

# GST compliance booklet

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# Foreword



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**Great things are not done by impulse, but by a series of small things brought together.**

**- Vincent Van Gogh**

Seven years into the Goods and Services Tax (GST) journey, this quote aptly captures the evolution of India's most significant tax reform. What began as a bold leap towards a unified tax regime has steadily transformed from a roller coaster ride of challenges and adjustments into a stable and streamlined system.

The initial years of GST were marked by steep learning curves, technical glitches, frequent amendments, and the complexities of adapting to a new tax structure. Businesses had to recalibrate their systems and processes to align with the latest compliance requirements. It was a period of immense effort but also tremendous progress.

Today, as we look back, the vision of GST has become a reality. Compliance processes are now automated, with real-time data tracking and seamless integration of

systems like the GSTN with other departments. Reforms and amendments have consistently addressed the evolving needs of businesses, making it more practical and taxpayer-friendly, ultimately helping ease of doing business. Improved reconciliation mechanisms, GST appellate tribunal constitution, and sector-specific policy refinements bring greater clarity and comfort to stakeholders.

To help taxpayers and industry stay abreast with GST compliances and ongoing developments, Grant Thornton Bharat has published this booklet as a ready reckoner and a guide to help understand different compliance requirements under the GST laws.

This booklet is updated till November 2024. We hope you will find this publication as useful.

# 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 turnover<sup>1</sup> (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 states<sup>2</sup> (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 an e-commerce operator who is required to collect TCS
- Persons who supplies online money gaming from a place outside India to a person in India
- Such other person or class of person as may be notified by the government

### Voluntary registration (Section 25(3))

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

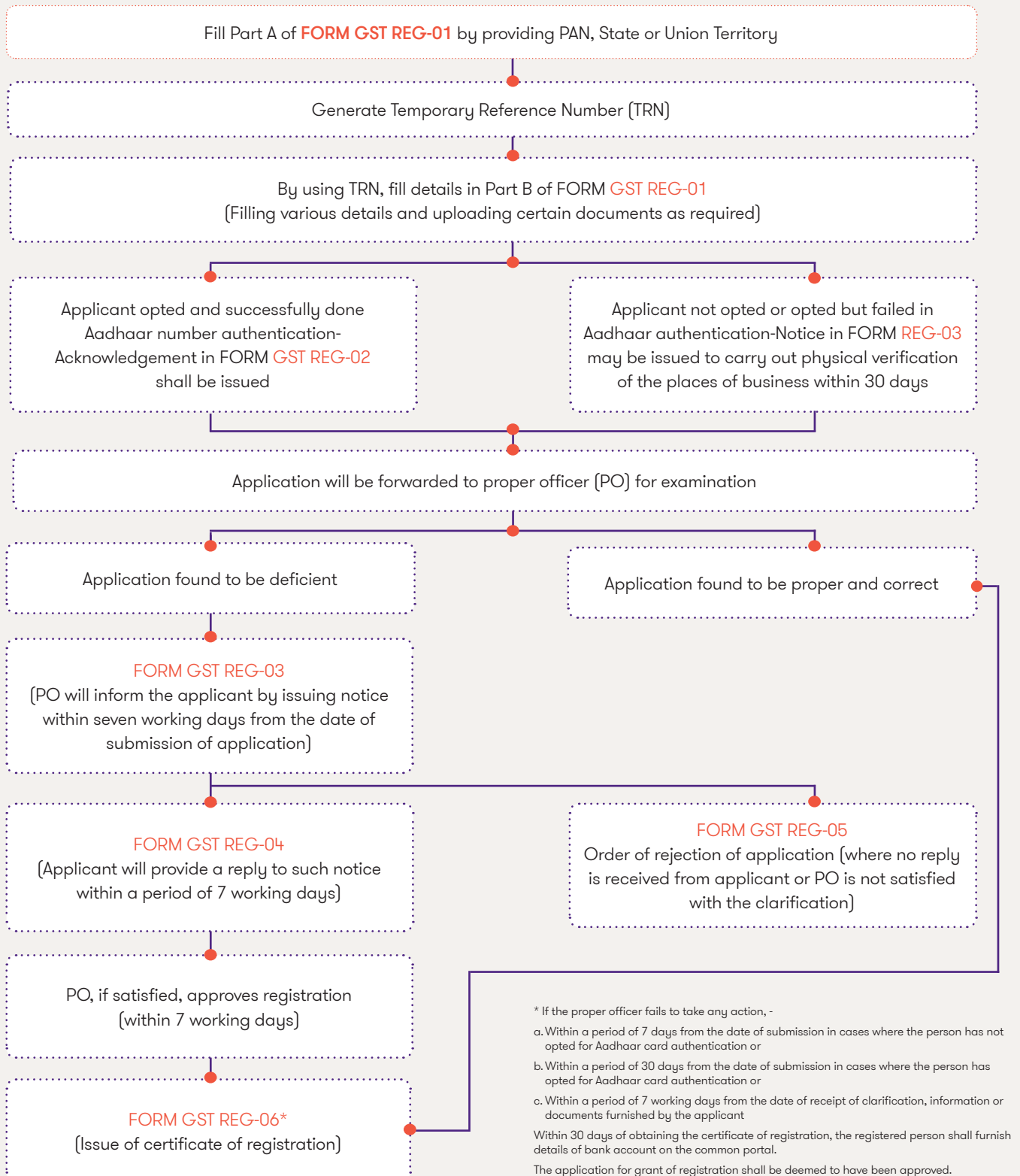


<sup>1</sup> Aggregate turnover<sup>1</sup> shall include all supplies (except inward supplies under reverse charge) made under the same PAN by a taxable person whether on his own account or on behalf of all his principals

<sup>2</sup> Special Category States are Manipur, Mizoram, Nagaland and Tripura

## Process of obtaining registration: Rule 8-Rule 10A

Applicable for every supplier who is liable to be registered under Section 25(1) and every person seeking registration under Section 25(3) except non-resident, person liable to deduct TDS, person liable to collect TCS and person providing online information data access and retrieval services to non-taxable online recipient or a person supplying online money gaming from a place outside India to a person in India.





