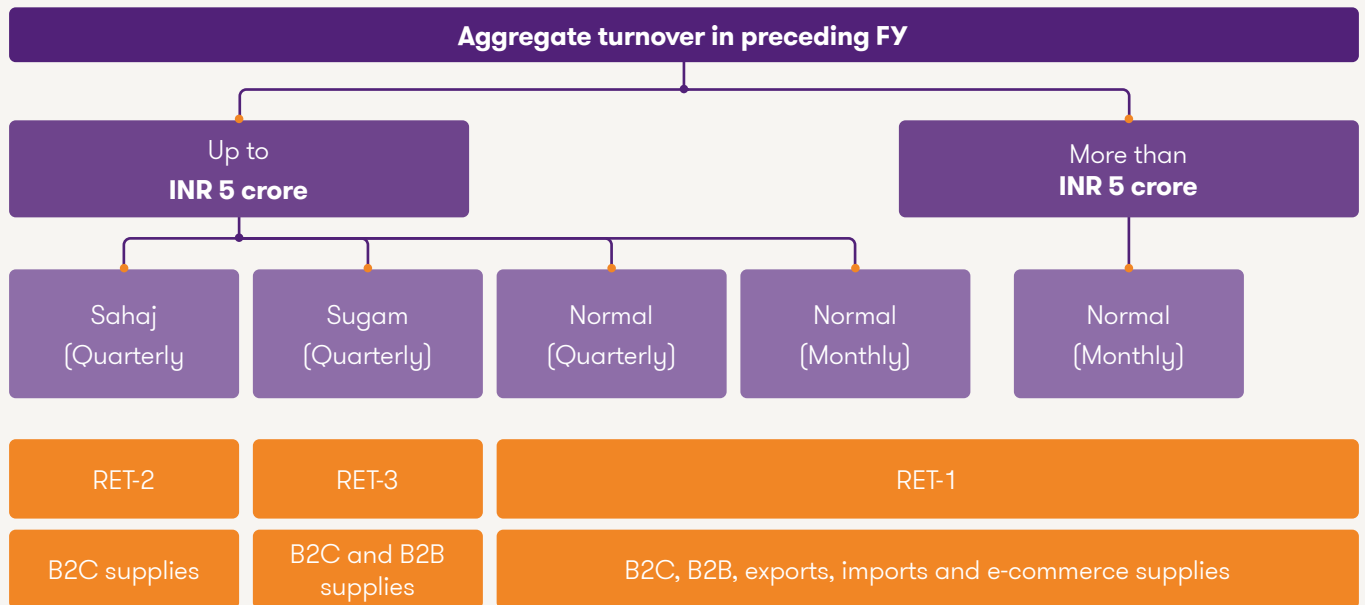
New return system

RET-1/2/3 | Normal/Sahaj/Sugam

- Form GST ANX-1: Outward supplies
- Form GST ANX-2: Inward supplies
- Monthly return : 20th of next month
- Quarterly return: 25th of month succeeding quarter

Quarterly return	Taxpayers having turnover not exceeding INR 1.5 crore in previous FY	Taxpayers having turnover not exceeding INR 5 crore in previous FY
ITC availment	Self-declaration basis in Form GSTR-3B	On the basis of the invoices uploaded by the supplier till 10th of next month
Tax payment	20th of next month	20th of next month

Applicability of GST returns



Requirements of new GST returns



Normal: RET-1

Monthly return to be filed by 20th of next month

Monthly tax payment- 20th of next month in FORM GST PMT-08

Outward supplies- B2B, B2C, exports, etc.

Inward supplies - RCM, imports, etc.

Declare supplies made through e-commerce operator

ITC can be availed on missing invoices



Sahaj: RET-2

Quarterly return to be filed on 25th of the month following the quarter

Monthly tax payment - 20th of next month in FORM GST PMT-08

Outward supplies - only B2C

Inward supplies - RCM

Cannot make supplies through e-commerce operator

No ITC on missing invoices



Sugam: RET-3

Quarterly return to be filed on 25th of the month following the quarter

Monthly tax payment - 20th of next month in FORM GST PMT-08

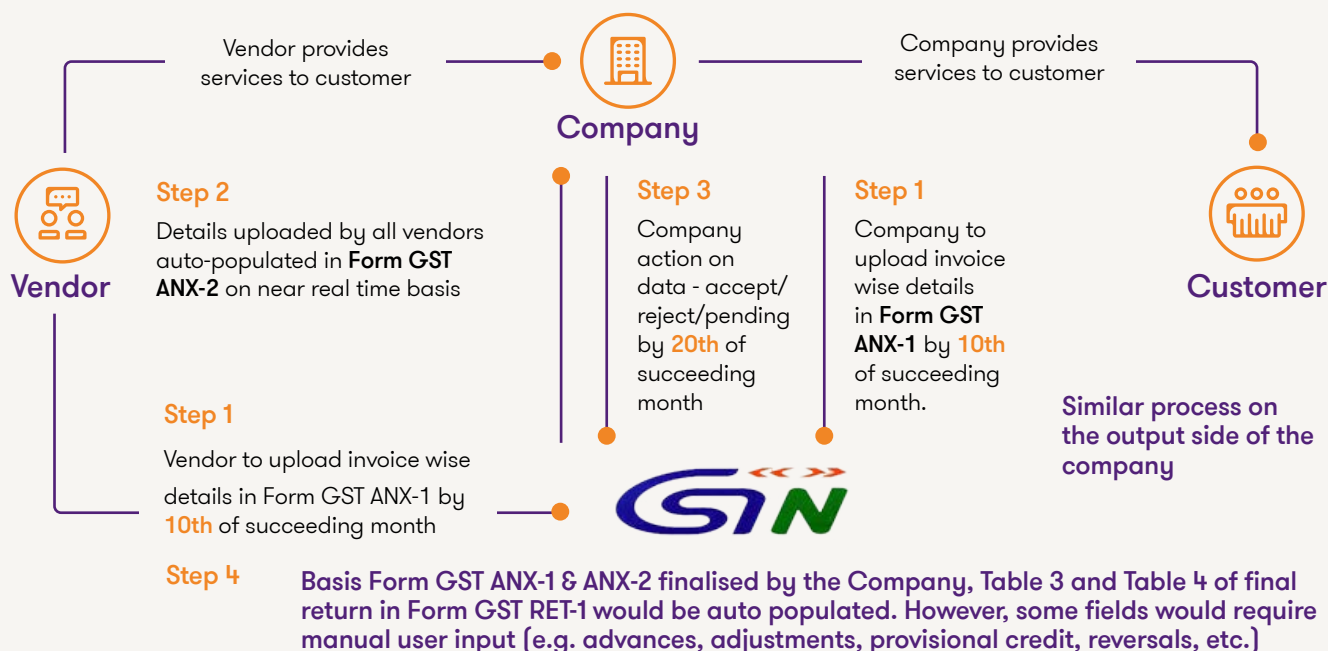
Outward supplies - B2C and B2B

Inward supplies - RCM

Cannot make supplies through e-commerce operator

No ITC on missing invoices

Process flow of new returns



Annexures to GST returns

Form GST ANX-1: Outward supplies and RCM

- Form GST ANX-1 is the annexure to the main returns – RET 1/2/3
- Reporting:
 - Details of all **taxable outward supplies** including exports, deemed exports, etc. would be reported including inward supplies liable to reverse charge mechanism (RCM) inclusive of import of services/goods
 - Details of RCM shall be reported GSTIN wise for each supplier or PAN wise in case GSTIN is not available. Supplies attracting reverse charge to be reported only by recipient and not by supplier
 - B2B details shall be reported transaction wise and B2C on summarised basis
- All the supplies for a month/quarter uploaded till 10th of the month following the month/quarter
- No invoice details can be uploaded between 18th to 20th of the month following tax period (monthly returns)/23rd to 25th of the month following tax period (quarterly returns)
- HSN details mandatory if aggregate turnover > INR 5 crore in relation to exports, imports and SEZ supplies (six digit for goods and six digit for services)
- Tax amount to be auto-computed and would not be editable
- ARN and date of filing would be auto-generated after filing of return
- Advances received on account of supply of services shall not be reported here but will be disclosed in RET-1
- Values to be reported up to two decimal places

- Proposed integration with ICEGATE for import of goods and SEZ imports
- Reference to original invoice in case of debit/credit notes not required (negative values also allowed in case of supplies reported net of debit/credit notes)

Form GST ANX-2: Auto populated inward supplies

- The details uploaded by the supplier is auto populated in the ANX-2 of the recipient
- The recipient has following options against the auto populated details:
 - Accept:** The recipient can accept the documents in ANX-2, if same is correct
 - Reject:** The recipient can reject the documents in ANX-2, if the same are incorrect
 - Pending:** The recipient can mark the documents in ANX-2 as pending, if details are not confirmed and action can be taken later on such pending documents
- If the recipient doesn't take any action on the documents, the same shall be deemed to be accepted and above actions can be taken after **10th of subsequent** month
- The accepted records cannot be amended by the supplier. Separate facility to handle such cases will be provided
- Documents with the rejected status will flow to supplier's GST ANX-1 after filing of return by recipient
- Trade name of the supplier will also be shown along with GSTIN. Legal name will be shown where trade name is not available



- ANX-2 will be deemed to be filed upon filing of main RET-1 return.
- Status of return filing (filed/not filed) by supplier will also be made known to the recipient in GST ANX-2 after due date of return filing is over.
- Documents uploaded by those suppliers who have not filed the return for two consecutive tax periods will also be shown in ANX-2, however, recipient will not be able to avail credit on the same. Recipient have to reject or keep such invoice pending till the supplier files return.