## Persons exempted from obtaining registration (Section 23)

- A 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
- Persons 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

### Notes

- 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
- Persons who are engaged in supply of goods through an electronic commerce operator who is required to collect tax at source under Section 52 of the CGST Act [34/2023 - CT]



# 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 an invoice within the 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 30th day of November following the end of the financial year in which such 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 a 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 a bill of supply instead of a regular tax invoice.

### **Self Invoice [Section 31(3)(f)]**

The person receiving supplies covered under reverse charge, is required to issue invoice known as Self Invoice within the period prescribed under Rule 47A i.e. within a period of 30 days from the date of receipt of the supply of goods or services, or both (where the supplier is not registered).

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

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

### **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 may be	√	√	√	√	√	√	√
2	Serial number	√	√	√	√	√	√	√
3	Date of its issue	√	√	√	√	√	√	√
4	Name, address and GSTIN or UIN, if registered, of the recipient/consignee as the case may be	√	√	√	√	√	√	√
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  <b>(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)</b>	√				√  (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 a 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

### 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 the recipient does not require invoice, the 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 an 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



# 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 INR 5 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 an invoice having QR code in respect of supply to unregistered persons (i.e. business-to-consumer or B2C transactions)

## Exceptions

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

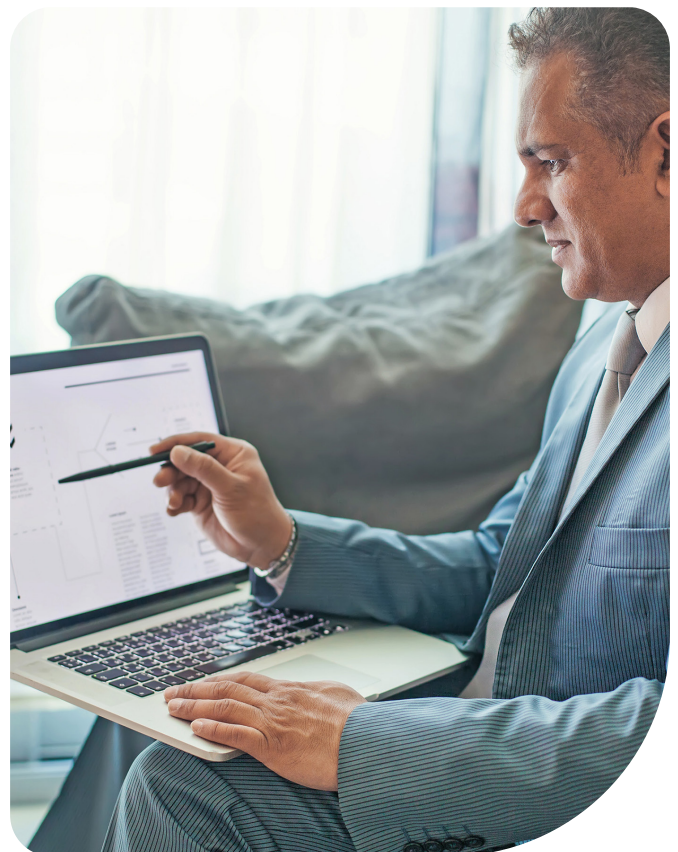
- A government department or a local authority
- Insurer or a banking company, or a financial institution, including an NBFC
- Goods transport agency
- Passenger transportation service provider
- A registered person supplying services by way of admission to exhibition of cinematograph films in multiplex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

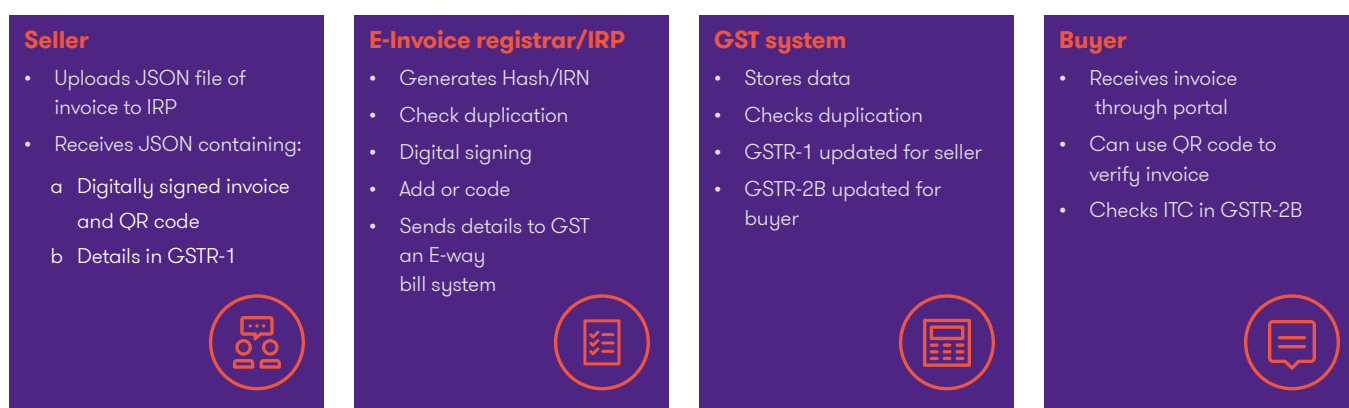
- **Validation of data at IRP:** On the basis of the JSON uploaded by the supplier, IRP will generate and add IRN, QR code and its signature on the JSON file. It is important to upload the JSON file on the IRP
- **Sharing of e-invoice:** The IRP shares e-invoice data with IRN to the seller, GST system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







## 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](http://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.

## 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 the 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]

## 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 the 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 the composition scheme, shall keep and maintain a 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 the 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 the 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 [Rule 58]

- 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), 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 a 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.