GST returns RET-1-normal return

- Data to be auto-populated from Form GST ANX-1 and Form GST ANX-2. Certain fields require user input such as transitional liabilities, advance adjustments, etc.
- ITC adjustments such as ineligible ITC, provisional credit, credit reversals, etc. at summary level.
- Non-GST supplies/no supply (Schedule III), exempt supply, nil-rated supply, outward supplies attracting reverse charge, supply by SEZ to DTA at summary level.
- Net ITC availed for input services and capital goods to be segregated.
- Eligible ITC not availed in earlier systems of return to be reported at summary level.
- Liabilities relating to the period prior to the introduction of current return filing system and any other liability (including excess tax collected from the recipient, if any) to be paid shall be reported.
- Advances received or adjusted shall be reported in RET-1.

Amendment in New GST returns

- There are two types of amendment in the new GST returns: Amendment to invoices in next month's ANX-1/RET-1 and amendment by filing amendment annexure in ANX-1A/RET-1A.
- Supplier side amendment is only possible.
- The amendment returns can be filed before the due date for furnishing of return for September following the end of FY or actual date of furnishing the annual return, whichever is earlier.
- B2B supplies can be amended by filling an amendment to the document in subsequent month's/quarter's ANX -1 and RET-1/2/3.
- For B2C supplies, amendment is required to be made through ANX-1A return. The ANX-1A would be deemed to be filed upon filing of RET-1A.
- In cases of amendments to details of nil rated, non-GST, exempt supplies, the amendment has to be made through form RET-1A.
- Where details have been captured in wrong table in any month, the same can be shifted to another without having any requirement for amendment.
- Amendment of documents relating to supplies made to persons other than persons filing return in Form GST RET -1/2/3 (for e.g. composition tax payers, ISD, UIN holders etc.) the documents relating to such supplies may be amended by the supplier at any time and the same shall not be dependent upon the action taken by the recipient.



Chapter - 11

Job work

[Section 19 & 143 of CGST Act, read with Rule 45 of CGST Rules]

Job work has been defined in GST laws to mean any treatment or process undertaken by a person on goods belonging to another registered person. The person undertaking such activity is called job worker, and the person for which such activity is being undertaken, is called principal.

A registered person (principal) may send any inputs or capital goods, without payment of tax, to a job worker for job work. However, the principal needs to ensure that such inputs or capital goods are brought back to the factory of principal or supplied from there directly within the prescribed period.

Goods	Time period	Extended period*
Inputs	Within one year of being sent out	One year
Capital goods (other than moulds and dies, jigs and fixtures, or tools)	Within three year of being sent out	Two year

*extended period may be allowed by the Commissioner upon providing sufficient reasons for the same

Supply of goods directly from the place of job worker [Section 143(1)]

Principal may supply such inputs or capital goods from the place of business of a job worker on payment of tax or without payment of tax for export. Principal shall declare such job worker's place as his additional place of business before supplying such goods except where the job worker is registered under section 25.

Supply of waste and scrap [Section 143 (5)]

Any waste and scrap generated during the job work can be supplied on payment of tax by the job worker directly from his place of business, if he is registered otherwise by principal.

ITC in respect of goods sent for job work [Section 19]

Principal shall be entitled to take ITC on the goods sent to the job worker, even if the goods are sent directly to the job worker without being first brought to the place of his business.

Consequences in case goods are not returned within specified period [Section 19]

Where the inputs or capital goods are not received by the principal or not supplied from there after completion of job work, within prescribed time period as mentioned above, it shall be deemed that such goods had been supplied by the principal to the job worker on the day when the said goods were sent out to the job worker and accordingly, principal shall be liable to pay tax along with applicable interest.

Procedure

- Principal shall supply the goods to the job worker under a challan. Even if goods are directly supplied to the job worker from the place of supplier of the principal, challan needs to be generated.
- In addition to this, E-way Bill is also required to be generated by the person causing movement of goods (principal or job worker as the case may be).
- Principal shall maintain proper records of inputs and capital goods sent for job work.
- Principal shall be required to furnish the details of goods sent to job worker and received back, in Form ITC-04 on quarterly basis. This form needs to be filed by 25th day of the month succeeding the said quarter.
- The time limit for furnishing Form ITC-04 in respect of goods dispatched to a job worker during the period 01 January 2021 to 31 March 2021 is extended upto 30 June 2021 vide notification* dated 01 June 2021.

*Notification No. 26/2021 Central Tax dated 01 June 2021



Chapter - 12

Export, imports and related procedure

[Section 147 of CGST Act and Section 16 of IGST Act]

Exports under GST laws

Meaning of export

Export of goods

- Export of goods with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India

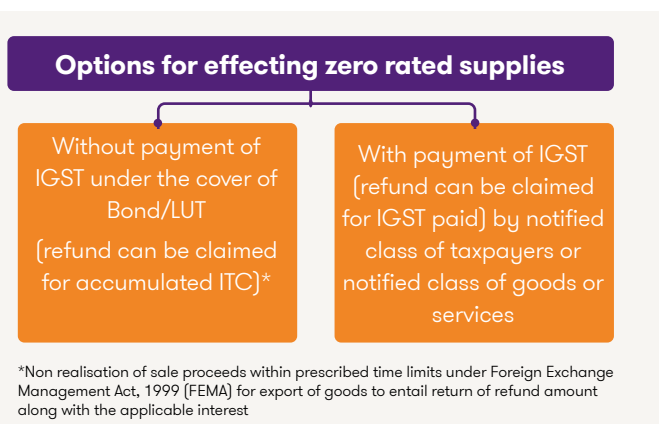
Export of services

- Export of services means the supply of any services subject to fulfilment of certain conditions. These conditions are given below:

Supplier of service	Located in India
Recipient of service	Located outside India
Place of supply of service	Outside India
Payment	In convertible foreign exchange (or in INR wherever permitted by RBI)
Supplier and recipient of services	Not merely establishment of a same legal entity

- Supply of goods or services or both for authorised operations to a SEZ unit or SEZ developer is treated as zero rated supplies under GST laws.

Options for effecting zero rated supplies [Section 16 (3)]



Letter of undertaking (LUT)

Furnishing of LUT in place of Bond

- All registered person under GST law shall furnish LUT in place of bond if: The said registered person has not been prosecuted for any offence under the CGST Act, 2017 or the IGST Act, 2017 or any of the existing laws in force in a case where the amount of tax evaded exceeds INR 250 lakh.

Validity of LUTs

- LUT shall be valid for whole FY in which it is tendered.

Withdrawal of LUT facility

- LUT facility shall be withdrawn if goods are not exported within three months or extended period as may be allowed by the commissioner and specified amount of tax due along with interest is not paid and such facility will be restored after payment of such tax and interest.
- Meanwhile, exports shall be either on payment of tax or under bond with bank guarantee.

Procedure for furnishing LUT

- The registered person (exporters) shall fill and submit the LUT on the common portal in FORM GST RFD-11 for a FY.
- LUT shall be executed by the working partner, the Managing Director or the Company Secretary or the proprietor or by a person duly authorised by such working partner or board of directors.
- An LUT shall be deemed to be accepted as soon as an acknowledgement for the same, bearing the Application Reference Number (ARN), is generated online.

Documents for LUT

- No document needs to be physically submitted to the jurisdictional office for acceptance of LUT.

Furnishing of bond

Applicability

- Every exporter opting to export goods or services without payment of IGST and who is not eligible to furnish LUT

Procedure

- A running bond shall be furnished on non-judicial stamp paper of the amount equals to self-assessed estimated tax liability on the export and in case amount is not sufficient, a fresh bond is required to furnish.
- Bond along with complete documents submitted by the exporter shall be accepted within a period of three working days from the date of submission.
- Bond in all cases shall be accompanied by a bank guarantee of the 15% of bond amount.

Deemed exports under GST (Section 147)

The notified goods would be deemed to be exported, if such goods are manufactured in India although they do not leave India and payments are received in Indian rupees or convertible foreign exchange.

The central government has notified the following supplies of goods as deemed exports: (Notification No. 48/2017 – Central Tax)

- Supply of goods by a registered person against advance authorisation;
- Supply of capital goods by a registered person against export promotion capital goods (EPCG) authorisation;
- Supply of goods by a registered person to export oriented unit (EOU)*;
- Supply of gold by a bank or public sector undertaking against advance authorisation;

Note

Deemed exports supplies cannot be made under Bond/LUT and tax to be paid at the time of supply. Further, refund of tax paid on such supplies can be claimed either by a recipient or a supplier.

Procedure of procurement of goods by EOU from the domestic tariff area (DTA)

- The recipient EOU/EHTP/STP/BTP unit shall give prior intimation in Form-A, having a serial number, containing the goods to be procured, as pre-approved by the development commissioner and the details of the supplier before such

deemed export supplies are made. The said intimation shall be given to:

- Registered supplier
 - Jurisdictional GST officer in charge of such registered supplier
 - EOU's jurisdictional GST officer
- The registered supplier thereafter will supply goods under tax invoice to the recipient EOU /EHTP/STP/BTP unit.
 - On receipt of such supplies, the EOU/EHTP/STP/BTP unit shall endorse the tax invoice and send a copy of the endorsed tax invoice to:
 - Registered supplier
 - Jurisdictional GST officer in charge of such registered supplier
 - EOU's jurisdictional GST officer
 - The endorsed tax invoice will be considered as proof of deemed export supplies by the registered person to EOU/ EHTP/STP/BTP unit

Maintenance of records by the recipient

- The recipient EOU/EHTP/STP/BTP unit shall maintain records of such deemed export supplies in digital form, in **Form-B**.
- The feature of audit trail shall be available in the software for maintenance of digital records. The recipient units will be free to add or continue with any additional data fields, as per their commercial requirements.
- All recipient units are required to enter data upon the goods being received in, utilised by or removed from the said unit.
- The digital records should be kept updated, accurate, complete and available at the said unit at all times for verification by proper officer, whenever required.
- A digital copy of Form-B containing transactions for the month, shall be provided to the jurisdictional GST officer, by the 10th of each month in a CD or pen drive.



*EOU means an electronic hardware technology park unit (EHTP) or software technology park unit (STP) or bio-technology park unit (BTP) approved in the Foreign Trade Policy 2015-20.