### Notes

- 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 2023-24 (Section 44)

- Reconciliation statement is required to be self-certified by the taxpayer instead of getting it certified by chartered accountants/coast and management accountants
- Filing of annual return in Form GSTR-9 / 9A for FY 2023-24 will be optional for taxpayers having aggregate annual turnover up to INR 2 crore
- The reconciliation statement in Form GSTR-9C for FY 2023-24 will be required to be filed by taxpayers with annual aggregate turnover above INR 5 crore

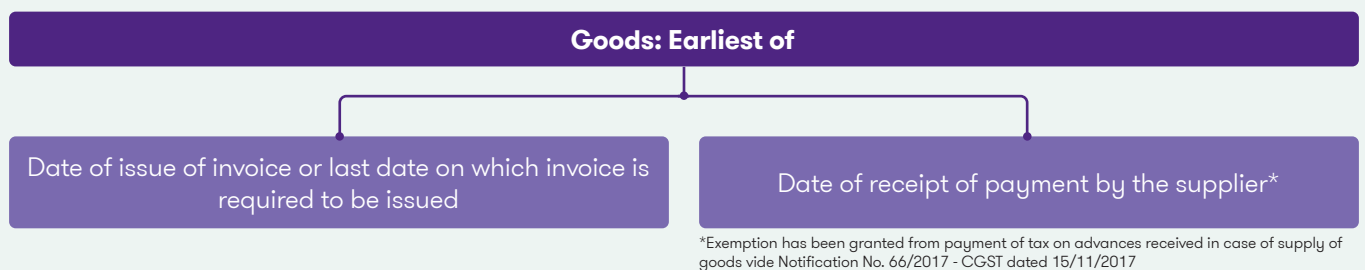
# Time of supply

[Section 12-14 of CGST Act]

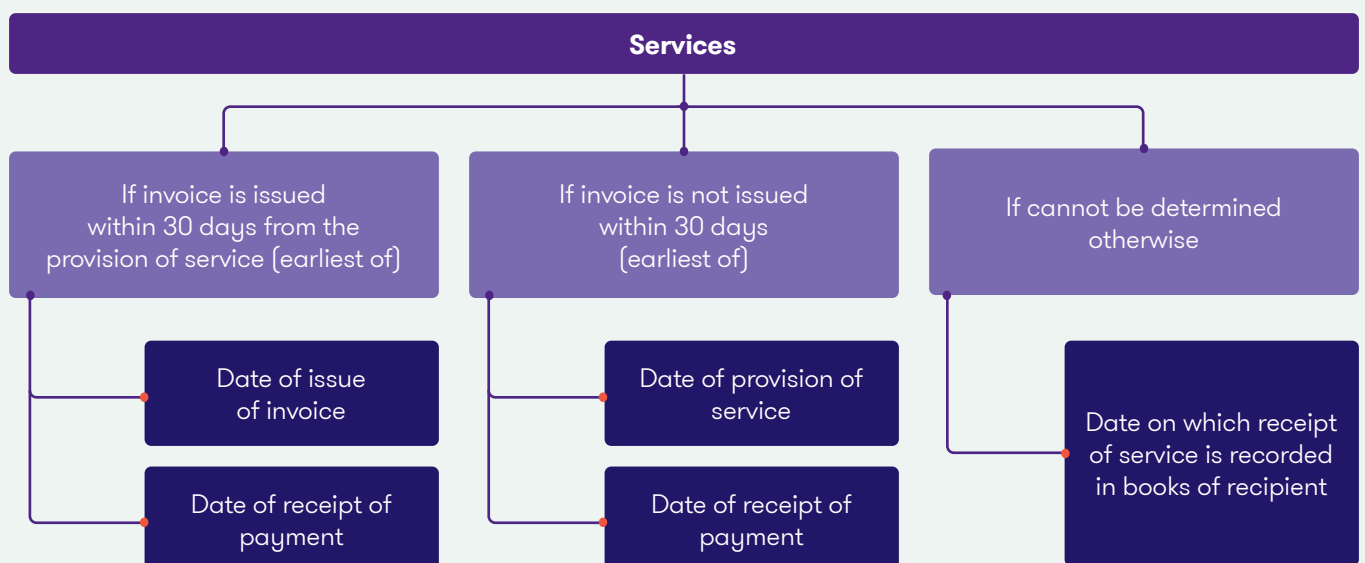
## Meaning

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

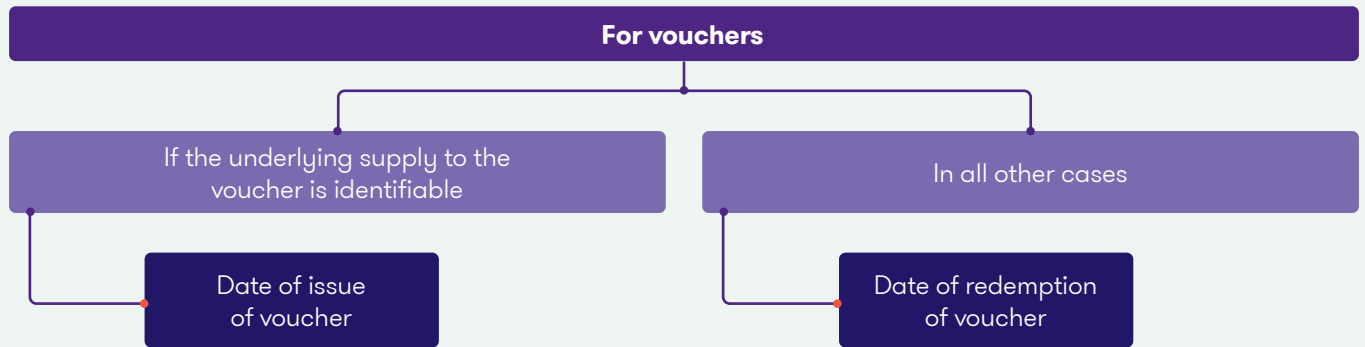
## Time of supply in case of goods [Section 12(2)]