Supply to merchant exporter under GST Law

[Notification No. 40/2017 – Central Tax (Rate)]

Reduce rate of the IGST @ 0.1% would be applicable for the inter-state supply of taxable goods by a registered person to the registered recipient for export (merchant exporter) subject to fulfillment of prescribed conditions

Key points for consideration

- Merchant exporter must be registered with an export promotion council or a commodity board recognised by the Department of Commerce
- Goods must be exported by such merchant exporter within a period of 90 days from the date of issue of tax invoice by the supplier of goods otherwise benefit of reduce rate would not be available to the supplier
- Merchant exporter shall indicate the GSTIN of the supplier and tax invoice number issued by the supplier in the shipping bill/bill of export
- After export, merchant exporter shall provide the copy of shipping bill, tax invoice raised by the supplier and export report to the supplier and the jurisdictional tax officer of the supplier

Imports under GST laws

IGST and compensation cess (as applicable) would be levied on import at notified rates in the schedule. Few commodities such as pan masala, specified petroleum products etc. would attract levy of CVD and SAD (as applicable)

Valuation of goods for the levy of IGST and cess (if applicable)

A	Assessable value under customs(A)
B	Basic custom duty (X% of A)
C	Social welfare surcharge(10 % of B)
D	Total (A+B+C) = Value for levy of IGST and cess
E	IGST (Y% of D)
F	Cess (if applicable) (Z% of D)

Imports under export promotion schemes

- Custom duty is exempted on imports made under export promotion schemes, such as EPCG, advance authorisation, EOU schemes
- IGST and compensation cess shall also be exempted on imports made under such schemes upto 31 March 2022

Note

EXIM Scrips can be utilised for payment of BCD only. The Scrips cannot be utilised for payment of integrated tax and compensation cess.



Refund and related provisions

[Section 54-58 of CGST Act read with rule 89-97 of CGST Rules]

Mechanism for timely release of the refunds is essential in any tax administration because it facilitates trade through the release of blocked funds for working capital, expansion and modernisation of existing business. Under the GST regime, there is a standardised form for making any claim for refunds and the claim and sanctioning procedure is completely online and time bound.

Refund can become due to an applicant on account of number of reasons, some of which are enumerated as under:

- i Refund of unutilised ITC on account of exports without payment of tax
- ii Refund of tax paid on export of goods or services with payment of tax
- iii Refund of unutilised ITC on account of supplies made to SEZ unit/SEZ developer without payment of tax
- iv Refund of tax paid on supplies made to SEZ unit/SEZ developer with payment of tax
- v Refund of unutilised ITC on account of accumulation due to inverted duty structure
- vi Refund to supplier of tax paid on deemed export supplies
- vii Refund to recipient of tax paid on deemed export supplies
- viii Refund of excess balance in the electronic cash ledger
- ix Refund of excess payment of tax
- x Refund of tax paid on intra-state supply, which is subsequently held to be inter-state supply and vice versa
- xi Refund on account of assessment/provisional assessment/appeal/any other order
- xii Refund on account of issuance of refund vouchers for taxes paid on advances against which goods or services have not been supplied
- xiii Refund on 'any other' ground or reason

Filing of refund application in Form GST RFD-01

- i An application is to be filed in Form GST RFD-01 on the common portal before the expiry of two years from the relevant date. However, the time period from the date of filing of the refund claim, in FORM GST RFD-01 till the date of communication of the deficiencies in FORM GST RFD-03 by the proper officer, shall be excluded from the period of two years, in respect of any such fresh refund claim filed by the applicant after rectification of the deficiencies.

In the case of export of goods:

- i if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India; or
- ii if the goods are exported by land, the date on which such goods pass the custom frontier; or
- iii if the goods are exported by post, the date of dispatch of goods by the post office concerned to a place outside India.

In case of export of services, the date of:

- i receipt of payment in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India, where the supply of services had been completed prior to the receipt of such payment; or
 - ii issue of invoice, where payment for the services had been received in advance prior to the date of issue of the invoice.
- In the case of refund of unutilised ITC where credit has accumulated on account of inverted duty structure (Tax rate on inputs is higher than tax on output supplies) (other than nil rated or fully exempt supplies), the due date for furnishing of return under Section 39 for the period in which such claim for refund arises.
 - In the case of supply of goods regarded as deemed exports, the date on which the return relating to such deemed exports is furnished.
 - In case where the tax becomes refundable as a consequence of judgment, decree, order or direction of prescribed authority or court, the date of communication of such judgment, decree, order or direction.
 - In the case where tax is paid provisionally under this Act or the rules made thereunder, the date of adjustment of tax after the final assessment thereof.

- In the case of a person, other than the supplier, the date of receipt of goods or services or both by such person.
- In any other case, the date of payment of tax:
 - i The application is to be accompanied by statements/declarations/undertakings, which are part of FORM GST RFD-01, other documents/invoices, which shall be required to be provided by the applicant for processing of the refund claim.
 - ii A comprehensive list of such documents is provided in Annexure-A (given below) and it is clarified that no other document needs to be provided by the applicant at the stage of filing of the refund application.
 - iii The Application Reference Number (ARN) will be generated after the applicant has completed the process of filing the refund application in FORM GST RFD-01, and has completed uploading of all the supporting documents/undertaking/statements/invoices.
 - iv Acknowledgement will be available in Form GST RFD – 02, subject to scrutiny of application by proper officer, within 15 days of generation of the ARN.
 - v Deficiency (if any) in the said application will be communicated in Form GST RFD – 03 within a period of 15 days starting from the date of generation of ARN. It is to be highlighted that the deficiency memo shall not be issued merely on the ground that the applications were received electronically in the wrong jurisdiction.
 - vi After issuance of the deficiency memo, the refund application would not be further processed and a fresh application would have to be filed.
 - vii Any refund application filed in FORM GST RFD-01 can be withdrawn by filing an application in FORM GST RFD-01W at any time before the issuance of provisional/final refund sanction order or payment order, or refund withhold order or notice in FORM GST-08. On submission of application for withdrawal of refund, any amount debited by the applicant from electronic credit ledger or electronic cash ledger, as the case may be, while filing application for refund in FORM GST RFD-01, shall be credited back to the ledger from which such debit was made.

No application is required to be filed in case of export of goods with payment of tax

- i In case of export of goods with payment of tax, the shipping bill filed by the exporter of goods shall be deemed to be an application for such claim of refund
- ii Such application shall be deemed to have been filed only when person in charge of the conveyance carrying the export goods duly files a departure manifest or an export manifest or an export report covering the number and the date of shipping bills or bill of export and the applicant has furnished return in Form GSTR-3 or FORM GSTR-3B
- iii Upon electronic transmission of the details of the relevant export invoices in respect of export of goods contained in Form GSTR-1 to the custom system, the said system shall transmit back a confirmation that the goods covered in invoices have been exported out of India

Note

Where the date of furnishing of GSTR-1 has been extended then details shall be furnished in Table 6A of GSTR-1.

- iv After receipt of information furnished in FORM GSTR-3 or FORM GSTR-3B, the custom system will process the claim for refund and refund shall be electronically credited to the bank account of the applicant.

Discussion on relevant points

Two options provided to exporters to claim refund on account of zero rated supplies.

Option I

An exporter may supply goods or services or both under a bond or letter of undertaking, without payment of IGST and claim refund of unutilised ITC

Amount of refund would be computed as under [Rule 89(4)]

$$\text{Refund amount} = \frac{\text{turnover of zero-rated supply of goods and services} * \text{net ITC}}{\text{adjusted total turnover}}$$

Where

- Refund amount means the maximum refund that is admissible;
- Net ITC means input tax credit availed on inputs and input services during the relevant period other than ITC availed for which refund is claimed under Rule 89 (4A) and (4B) or both; i.e., refund related to deemed exports, inward supplies of merchant exporters and EOU
- Turnover of zero-rated supply of goods means the value of such supplies made during the relevant period without payment of tax under bond or letter of undertaking or **the value which is 1.5 times the value of like goods** domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less, other than the turnover of supplies in respect of which refund is claimed under Rule 89 (4A) or (4B) or both;
- Turnover of zero-rated supply of services means the value of such supplies made without payment of tax under bond or LUT calculated in the following manner:
- Aggregate of the payments received during the relevant period for zero-rated supply of services and zero-rated supply of services where supply has been completed for which payment had been received in advance in any period prior to the relevant period reduced by advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period
- Adjusted total turnover means the sum total of the value of
 - turnover in a state or a UT, as defined under clause (112) of Section 2, excluding the turnover of services; and

- the turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services, excluding
- value of exempt supplies other than zero-rated supplies; and
- turnover of supplies in respect of which refund is claimed under sub-rule (4A) or sub-rule (4B) or both, if any, during the relevant period.*

- Relevant period means the period for which the claim has been filed.

Option II

An exporter may supply goods, services, or both on payment of IGST and claim refund of such tax paid.

Refund on account of inverted duty structure [Rule 89(5)]

Amount of refund would be computed as under

Maximum refund amount = (turnover of inverted rated supply of goods and services * net ITC/adjusted total turnover) – tax payable on inverted rated supply of goods and services.

Where

- Net ITC means input tax credit availed on inputs during the relevant period other than ITC availed for which refund is claimed under Rule 89 (4A) and (4B) or both
- Adjusted total turnover relevant period shall have the same meaning as defined above in point no. 1

Change in manner of refund of tax paid on supplies other than zero rated supplies

Refund of tax paid on supplies (other than zero rated supplies) will now be admissible proportionately in the respective original mode of payment i.e., where tax is paid by debiting both electronic cash and credit ledgers (other than the refund of tax paid on zero-rated supplies or deemed export).

- Refund to be paid in cash and credit shall be calculated in the same proportion in which the cash and credit ledger has been debited for discharging the total tax liability in the period in which refund application has been filed.
- Such amount, shall accordingly be paid by issuance of order
 - **Form GST RFD-06** for amount refundable in cash and
 - **Form GST PMT-03** to credit the amount in the electronic credit ledger.