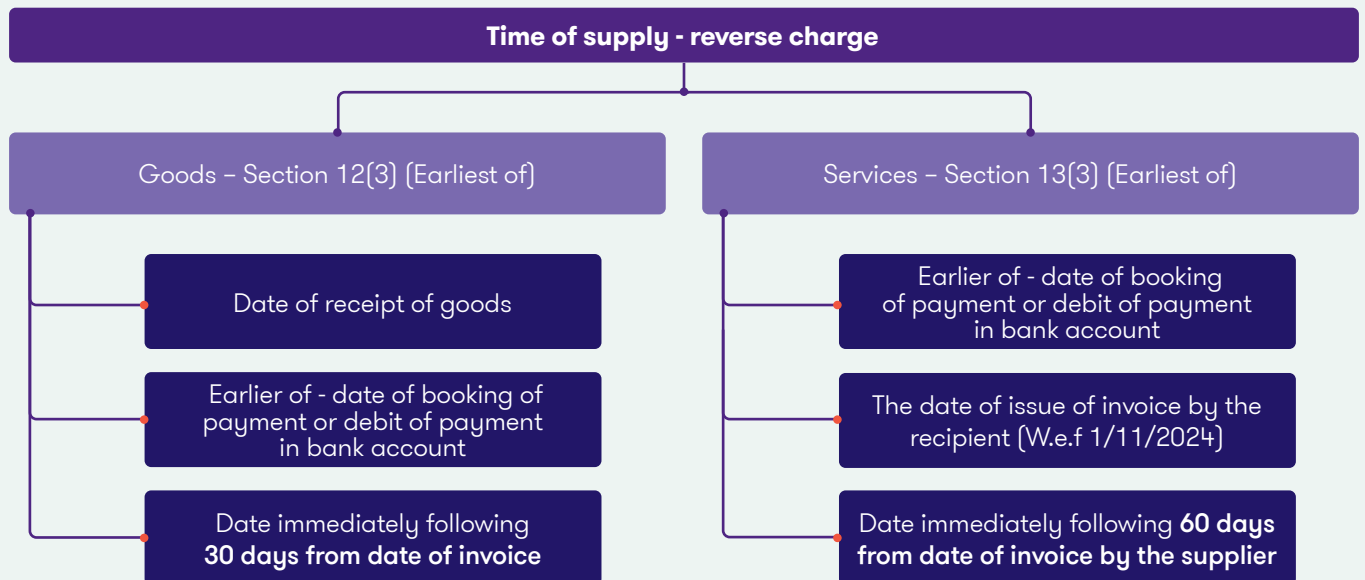
## Time of supply in case of services [Section 13(2)]



## 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.

# Place of supply

[Section 10-13 of IGST Act]

## Meaning

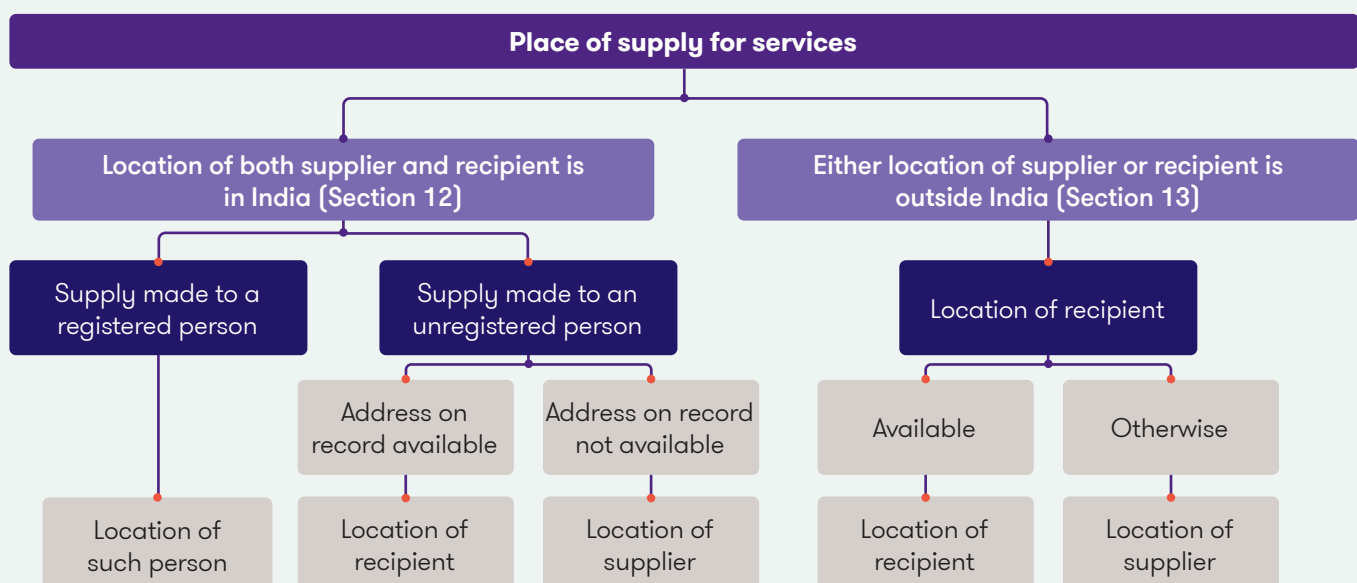
Place of supply is a place where supply of goods or services is made. Determination of place of supply is essential to determine the nature of supply, (i.e. intra-state supply or inter-state supply), consequently for charging applicable taxes (CGST and SGST or IGST).

## 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 supplied to a person other than a registered person	Location where the address of such person is recorded in the invoice, if the address is not mentioned, the POS shall be the residence of the supplier
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 (Section 12 and 13)

### 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
<b>Services in relation to immovable property</b>		
<ul style="list-style-type: none"> <li>Lodging accommodation by hotel, guesthouse, club, houseboat, vessel, etc</li> <li>Accommodation for any function (official, social, cultural, religious, etc.)</li> </ul>	<ul style="list-style-type: none"> <li>Location at which the immovable property is located or intended to be located (if in India)</li> <li>Location of recipient, if location of immovable property or boat or vessel is outside India</li> </ul>	<ul style="list-style-type: none"> <li>Place where such immovable property is located or intended to be located</li> </ul>
<b>Performance-based services</b>		
<ul style="list-style-type: none"> <li>Services such as restaurant services, personal grooming, beauty treatment, etc</li> </ul>	<ul style="list-style-type: none"> <li>Location where the services are actually performed</li> </ul>	
<b>Transportation services</b>		
Transportation of passengers	<ul style="list-style-type: none"> <li>If supplied to registered person – location of such person</li> <li>If supplied to unregistered person – the place where the passenger embarks on the conveyance for continuous journey</li> </ul>	Place where the passenger embarks on the conveyance for continuous journey
Transportation of goods	<ul style="list-style-type: none"> <li>If supplied to registered person- location of such person</li> <li>If supplied to unregistered person – the place at which goods are handed over for their transportation</li> </ul>	
<b>Financial and business services</b>		
Banking and other financial services	<ul style="list-style-type: none"> <li>If location of recipient exists on records – location of recipient</li> <li>Otherwise – location of supplier</li> </ul>	Location of supplier
Insurance services	<ul style="list-style-type: none"> <li>If supplied to registered person – location of such person</li> <li>If supplied to unregistered person – location of recipient on records of supplier</li> </ul>	-
Advertisement services provided to government, statutory body and other prescribed authorities	<ul style="list-style-type: none"> <li>Each state or UT in respect of which service is provided</li> </ul>	-

**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



# Valuation

[Section 15 of CGST Act, read with Rule 27-35]

## Place of supply in case of goods [Section 10 and 11]

Under the GST regime, the valuation of goods and/or services is based on the 'Transaction Value.' This refers to the actual price paid or payable for the supply of goods and/or services, provided the following two conditions are satisfied:

- The supplier and recipient are not related parties
- The price represents the sole consideration for the supply

## Inclusions in the transaction value [Section 15(2)]

The value of a supply will include the following:

- **Taxes and charges:** Any taxes, duties, fees, or charges imposed under any other law (except GST laws) if these are charged separately by the supplier
- **Amount paid by the recipient:** Any expenses the supplier should have paid but were instead paid by the recipient of the goods or services, if not already included in the price
- **Additional expenses:** Incidental expenses like commission, packing, or other charges added by the supplier, as well as the amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of or before the delivery of goods or supply of services
- **Late payments:** Any interest, late fees, or penalties charged for delayed payment for the supply
- **Price-linked subsidies:** Subsidies directly linked to the price, except those given by the central or state governments.

**Note:** Subsidies will be added to the value of the supply for the supplier who receives them.

## Exclusions from the transaction value [Section 15(3)]

The value of a supply will exclude the amount of discounts, provided:

- **Discount is given before or during the supply:** The discount is given before or during the supply and is properly recorded on the invoice
- **Discount given after the supply:**
  - The discount is as per an agreement made before or at the time of the supply and is directly linked to specific invoices
  - The recipient has reversed the input tax credit related to the discount based on documents provided by the supplier

Further, Section 15(4) specifies that if the value of goods or services cannot be determined as per Section 15(1), it should be determined following the prescribed rules (Rule 27-35), which are discussed below.

### Note:

As per the explanation to Section 15 of the CGST Act, persons shall be deemed to be 'related persons' if -

- They are officers or directors of one another's businesses;
- They are legally recognised partners in business;
- They are employer and employee;
- Any person directly or indirectly owns, controls, or holds 25% or more of the outstanding voting stock or shares of both of them;
- One of them directly or indirectly controls the other;
- A third person directly or indirectly controls both of them;
- Together, they directly or indirectly control a third person, or they are members of the same family;
- The term 'person' also includes legal persons.
- Persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed related.



## Valuation rules (Rules 27 to 35 of the CGST Rules)

### Value of supply of goods or services where the consideration is not wholly in money (Rule 27)

Rule 27 sets out the value of supply where the consideration is not wholly in money; there is a hierarchy of rules to be applied to determine the value of the supply:

- Open market value (OMV)
- If the OMV is not available, then total consideration in money, along with equivalent non-monetary consideration, if such amount is known at the time of supply
- Value of like kind and quality
- If none of the above methods is applicable, then apply Rule 30 (Value of supply based on cost plus 10%) or Rule 31 (Residual method) to determine supply value in that order

### Value of supply of goods or services or both between distinct or related persons, other than through an agent (Rule 28)

Rule 28(1) applies where a person has more than one registration in one or more states (each registration is treated as a distinct person) (Section 25(4) and (5) of the CGST Act) or where the supplier and the recipient are related. It does not apply to a supply made through an agent.