Bunching of refund claims across FYs

The applicant, at his option, may file a refund claim for a tax period or by clubbing of tax periods across different FYs.

Refund of accumulated ITC on account of reduction in GST Rate

Refund of unutilised ITC shall be available only where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies*.

It has been clarified that refund of accumulated ITC under the aforesaid provisions would not be applicable in cases where the input and output supplies are the same, though attracting different tax rates at different points in time.

Interest on refund

If the amount of tax is not refunded within 60 days from the date of receipt of application, interest shall be payable at the rate of 6% from the date immediately after the expiry of 60 days from the date of receipt of application till the date of refund of such tax.

Provided, if refund claim arises from an order passed by an adjudicating authority or appellate authority or court which has attained finality then interest shall be payable @ 9%.



* clause (ii) of sub - Section (3) of Section 54 of CGST Act

Annexure A

Sr. no.	Type of refund	Declaration/statement/undertaking/certificates to be filled online	Supporting documents to be additionally uploaded
1	Refund of unutilised ITC on account of exports without payment of tax*	<ul style="list-style-type: none"> Declaration under second and third proviso to Section 54(3) Undertaking in relation to sections 16(2)(c) and Section 42(2) Statement 3 under rule 89(2) (b) and rule 89(2)(c) Statement 3A under rule 89(4) 	<ul style="list-style-type: none"> Copy of GSTR-2A of the relevant period Statement of invoices (Annexure-B) BRC/FIRC in case of export of services and shipping bill [only in case of exports made through non-EDI ports] in case of goods
2	Refund of tax paid on export of services made with payment of tax	<ul style="list-style-type: none"> Declaration under second and third proviso to Section 54(3) Undertaking in relation to sections 16(2)(c) and Section 42(2) Statement 2 under rule 89(2)(c) 	<ul style="list-style-type: none"> BRC/FIRC/any other document indicating the receipt of sale proceeds of services Copy of GSTR-2A of the relevant period Statement of invoices (Annexure-B) Self-certified copies of invoices entered in Annexure-A whose details are not found in GSTR-2A of the relevant period Self-declaration regarding non-prosecution under subrule (1) of rule 91 of the CGST Rules for availing provisional refund
3	Refund of unutilised ITC on account of Supplies made to SEZ units/developer without payment of tax*	<ul style="list-style-type: none"> Declaration under third proviso to section 54(3) Statement 5 under rule 89(2) (d) and rule 89(2)(e) Statement 5A under rule 89(4) Declaration under rule 89(2)(f) Undertaking in relation to Sections 16(2)(c) and Section 42(2) Self-declaration under rule 89(2)(l) if amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) otherwise 	<ul style="list-style-type: none"> Copy of GSTR-2A of the relevant period Statement of invoices (Annexure-B) Endorsement(s) from the specified officer of the SEZ regarding receipt of goods/services for authorized operations under second proviso to rule 89(1)
4	Refund of tax paid on supplies made to SEZ units/developer with payment of tax	<ul style="list-style-type: none"> Declaration under second and third proviso to Section 54(3) Declaration under rule 89(2)(f) Statement 4 under rule 89(2) (d) and rule 89(2)(e) Undertaking in relation to Sections 16(2)(c) and Section 42(2) Self-declaration under rule 89(2)(l) if amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) otherwise 	<ul style="list-style-type: none"> Endorsement(s) from the specified officer of the SEZ regarding receipt of goods/services for authorized operations under second proviso to rule 89(1) Self-certified copies of invoices entered in Annexure-A whose details are not found in GSTR-2A of the relevant period Self-declaration regarding non-prosecution under sub-rule (1) of rule 91 of the CGST Rules for availing provisional refund
5	Refund of ITC unutilised on account of accumulation due to inverted tax structure*	<ul style="list-style-type: none"> Declaration under second and third proviso to Section 54(3) Declaration under Section 54(3)(ii) Undertaking in relation to Sections 16(2)(c) and Section 42(2) Statement 1 under rule 89(5) Statement 1A under rule 89(2)(h) Self-declaration under rule 89(2)(l) if amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) otherwise 	<ul style="list-style-type: none"> Copy of GSTR-2A of the relevant period Statement of invoices (Annexure-B)

* In case of refund of unutilised ITC, refund shall not be granted in respect of invoices, which are not appearing in Form GSTR-2A. However, this restriction will not apply in case of supplies covered under RCM, ISD and imports

Sr. No.	Type of refund	Declaration/statement/undertaking/ certificates to be filled online	Supporting documents to be additionally uploaded
6	Refund to supplier of tax paid on deemed export supplies	<ul style="list-style-type: none"> Statement 5(B) under rule 89(2)(g) Declaration under rule 89(2)(g) Undertaking in relation to sections 16(2)(c) and Section 42(2) Self-declaration under rule 89(2)(l) if amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) otherwise 	<ul style="list-style-type: none"> Documents required under Notification No. 49/2017-Central Tax dated 18.10.2017 and Circular No. 14/14/2017-GST dated 06.11.2017
7	Refund to recipient of tax paid on deemed export supplies	<ul style="list-style-type: none"> Statement 5(B) under rule 89(2)(g) Declaration under rule 89(2)(g) Undertaking in relation to Sections 16(2)(c) and Section 42(2) Self-declaration under rule 89(2)(l) if amount claimed does not exceed INR 2 lakh, certification under rule 89(2)(m) otherwise 	<ul style="list-style-type: none"> Documents required under Circular No. 14/14/2017-GST dated 06.11.2017
8	Refund of excess payment of tax	<ul style="list-style-type: none"> Statement 7 under rule 89(2)(k) Undertaking in relation to sections 16(2)(c) and Section 42(2) Self-declaration under rule 89(2)(l) if amount claimed does not exceed INR 2 lakh, certification under rule 89(2)(m) otherwise 	
9	Refund of tax paid on intra-state supply which is subsequently held to be an inter-state supply and vice versa	<ul style="list-style-type: none"> Statement 6 under rule 89(2)(j) Undertaking in relation to Sections 16(2)(c) and Section 42(2) 	
10	Refund on account of assessment/provisional assessment/appeal/any other order	<ul style="list-style-type: none"> Undertaking in relation to Sections 16(2)(c) and Section 42(2) Self-declaration under rule 89(2)(l) if amount claimed does not exceed INR 2 lakh, certification under rule 89(2)(m) otherwise 	<ul style="list-style-type: none"> Reference number of the order and a copy of the assessment/provisional assessment/appeal/any other order Reference number/proof of payment of pre-deposit made earlier for which refund is being claimed
11	Refund on account of any other ground or reason	<ul style="list-style-type: none"> Undertaking in relation to Sections 16(2)(c) and Section 42(2) Self-declaration under rule 89(2)(l) if amount claimed does not exceed INR 2 lakh, certification under rule 89(2)(m) otherwise 	<ul style="list-style-type: none"> Documents in support of the claim



Chapter - 14

E-way Bill

[Sec No. 68 of CGST Act, read with rule 138, 138A, 138B, 138C, 138D of CGST Rules]

Information to be furnished prior to commencement of movement of goods and generation of E-way Bill (Rule 138)

Every registered person causing movement of goods of value more than INR 50,000

- i In relation to a supply or
- ii For reasons other than supply or
- iii Due to inward supply from an unregistered person shall before such movement fill **Part A of FORM GST EWB-01**, electronically, on the common portal.

The transporter on an authorisation received from the registered person, may furnish information in Part A of FORM GST EWB-01, electronically, on the common portal and a unique number will be generated on the said portal.

In case, where the goods to be transported are supplied through an e-commerce operator or a courier agency, on an authorisation received from the consignor, the information in Part A of FORM GST EWB-01 may be furnished by such e-commerce operator or courier agency and a unique number will be generated on the said portal.

Where the goods are sent by a principal located in one state to a job worker located in another state, the E-way Bills shall be generated by the principal or registered job worker, irrespective of the value of consignment.

Example

Location of principal	Location of job worker	Value of consignment	Applicability of E-way Bill
Delhi	Delhi	More Than 50,000	Yes
Delhi	Delhi	Less Than 50,000	No
Delhi	Punjab	More Than 50,000	Yes
Delhi	Punjab	Less Than 50,000	Yes

In case, handicraft goods are transported from one state to another by a person who has been exempted from the requirement of obtaining registration, the E-way Bill shall be generated by the said person irrespective of the value of the consignment. (Such persons shall be required to obtain a PAN for generating E-way Bill).

The consignment value of goods shall be the value as determined as per Section 15, declared in an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment and also includes the Central Tax, State or UT Tax, integrated tax and cess charged, if any, in the document.

Particulars	Amount
Value as per Section 15 (declared in an invoice/bill of supply/delivery Challan)	[...]
Add: CGST, SGST, UTGST IGST and cess charged (if any)	[...]
Less: Value of exempt supply of goods (If included in value)	[...]
Value of consignment	[...]

Where the registered person transports goods as consignor/ consignee in his own conveyance or hired one or by railways or air or vessel, registered person shall fill **Part A and B of FORM GST EWB-01** and generate e-way bill.

In case, the goods are transported by railways or by air or

vessel, the information in Part B of FORM GST EWB-01 can be filed even after the commencement of movement.

Where the goods are transported by railways, the railways shall not deliver the goods unless the E-way Bill is produced at the time of delivery.

FORM GST EWB-01				
Transporter	Mode of transportation	Part A	Part B	Generator
Supplier/Recipient	Own conveyance/ hired one/public conveyance, by road	Who moves the goods i.e., supplier/recipient	Who moves the goods i.e. supplier/recipient	Who moves the goods i.e. supplier/ recipient
Transporter	By road	Who moves the goods i.e. supplier/recipient	Who moves the goods i.e. supplier/recipient	Transporter

Where the goods are not transported by registered person and the goods are handed over to the transporter for transportation by road, then registered person shall furnish details in **Part A and Part B of FORM GST EWB-01** and transporter shall generate the E-way Bill.