- OMV;
- If OMV is not available, the value should be the supply of goods or services of the like kind and quality;
- the value is to be determined as per Rule 30 or Rule 31 if the value is not determinable under the above two methods, i.e.,

The first proviso to Rule 28(1) provides that where the recipient of goods intends to supply them further, the value of supply may be computed as 90% of the selling price charged by the recipient to an unrelated customer of goods of the like kind and quality.

However, where the recipient is eligible to full ITC, value declared in the invoice shall be deemed the OMV of the goods or services.

#### W.e.f., 26/10/2023, Rule 28(2) has been introduced to provide valuation in case of corporate guarantees.

In case of a supply of services by a supplier to a recipient who is a related person located in India, related parties by way of providing a corporate guarantee to any banking company or financial institution on behalf of the recipient, the value of such supply shall be higher of:

- 1% of the amount of guarantee offered
- actual consideration

However, if the recipient is eligible for the full ITC, the value declared in the invoice shall be deemed to be the value of said supply of services.

### Value of supply of goods made or received through an agent (Rule 29)

The value of goods supplied between a principal and their agent will be:

- The OMV of the goods, or
- 90% of the price charged for supply of like kind and quality goods by the recipient to unrelated customers, where goods are intended for further supply

### Value of supply in case of lottery, betting, gambling, and horse racing. (Rule 31A)

Rule 31A of the CGST Rules outlines how to determine the supply value for lottery, betting, gambling, and horse racing.

- For lotteries, the supply value is considered to be 100/128 of the ticket's face value or the price notified in the Official Gazette by the organising state, whichever is higher
- For actionable claims like chances to win in betting, gambling, or horse racing at a race club, the value of supply is 100% of the face value of the bet or the amount paid into the totalisator

### Value of supply in case of online gaming, including online money gaming (Rule 31B) and value of supply of actionable claims in case of casino (Rule 31C)

W.e.f. 1/10/2023, the value of supply of online gaming, including supply of actionable claims involved in online money gaming, shall be the total amount paid or payable to or deposited with the supplier by way of money or money's worth, including virtual digital assets, by or on behalf of the player.

Further, the value of supply of actionable claims in casino shall be the total amount paid or payable by or on behalf of the player for:

- purchase of the tokens, chips, coins or tickets, by whatever name called, for use in casino; or
- participating in any event, including game, scheme, competition or any other activity or process, in the casino, in cases where the token, chips etc. are not required.

However, any amount returned or refunded by the supplier/casino to the player for any reasons whatsoever, including player not using the amount paid or deposited with the supplier for participating in any event, shall not be deductible from the value of supply of online money gaming.

#### Note:

Any amount received by the player by winning any event, including game, competition or any other activity, which is used for playing in a further event without withdrawing shall not be considered as the amount paid to or deposited with the supplier by or on behalf of the said player.

### Value of supply of services in case of pure agent (Rule 33)

The expenses or costs incurred by a supplier as a pure agent of the recipient can be excluded from the value of supply if the following conditions are met:

- The supplier acts as a pure agent, making payments to a third party on the recipient's authorisation
- The payment made on behalf of the recipient is clearly shown as a separate item on the invoice issued by the supplier to the recipient
- The goods or services obtained from the third party as a pure agent are in addition to the supplier's own services

#### Note:

A 'pure agent' is a person who, under a contractual agreement with the recipient, acts on their behalf to incur expenses or costs during the supply of goods or services. They do not intend to own or hold title to the goods or services procured or supplied in this capacity, nor do they use these goods or services for their own benefit. Additionally, they are reimbursed only for the actual amount incurred for procuring the goods or services, apart from the payment for the services they provide on their own account.



# 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 opted to pay tax under forward charge	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"> <li>1. Renting of immovable property, and</li> <li>2. Services specified below: <ul style="list-style-type: none"> <li>- Services by the department of posts [and the Ministry of Railways (Indian Railways)] (w.e.f. 20/10/2023)</li> <li>- Services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport</li> <li>- Transport of goods or passengers</li> </ul> </li> </ol>	CG, SG, UT or local authority	Any business entity located in taxable territory
6A	Services supplied by the CG [[excluding the Ministry of Railways (Indian Railways)] (w.e.f. 20/10/2023)], SG, UT or local authority by way of renting of immovable property to a person registered under the GST Law	CG, SG, UT or local authority	Any person registered under the GST Law
6AA	Service by way of renting of residential dwelling to a registered person (w.e.f. 18/07/2022)	Any person	Any registered person
6AB	Service by way of renting of any immovable property other than residential dwelling (w.e.f., 10/10/2024)	Any unregistered person	Any registered person
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	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
10A	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)
11	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
12	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
13	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
14	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
15	<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"> <li>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]</li> <li>The person paying tax under composition scheme</li> </ul>	Any person other than a body corporate	A registered person, located in the 'taxable territory'
16	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
17	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 6B and 6C 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
3A	In Goods column pls add- [Following essential oils other than those of citrus fruit namely: - Of peppermint (Mentha piperita); Of other mints : Spearmint oil (ex-mentha spicata), Water mint-oil (ex-mentha aquatic), Horsemint oil (ex-mentha sylvestries), Bergament oil (ex-mentha citrate)(w.e.f. 1/10/2021)] Mentha arvensis (w.e.f. 1/1/2023)	Any unregistered person	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 [excluding Ministry of Railways (Indian Railways)] 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
8	Metal scrap (w.e.f. 10/10/2024)	Any unregistered 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, motor cycle, or any other motor vehicle except omnibus (w.e.f. 20/10/2023)
1A	Services by way of transportation of passengers by an omnibus except where the person supplying such service through electronic commerce operator is a company.(w.e.f. 20/10/2023)
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 exceeding 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 exceeding the threshold limit (w.e.f 22/08/2017)
4	Supply of restaurant service other than the services supplied by restaurants, eating joints, etc., located at specified premises



# 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

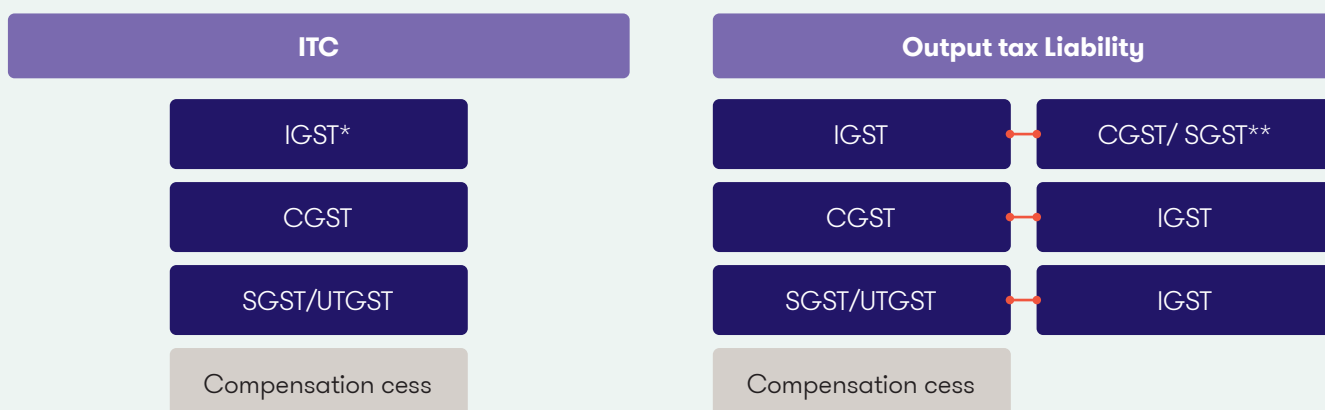
However, it excludes tax paid under composition levy

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

Basic conditions for availing ITC				
Possession of tax invoice or other document	Receipt of goods or services or both	Payment of tax to government by supplier	Filing of return by recipient	Appearance of invoice in GSTR 2B of the recipient, provided the ITC is not restricted

## 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

## Time limit for availing ITC

A registered person shall not be entitled to take ITC in respect of any invoice or debit note after the 30th day of November following the end of FY to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier.

However, in respect of an invoice or debit note for supply of goods or services or both pertaining to the FY 2017-18, 2018-19, 2019-20 and 2020-21, the registered person shall be entitled to take ITC in return filed up to the 30th day of November 2021 [Section 16(5)].

Further, ITC entitlement has been allowed in the cases where cancellation of registration was later on revoked and the registration was reinstated. In these cases, ITC entitlement has been allowed from the date/effective date of cancellation of registration till date of revocation of such cancellation subject to fulfilment of conditions. [Section 16(6)]

## Recovery of ITC from recipients

On account of non-payment of taxes by the corresponding suppliers, ITC availed by the recipient shall be recoverable along with interest. Such ITC can be reclaimed on subsequent tax payment by the corresponding supplier.

## 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 persons 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

- Making following taxable supplies in respect of motor vehicle
  - Further supply of the same
  - Transportation of passengers
  - Training for driving
- 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:

- where the motor vehicles, vessels or aircraft referred to in (i) or (ii) are used for the purposes specified therein;
  - 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:
    - 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;

- Membership of a club, health and fitness centre; and
- 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

### Credit in respect of immovable property

- 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**<sup>3</sup> of an immovable property (other than plant and machinery) even if it is used for furtherance of business

### Other blocked credits

- 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 in respect of any period up to FY 2023-24
- Goods/services received by a non-resident taxable person except on goods imported by him
- Goods/services received by a taxable person, which are used or intended to be used for activities relating to his

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

obligations under Corporate Social Responsibility referred to in section 135 of the Companies Act, 2013

## Restriction on availment of ITC for invoices not appearing in GSTR-2B

- W.e.f 1 October 2019, a restriction on availment of ITC was 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)
- W.e.f 1 January 2022, the concept of provisional ITC was done away with. Now, no ITC shall be availed by the registered person if the details of such invoices or debit notes are not reflecting in FORM GSTR - 2B
- 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)
- This restriction would not apply on documents issued in respect of RCM supplies, credit received from ISD and IGST paid on imports

## 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 paid by him along with interest payable under section 50. Such ITC can be re-availed upon making payment to the supplier
- 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 the 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 30th November 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]

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

- Applicable to every registered person, except
  - 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)
- For taxpayers filing form GSTR-1/IFF a new FORM GSTR-1A has been introduced vide proviso to rule 59(1) to allow amendments to rectify any errors or omissions in the details of outward supplies reported in FORM GSTR-1 before filing FORM GSTR-3B.
- 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 the preceding month
  - 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 If a registered person is notified about unpaid tax/differential tax liability, he cannot file their GSTR-1 or IFF until he either pays the specified amount or provide a valid explanation
- d If a registered person is notified about claiming excess ITC, he cannot file their GSTR-1 or IFF for the next period until they either pay the excess ITC amount or provide a valid explanation
- e A registered person cannot file their GSTR-1 or IFF if he has not provided their bank account details