The registered person or, as the case may be, the transporter may, at his option, generate and carry the e-way bill even if the value of the consignment is less than INR 50,000.

Part B is not required to be filled if goods are transported for less than 50 km (in the same state or UT) from place of business of consignor to place of business of transporter for further transportation.

If the goods are supplied by unregistered person to the registered person and such registered person is known at the time of commencement of movement of goods then it shall be deemed that goods are moved by such registered person.

The **E-way Bill** shall **not** be **valid** for movement of goods by road **unless the information in Part-B of FORM GST EWB-01 has been furnished** except in the case where part B is not required to be filled.

Upon generation of E-way Bill, a unique E-way Bill number (**EBN**) shall be generated and made available to supplier, recipient and transporter.

If conveyance is changed in transit, then consignor or the recipient or the transporter shall update details of conveyance in Part B of Form **GST EWB-01**.

However, if goods are transported for less than 50 km from place of business of transporter to place of consignee then updation of details is not required.

The consignor or the recipient, who has furnished information in Part-A of FORM GST EWB-01, or the transporter, **may assign** the EBN to another registered or enrolled transporter **for updating the information in Part-B of FORM GST EWB-01** for further movement of consignment:

Once the details of the conveyance have been updated by the transporter in Part B of FORM GST EWB-01, the consignor or recipient, as the case maybe, who has furnished the information in Part-A of FORM GST EWB-01 shall not be allowed to assign the EBN to another transporter.

If multiple consignments are to be transported in a single conveyance, then the transporter may generate a consolidated E-way bill in **FORM GST EWB-02**.

In case E-way Bill is not generated by the consignor or consignee and aggregate consignment value of goods is more than INR 50,000 then transporter except in case of transportation of goods by railways, air and vessel shall generate e-way bill, in respect of inter-state supply on the basis of details available with him and may also generate a consolidated E-way Bill in FORM GST EWB-02.

(This provision is yet to be notified)

Where the goods to be transported are **supplied through an e-commerce operator or a courier agency**, the information in Part A of FORM GST EWB-01 may be furnished by such e-commerce operator.

The information furnished by registered person in Part A can be utilised while furnishing **FORM GSTR-1**.

E-way Bill can be cancelled within of 24 hours of generation. If E-way Bill is verified in transit once then it can't be cancelled.



Validation period of E-way Bill is as follows:

Sr. no.	Distance	Case	Validity period*
1	Up to 200 km	Other than over dimensional cargo** or multimodal shipment in which at least one leg involves transport by ship	1 day
2	For every 200 km or part thereof thereafter	Other than over dimensional cargo or multimodal shipment in which at least one leg involves transport by ship	1 additional day
3	Up to 20 km	Over dimensional cargo or multimodal shipment in which at least one leg involves transport by ship	1 day
4	For every 20 km or part thereof thereafter	Over dimensional cargo or multimodal shipment in which at least one leg involves transport by ship	1 additional day

Example 1: If an E-way Bill is generated on 15 March 2020 at 2:45 p.m. and goods are to be transported for a distance of 200 km then E-way Bill will expire on the midnight of 16 March 2020 i.e., it will be valid till 12:00 midnight of 16 March 2020.

Example 2: If an E-way Bill is generated on 16 March 2020 at 1:20 a.m. and goods are to be transported for a distance of 370 km then E-way Bill will expire on midnight of 18 March 2020 i.e., it will be valid till 12:00 midnight of 18 March 2020.

Point to be noted

* Under exceptional circumstances validity of E-way Bill may be extended within eight hours from the time of its expiry by updating details in Part-B.

**Over dimensional cargo means a cargo carried as a single indivisible unit and which exceeds the dimensional limits prescribed in rule 93 of the Central Motor Vehicle Rules, 1989, of the Motor Vehicles Act, 1988.

E-way Bill shall be made available to registered recipient, who shall communicate his acceptance or rejection of consignment within 72 hours.

If acceptance or rejection is not given within 72 hours then it shall be deemed that he has accepted.

E-way Bill generated under this rule or rule 138 of GST rules of any state shall be valid in every state and UT.

E-way Bill is not required in the following cases:

- Goods specified in annexure under Rule 138 such as LPG for household use, jewellery, used personal and household effects etc.
- Where the goods are being transported by a non-motorised conveyance.
- Where the goods are being transported from the customs stations to inland container depot (ICD) or container freight station (CFS) for clearance by customs or vice versa.
- Where the goods are being transported from one custom station/port to another custom station/port.
- Where the exempted goods [Notification No. 2/2017-Central Tax (Rate)], other than de-oiled cake, being transported.
- Goods supplied to CSD canteens and goods supplied further to the customers by such canteens
- Transportation of alcoholic liquor for human consumption, petroleum crude, high-speed diesel, motor spirit (commonly known as petrol), natural gas or aviation turbine fuel.

- Where the supply of goods being transported is treated as no supply under Schedule III of the Act.
- Where the goods being transported are transit cargo from or to Nepal or Bhutan.
- Any movement of goods caused by defence formation under Ministry of Defence as a consignor or consignee.
- Where the consignor of goods is the central government, government of any state or a local authority for transport of goods by rail.
- Where empty cargo containers are being transported.
- Where the goods are being transported up to a distance of 20 kms from the place of the business of the consignor to a weighbridge for weighment or from the weighbridge back to the place of the business of the said consignor subject to the condition that the movement of goods is accompanied by a delivery challan.
- Where empty cylinders for packing of liquefied petroleum gas are being moved for reasons other than supply.

Documents and devices to be carried by a person-in-charge of a conveyance (Rule 138A)

- Person in charge shall carry
 - a The invoice or bill of supply or delivery challan; and
 - b A copy of the E-way Bill or the EBN, either physically or mapped to a **RFID**
 - c Copy of bill of entry filed by the importer in case of imported goods. Date and number of bill of entry shall be indicated in **Part A of FORM GST EWB-01**.
- In case of e-invoice, the Quick Response (QR) code, having an embedded Invoice Reference Number (IRN) in it, may be produced electronically for verification by the proper officer in lieu of the physical copy of such tax invoice.
- Information filed in **FORM GST INV-1** will be auto populated by common portal in **Part A of FORM GST EWB-01**.
- The commission may notify class of transporters to obtain a unique **radio frequency information device (RFID)**.
- However, commissioner may, by notification, require the person-in-charge of the conveyance to carry the following documents instead of the E-way Bill-
 - d Tax invoice or bill of supply or bill of entry; or
 - e A delivery challan

Verification of documents and conveyances (Rule 138B)

- The proper officer (authorised by commissioner) may verify the E-way Bill or the EBN number in physical form for all interstate and intra-state movement of goods. Once verified it will not be verified again.
- The commissioner shall verify through RFID where RFID is available.
- Physical verification of conveyance shall be carried out by proper officer authorised by commissioner.

Inspection and verification of goods (Rule 138C)

- A summary report of every inspection of goods in transit shall be filed by proper officer in **Part A of FORM GST EWB-03** within 24 hours and final report in Part B of FORM GST EWB-03 within three days.
- If physical verification has been done at one place, no further verification will be done unless information relating to evasion of tax is made available subsequently.

Facility for uploading information regarding detention of vehicle (Rule 138D)

- Where a vehicle has been intercepted and detained for a period exceeding 30 minutes, the transporter may upload the said information in **FORM GST EWB-04** on the common portal.

Restriction on furnishing information in PART A of FORM GST EWB-01 (Rule 138E)

- Restriction from generation of information has been imposed in the following scenarios:
 - a Register person has not filed GST returns for the last tax periods or
 - b Composition dealer has not filed GST returns for the last two quarters
 - c Registered person whose registration has been suspended in terms of Rule 21A

Procedure to furnish the information

For furnishing the information in the format i.e., E-way Bill, the procedure to be followed is

- Every such person shall login the common portal (www.ewaybillgst.gov.in).
- On the E-way Bill portal, a first time GSTIN can register by clicking on the E-way Bill Registration link. Then the user will be redirected to the Form.
- The user can enter his/her GSTIN number and shall 'click Go' to submit the request. Once the request is submitted the user will be redirected to the following page.
- In the form, applicant name, trade name, address and mobile number are auto populated. User can click on 'Send OTP' to get the OTP on the registered mobile. Once OTP is received on the registered mobile number, user can enter the OTP and verify the same in the system. After that he/she has to click on 'Verify OTP' to verify the same and validate.
- Next, the user can provide his choice of User ID or username, which he/she plans to use to operate his account on this system. Username should be about eight to 15 alphanumeric characters and can include special characters. A unique username should be given by the user, which is not there in the system.
- Once a request for registration is submitted, the system validates the entered values and pops up the appropriate message if there is any error. Otherwise, the username with password is created and registered with E-Way Bill system. The taxpayer can use this registered username and password to work on the system.



Chapter - 15

Consequences of non-compliance under GST

[Sec No. 47, 122-138 of CGST Act, read with rule 162 of CGST Rules]

Fine/
penalty



Late fees/
interest



Confiscation



Imprisonment



Late fee (Section 47)

Offence	Late fee
A person who fails to furnish details of outward or inward supplies, monthly return or final return by the due date	INR 100 for every day during which the failure continues, subject to a maximum of INR 5,000
A person who fails to furnish the annual return by the due date	INR 100 for every day during which the failure continues, subject to a maximum of 0.25% of the person's turnover in the state or UT

Note

- The central government, on the recommendation of the Council, temporarily reduced the amount of late fee payable by any registered person for failure to furnish the return in Form **GSTR-1, GSTR-3B, GSTR-4, GSTR-5, GSTR-5A, GSTR-6** by the due date.

As per relevant notifications, the revised amount of late fee payable is mentioned as under –

- Late fees of INR 25 for every day during which such failure continues.
 - In case, where the total amount of tax payable in the return is nil, late fees of INR 10 for every day during which such failure continues.
- The central government has provided certain conditional relaxations from the amount of late fee payable for the period from July 2017 to May 2021 due to the COVID-19 pandemic.

Interest (Section 50 and Rule 37)

Offence	Interest
A person liable to pay tax fails to pay the tax	Interest at 18% on the tax due will be calculated from the day succeeding day on which the tax was due to be paid
A person makes an undue or excess claim of input tax credit or undue or excess reduction in output tax liability	Interest at 24% on the undue or excess claim or undue or excess reduction
A recipient of a service fails to pay to the supplier of the service the amount towards the value of the service, along with tax payable thereon, within 180 days from the date of issue of invoice by the supplier	Interest on the amount due will be added to the recipient's liability at 18%

Note

- The central government has provided certain relaxations for the tax periods from March 2021 to May 2021 due to the COVID-19 pandemic.

Cancellation of registration (Section 29)

The circumstances under which a person's registration will be cancelled are:

- A regular dealer has not furnished returns for **a continuous period** of six months.
- A composition dealer has not furnished returns for three quarters.
- A person who has taken voluntary registration has not commenced business within six months from the date of registration.
- Registration has been obtained by fraud, willful misstatement or suppression of fact.

Note

- The proper officer shall not cancel the registration without giving the person an opportunity of being heard.
- During the pendency of the proceedings relating to cancellation of registration, the proper officer may suspend the registration for such period and in such manner as may be prescribed (Rule 21A).

Penalty (Section 122 and 125)

Offences for which penalty shall be levied have been specifically laid down under GST in different category as offence by taxable person, registered person, any person:

Offence

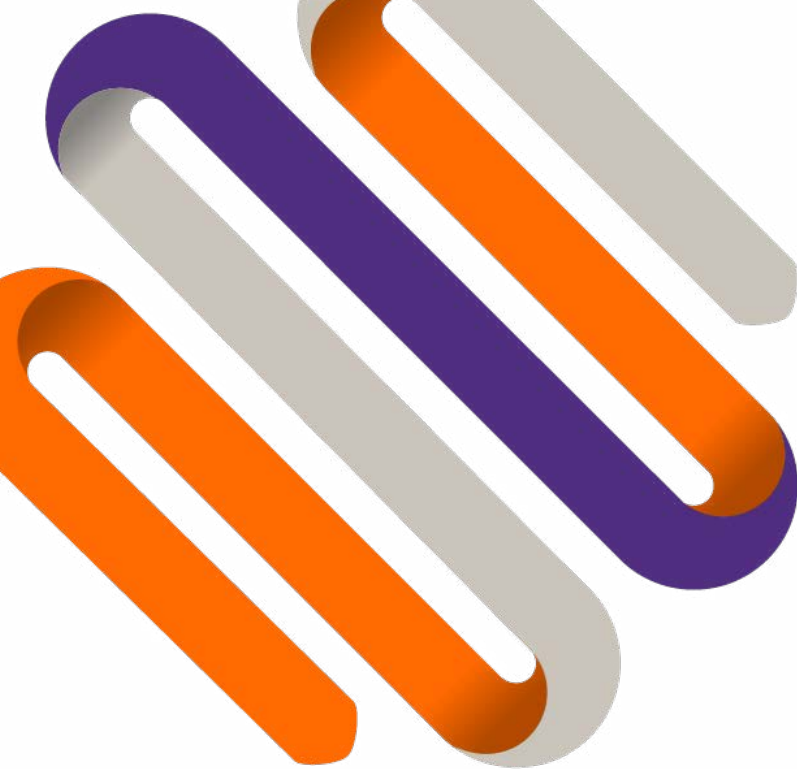
If a taxable person:

- Supplies goods and/or services without issuing an invoice or issues an incorrect or false invoice
- Issues an invoice without supply of goods and/or services in violation of the provisions under the law
- Collects tax but fails to pay the same to the government beyond a period of three months from the date on which the payment becomes due
- Takes ITC without actual receipt of goods and/or services either fully or partially
- Takes or distributes ITC in contravention to Section 20
- Fails to deduct tax or deduct lesser than the amount required to be deducted or fails to pay the tax to the government
- Who is an e-commerce operator fails to collect tax or collects lesser than the amount required to be collected or fails to pay the tax to the government
- Obtains refund of tax by fraud
- Falsifies or substitutes financial records or produces fake accounts and/or documents or furnishes a false return
- Liable to be registered, but fails to obtain registration
- Furnishes false information with regard to registration
- Obstructs or prevents any officer in discharge of his duties
- Fails to furnish information or documents called for by an officer
- Transports taxable goods without documents
- Suppresses turnover leading to evasion of tax
- Fails to maintain books of accounts and documents
- Issues an invoice or document by using the identification number of another person
- Supplies, transports or stores any goods which are liable to confiscation
- Tamper with, or destroys any material evidence or document
- Disposes off or tampers with any goods that have been detained, seized or attached

Penalty

Higher of INR 10,000 or an amount equivalent to the tax evaded (Each for CGST and SGST Act)





Offence

Any person who retains the benefit and whose instance following transactions are conducted

- Supplies goods and/or services without issuing an invoice or issues an incorrect or false invoice
- Issues an invoice without supply of goods and/or services in violation of the provisions under the law
- Takes input tax credit without actual receipt of goods and/or services either fully or partially
- Takes or distributes ITC in contravention to Section 20

If a registered person supplies goods and/or services without payment of tax or input tax credit wrongly availed /utilised or refund wrongly taken

- For reason other than fraud etc.
- For reason of fraud or willful misstatement

A person who encourage or assist any of the offences listed above

Any person:

Any offence for which a penalty is not separately provided under the law

Penalty

Amount equivalent to the tax evaded or input tax credit availed of or passed on

Higher of INR 10,000 or 10% of tax due

Higher of INR 10,000 or an amount of tax due

Penalty may extend to INR 25,000 (each for CGST and SGST Act)

Penalty may extend to INR 25,000 (each for CGST and SGST Act)



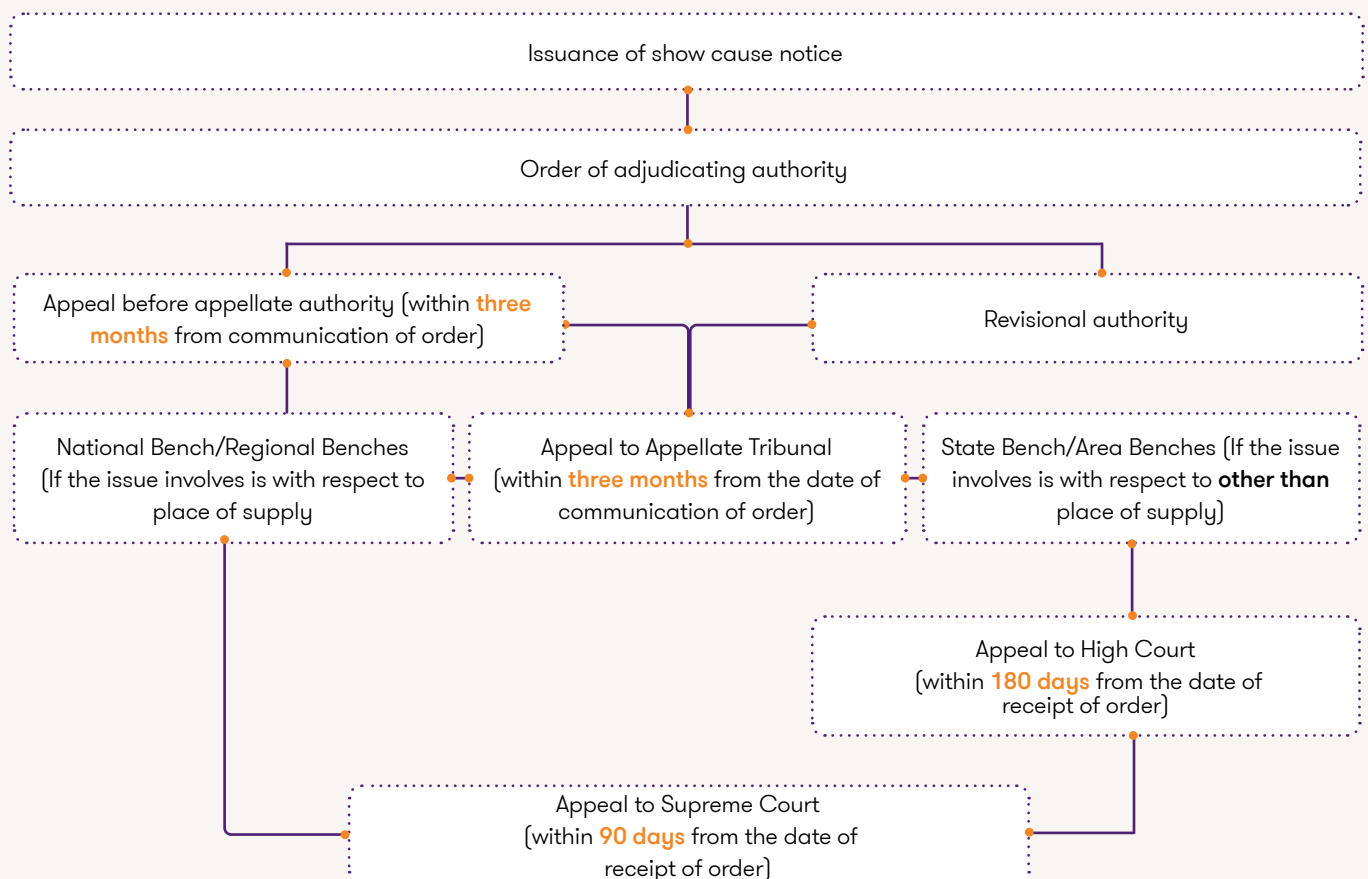
Chapter - 16

Litigation under GST Laws

[Sec No. 73-79, 95-101 and 107-118 of CGST Act, read with rule 104, 105 and 108-115 of CGST Rules]

One of the key objective behind introduction of GST was to reduce litigation. Keeping this in mind an easily accessible advance ruling mechanism has been introduced. However, considering huge number of contrary advance rulings, it is almost certain that first few years of GST regime, post conducting audits by the department, would be highly litigative.

Litigation under the GST is hybrid of mechanism of litigations under the erstwhile value added tax and central excise/services tax regime. It can be easily understood from the following flow chart:



Adjudication

Whenever it appears to the tax officer that a person chargeable to tax, has not discharged his obligations properly or has obtained refund erroneously, the officer shall serve a show cause notice (SCN) on the person and ask him to justify why the amount mentioned in the SCN should not be recovered from him. There may be two types of cases :

- Cases involving fraud, willful mis-statement and suppression of facts (Section-74)
- Other cases, not involving fraud, willful mis-statement or suppression of facts (Section-73)

Other provisions in respect of above two cases are given in the table below:

Particulars	Cases involving fraud as (1) above	Other cases, as (2) above
Time limit for issuing Show cause notice	At least six months prior to the due date of issuing order	At least three months prior to the due date of issuing order
Time limit for passing the order by officer	Within five years of the due-date of filing annual return for the year to which issue under dispute relates, or within five years from the date of erroneous refund	Within three years of the due-date of filing annual return for the year to which issue under dispute relates or within three years from the date of erroneous refund
Quantum of liability if demand of SCN paid within 30 days of SCN	<ul style="list-style-type: none"> • Tax – full • Interest – full • Penalty – 25% of tax 	<ul style="list-style-type: none"> • Tax – full • Interest – full • Penalty – NIL

Adjudicating authority means any authority appointed or authorised to pass any order/decision under this Act, but it would not include:

- Central Board of Indirect Taxes and Customs (CBIC)
- Revisional Authority
- Authority of Advance Ruling
- Appellate Authority of Advance Ruling
- National Appellate Authority of Advance Ruling
- Appellate Authority (First Appeal)
- Appellate Tribunal (Second Appeal)
- National Anti-Profiteering Authority

Other points which merit consideration in this regard are produced below:

- The person to whom SCN has been served and is chargeable with tax, interest or penalty, he would be provided an opportunity of being heard.

- The person to whom SCN has been issued, would be granted time and the hearing may be adjourned. The adjournment cannot be granted more than three times during proceedings.
- The order of adjudicating authority would be speaking order, clearly stating the facts and basis of decision.

Appeals under GST laws

Any person aggrieved with the order passed against him by the adjudicating authority, can file an appeal before the appellate authorities. GST laws has prescribed authorities and mechanism for filing an appeal. Below are the appellate authorities as per the GST laws:

- First Appeal - appeal before the appellate authority
- Second Appeal - appeal before the Appellate Tribunal
- Appeal to High Court
- Appeal to Supreme Court

At this juncture, it is important to note that Appellate Tribunals are the final fact finding authorities, as appeal to High Courts can only be preferred if the matter/dispute involves substantial question of law.

The appellate authorities are explained below in detail:

First Appeal – appeal before appellate authority (Section-107, Rule 108 & 109A)

Any person aggrieved by any order passed by adjudicating authority under CGST Act, IGST Act or SGST Act, may file an appeal before first appellate authority. Below can be the first appellate authorities:

- Commissioner (Appeals) – If the order is passed by additional commissioner or joint commissioner
- Any officer not below the rank of joint commissioner (Appeals) – If the order is passed by deputy commissioner, assistant commissioner or superintendent

On conclusion of the appellate proceedings, the appellate authority will pass its order, which may confirm, modify or annul the decision appealed against, but shall not refer the case back to the authority who has passed such order. An advisory (not mandatory) time limit of one year (from the date of filing of appeal) has been prescribed for the appellate authority to hear and decide the appeal.

Following points merit consideration in this regard:

- Pre-deposit: Before filing the appeal, the appellant needs to pay
- Admitted demand (tax, interest, fine, fee, penalty) – 100%
- Disputed demand – 10% of the disputed tax, subject to a maximum of INR 25 crore (each for CGST and SGST Act separately)

- **Time limit for filing the appeal:** Appeal can be filed within three months from the date of communication of order. Such period of three months can be further extended by one month in case the authority gets satisfied by the cause for the delay as provided by the appellant
- **Form for filing the appeal:** Appeal needs to be filed in Form GST APL-01, along with grounds of appeal and other relevant details/documents. Acknowledgement of the appeal shall be provided in Form GST APL-02
- **Order of the appellate authority:** Appellate authority shall issue the summary of order in Form GST APL-04, indicating the final amount of confirmed demand

Second Appeal – appeal before Appellate Tribunal (Section-109-112-113, rule 110-113)

Any person aggrieved by the order passed by appellate authority or revisional authority can file an appeal before Appellate Tribunal. These Appellate Tribunal would be called as Goods and Services Tax Appellate Tribunal (GSTAT).

GST laws has prescribed for constitution of two-tier tribunal, i.e. National Bench/Regional Benches and the State Bench/Area Benches. GST law also defines jurisdiction of the Tribunals, as below:

National bench/regional benches:

If the issue in dispute is in relation to place of supply, then national bench/regional benches would have the jurisdiction to hear the appeal. [Section-109(5)]

Any appeal against the order passed by national bench/regional benches would directly be filed before Supreme Court [Section-118(1)]

State bench/area benches:

If the issue in dispute is any issue except place of supply, then the jurisdictional state bench/area benches would have the jurisdiction to hear the appeal. [Section-109(7)]

Any appeal against the order of state bench/area benches would be filed before jurisdictional High Court on substantial question of law. [Section-117(1)]

Following points merit consideration in this regard:

- Pre-deposit: Before filing the appeal, the appellant needs to pay:
 - Admitted demand (tax, interest, fine, fee, penalty) – 100%
 - Disputed demand – 20% of the disputed tax, subject to a maximum of INR 50 crore (each for CGST and SGST Act separately). This amount would be in addition to the pre-deposit already made while filing appeal before appellate authority.
 - Time limit for filing the appeal: Appeal before Appellate Tribunal can be filed within three months from the date of communication of order. Such period of three months can be further extended by three months in case the appellant provides sufficient cause for the delay.
 - **Form for filing the appeal:** Appeal needs to be filed in Form GST APL-05, along with grounds of appeal and other relevant details/documents.

- **Memorandum of cross objection:** The person against whom the appeal has been filed, shall file memorandum of cross objections within 45 days of the receipt of the notice of appeal. It would be filed in Form APL-06. The above period of 45 days may further be extended by another 45 days if the Tribunal agrees with the cause of the delay provided to it.
- **Adjournment:** Appellate Tribunal, during the course of appeal proceedings, can grant time to parties and adjourn the hearing. Such adjournment shall not be granted exceeding three times to a party.
- **Order of the Appellate Tribunal:** Appellate Tribunal shall issue the summary of order in Form GST APL-04, indicating the final amount of confirmed demand.

Appeal to High Court (Section-117, Rule-114-115)

Any person aggrieved by the order passed by the state bench or area benches of Appellate Tribunal may file an appeal before jurisdictional High Court. The High Court may admit the appeal if it is satisfied that the case involves substantial question of law, post which the court shall formulate that question.

The appeal shall be heard only in respect of the question so formulated and the respondent shall be allowed to argue that the case does not involve such question.

Following points merit consideration in this regard:

- **Time limit for filing the appeal:** Appeal before High Court can be filed within 180 days from the date of receipt of order by aggrieved person. Such period of 180 days can further be extended in case the appellant provides sufficient cause for the delay. [Section-117]
- **Form for filing the appeal:** Appeal before High Court needs to be filed in Form GST APL-08, along with grounds of appeal and other relevant details/documents. [Rule-114]
- **Order of the High Court:** Jurisdictional officer shall issue the summary of order in Form GST APL-04, indicating the final amount of confirmed demand. [Rule-115]

Appeal to Supreme Court (Section-118, Rule-115)

Any person aggrieved by the order passed by High Court or national bench or regional benches of the Appellate Tribunals may file an appeal before supreme court.

The jurisdiction of the Supreme Court of India, as provided in the Constitution of India is explained below:

Original jurisdiction: Supreme Court shall have the original jurisdiction; in case the dispute is between :

- Between Government of India and one or more state, or
- Between Government of India and one state/multiple states on one side and one/multiple states on other side, or
- Between two or more states, if the dispute involves any question of law or question of fact, on which existence of legal a right depends.

Appellate jurisdiction: Supreme Court shall have the appellate jurisdiction, against a judgement or order passed by High Court, if the High Court certifies that :

- The case involves substantial question of law of general importance; and
- In the opinion of the High Court, such question needs to be decided by the Supreme Court

In addition to the above, where the dispute is with relation to place of supply, any person aggrieved by the decision of national bench/regional benches of Appellate Tribunal can directly file appeal before Supreme Court

Revision (Section-108, Rule 109B)

GST laws has also provided a mechanism for revision of the orders by revisional authority in respect of the orders passed by any of its sub-ordinate authorities.

If, upon examination, the revisional authority is of the view that any of the orders passed by its sub-ordinate authorities is improper or erroneous in so far as it is prejudicial to the interest of the revenue, and is illegal/improper or it has not taken into consideration material facts, the revisional authority may stay the operations of such decision/order for such a period as it deems fit.

However, the revisional authority cannot exercise its powers of revision, if:

- The order has been subject to an appeal before appellate authority, Appellate Tribunal, High Court or Supreme court
- The order has already been taken for revision at an earlier stage
- The order, which is intended to be revised, is already a revisional order passed by revisional authority
- The period of six months as prescribed for filing of appeal before appellate authority has not been expired yet, or
- More than three years have already been passed to the date of order, which is intended to be revised

Every order passed by the revisional authority would be final and binding on the parties. however, the parties can exercise their appellate rights against such order.

Advance ruling

Advance Ruling (AR) refers to a decision obtained by a taxpayer in respect of specific transactions undertaken or intended to be undertaken by him. The authority which pronounces AR is called Authority for Advance Ruling (AAR). AAR are constituted under SGST Act or UTGST Act.

AR can be obtained in respect of following issues : (Section-97)

- Classification of goods/services
- Applicability of a notification
- Determination of time and value of supply
- Admissibility of ITC
- Determination of liability to pay tax on any goods/services
- Ascertaining liability of registration
- Determining whether the activity carried out by the taxpayer amounts to 'supply' or not

The concept of AR was introduced in GST with an objective to facilitate the taxpayer by providing him clarity over GST implication on certain transactions, coupled with an aim to reduce future litigations, but contrary to this, contradictory rulings pronounced by different AARs have led to increase in litigation.

Procedure to obtain AR (Section-98 read with Rule-104)

- Taxpayer need to file online application in Form GST ARA-01, along with facts of the case and the questions for which advance ruling is being sought
- A fee of INR 5000 (for each Act) is required to be deposited for filing application
- Upon receipt of application, a copy of the same would be forwarded to the concerned officer for his further course of action
- Upon hearing the applicant and concerned officer, AAR by passing an order, would admit or reject the application
- Where the application is accepted, AAR would provide opportunity of being heard to applicant as well as to concerned officer
- AAR would pronounce its ruling within 90 days from the date of receipt of application
- Subsequently, signed copy of the ruling would be sent to the Applicant, concerned officer and jurisdictional tax officer



Appeal against the order of AAR (Section- 100, Rule-106)

Any person aggrieved by the order of AAR (Taxpayer or concerned officer) may file an appeal against such order before Appellate Authority for Advance Rulings (AAAR).

Other details in respect of filing of appeal before AAAR are mentioned below:

- **Time limit for filing the appeal:** Appeal before AAAR can be filed within 30 days from the date of communication of order of AAR. Such period of 30 days can be further extended by another 30 days in case the appellant provides sufficient cause for the delay.
- **Form for filing the appeal:** Taxpayer intending to file the appeal are required to file the same in Form GST ARA-02, along with a fee of INR 10,000 (for each Act).

However, in case the concerned officer intends to file the appeal, then it would be filed in Form GST ARA-03 and no fee would be payable for the same.
- **Order of the AAAR:** Appellate authority shall pass the order within 90 days from the date of filing of appeal and such order needs to be communicated to concerned officer, jurisdictional officer and the taxpayer. (Section-101).

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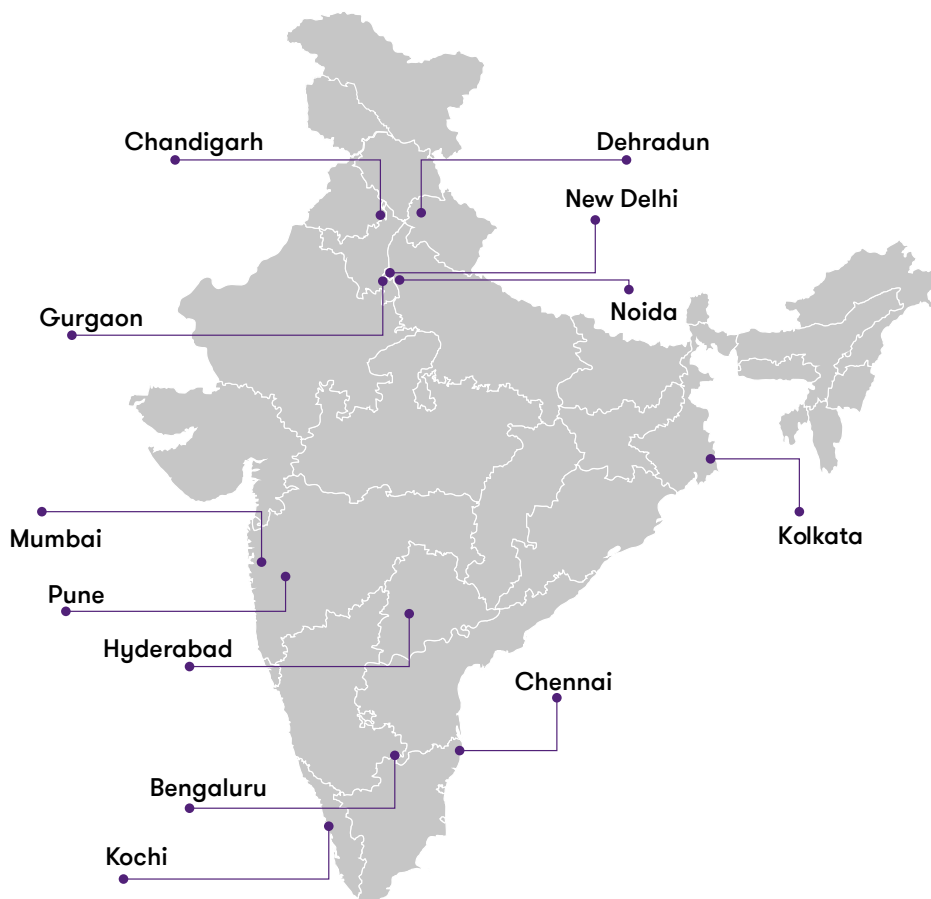
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Acknowledgements

Authors

Manoj Mishra

E: manoj.mishra@in.gt.com

Shubham Madaan

E: shubham.madaan@in.gt.com

Editorial review

Sneha Bhattacharjee

Anjali Dhawan

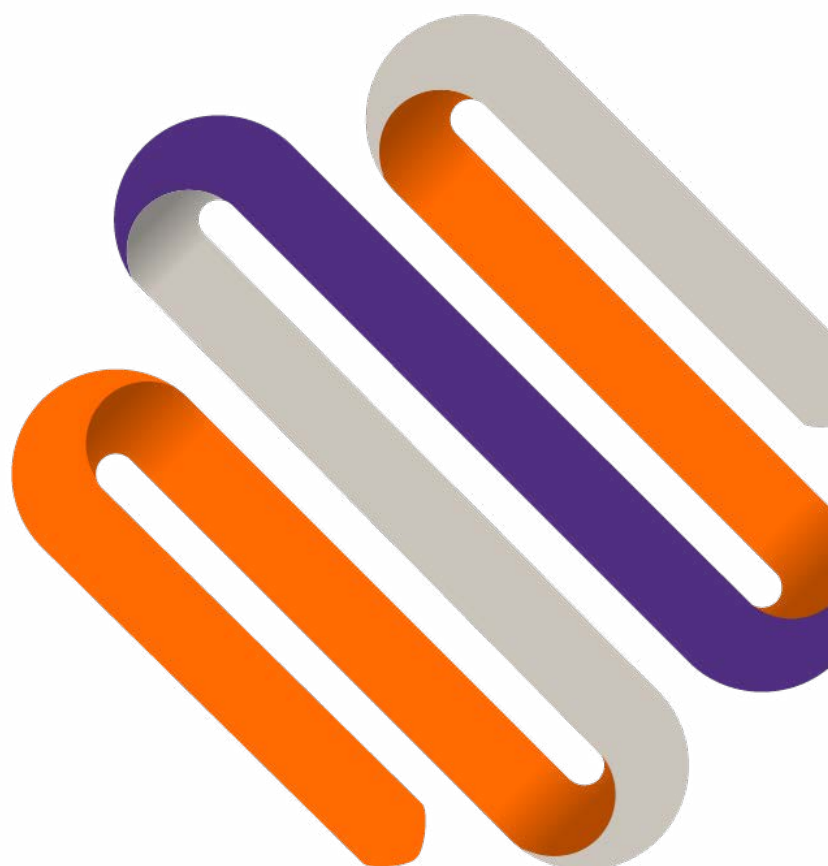
Design

Aditya Deshwal

Himani Kukreti

For media queries, write to

media@in.gt.com



Contact us

To know more, please visit www.grantthornton.in or contact any of our offices as mentioned below:

NEW DELHI

National Office,
Outer Circle, L 41,
Connaught Circus,
New Delhi - 110001
T +91 11 4278 7070

NEW DELHI

6th Floor, Worldmark 2,
Aerocity,
New Delhi - 110037
T +91 11 4952 7400

BENGALURU

5th Floor, 65/2, Block A, Bagmane
Tridib, Bagmane Tech Park, CV Raman
Nagar,
Bengaluru - 560093
T+91 80 4243 0700

CHANDIGARH

B-406A, 4th Floor,
L&T Elante Office Building,
Industrial Area Phase I,
Chandigarh - 160002
T +91 172 4338 000

CHENNAI

9th floor, A wing,
Prestige Polygon,
471 Anna Salai,
Mylapore Division,
Teynampet,
Chennai - 600035
T +91 44 4294 0000

DEHRADUN

Suite No 2211, 2nd Floor,
Building 2000, Michigan Avenue,
Doon Express Business Park,
Subhash Nagar,
Dehradun - 248002
T +91 135 2646 500

GURGAON

21st Floor, DLF Square, Jacaranda
Marg,
DLF Phase II,
Gurgaon - 122002
T +91 124 462 8000

HYDERABAD

7th Floor, Block III,
White House,
Kundan Bagh, Begumpet,
Hyderabad - 500016
T +91 40 6630 8200

KOCHI

6th Floor, Modayil Centre Point,
Warriam Road Junction,
MG Road
Kochi - 682016
T +91 484 406 4541

KOLKATA

10C Hungerford Street,
5th Floor,
Kolkata - 700017
T +91 33 4050 8000

MUMBAI

11th Floor, Tower II,
One International Center,
SB Marg Prabhadevi (W),
Mumbai - 400013
T +91 22 6626 2600

MUMBAI

Kaledonia, 1st Floor, C Wing,
(Opposite J&J Office),
Sahar Road, Andheri East,
Mumbai - 400 069

NOIDA

Plot No 19A, 2nd Floor,
Sector - 16A,
Noida - 201301
T +91 120 485 5900

PUNE

3rd Floor, Unit No 309-312,
West Wing, Nyati Unitree,
Nagar Road, Yerwada
Pune - 411006
T +91 20 6744 8800



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