## 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
- Further, the additional details or amendments in details of outward supplies furnished by the supplier in FORM GSTR-1A filed between the day immediately after the due date of furnishing of FORM GSTR-1 for the previous tax period to the due date of furnishing of FORM GSTR-1 for the current tax period would also be made available to the recipient

## 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

### ISD [Rule 65]

- Tax period – monthly
- Due date – on or before 13th day of the 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)
- From FY 2024-25 the return in FORM GSTR-4 shall be required to be filed till the 30 June following the end of such financial year

### 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 and by persons supplying online money gaming from a place outside India to a person in India [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 the 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
- **Filing of returns within 3 Years from due Date:** Monthly and Annual return can not be filed after the expiry of a period of three years from the due date of furnishing the said returns



## Payment of tax (Section 49)

- The amount deposited by the registered person gets credited online to the electronic cash ledger of the registered person, under the 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
- In certain cases, there would be a restriction on maximum proportion of output tax liability which may be discharged through electronic credit ledger/input tax credit
- 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

- A registered person may transfer cash ledger balance to the electronic cash ledger of another GST registration within the same PAN (distinct persons)

## 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 PMT-03A	Order For re-credit of the amount to electronic credit ledger
5	Form GST PMT-04	Application for intimation of discrepancy in electronic credit ledger/cash ledger/liability register
6	Form GST PMT-05	Electronic cash ledger
7	Form GST PMT-06	Challan for deposit of Goods and Services Tax
8	Form GST PMT-07	Application for intimating discrepancy relating to payment
9	Form GST PMT-09	Transfer of amount from one account head to another in electronic cash ledger

# 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 years of being sent out	Two years

\*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 whose aggregate turnover during the immediately preceding FY exceeds INR 5 crore shall be required to furnish the details of goods sent to the job worker and received back in Form ITC-04 on half yearly basis and in other cases Form ITC-04 shall be required to furnish on an annual basis. This form needs to be filed by 25th day of the month succeeding the said period



# Export, imports and procedure

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

## 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

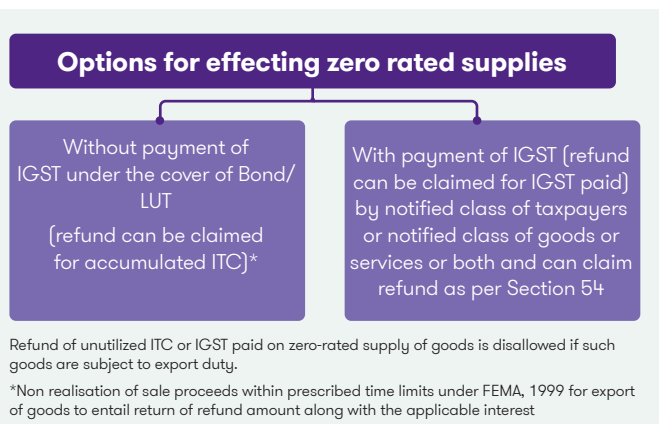
### Export of services

- 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 persons 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 equal 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)]

Reduced 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 reduced 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)

<b>A</b>	Assessable value under customs (A)
<b>B</b>	Basic custom duty (X% of A)
<b>C</b>	Social welfare surcharge (10 % of B)
<b>D</b>	Total (A+B+C) = Value for levy of IGST and cess
<b>E</b>	IGST (Y% of D)
<b>F</b>	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
- The Central Government has notified that the exemption from levy of IGST and compensation cess on goods imported under EPCG, advance authorisation, EOU schemes etc. for specified purposes shall be continued
- Earlier, the exemption from levy of IGST and compensation cess was extended till 30 June 2022. (Notification No. 37/2022-Customs)

#### 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:

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

## Filing of refund application in Form GST RFD-01

- 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:

- 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
- if the goods are exported by land, the date on which such goods pass the custom frontier; or
- 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:

- 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
  - 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/ FORM GSTR-1A to the custom system, the said system shall transmit back a confirmation that the goods covered in invoices have been exported out of India

- 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 have been 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)]**

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

##### 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. (w.e.f., 8/10/2024)
- 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. (w.e.f., 8/10/2024)
- 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
  - the turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services, excluding the value of exempt supplies other than zero-rated supplies during the relevant period. (w.e.f., 8/10/2024)
- 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 =  $\{[(\text{Turnover of inverted rated supply of goods and services}) \times \text{Net ITC} \div \text{Adjusted Total Turnover}] - \{\text{tax payable on such inverted rated supply of goods and services} \times (\text{Net ITC} \div \text{ITC availed on inputs and input services})\}$

#### Where

- Net ITC means input tax credit availed on inputs during the relevant period. (w.e.f., 8/10/2024)
- 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% or the period of delay beyond sixty days from the date of receipt of such application till the date of refund of such tax, to be computed in such manner and subject to such conditions and restrictions as may be prescribed.

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"> <li>Declaration under second and third proviso to Section 54(3)</li> <li>Undertaking in relation to sections 16(2)(c) and Section 42(2)</li> <li>Statement 3 under rule 89(2) (b) and rule 89(2)(c)</li> <li>Statement 3A under rule 89(4)</li> </ul>	<ul style="list-style-type: none"> <li>Copy of GSTR-2A of the relevant period</li> <li>Statement of invoices (Annexure-B)</li> <li>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</li> </ul>
2	Refund of tax paid on export of services made with payment of tax	<ul style="list-style-type: none"> <li>Declaration under second and third proviso to Section 54(3)</li> <li>Undertaking in relation to sections 16(2)(c) and Section 42(2)</li> <li>Statement 2 under rule 89(2)(c)</li> </ul>	<ul style="list-style-type: none"> <li>BRC/FIRC/any other document indicating the receipt of sale proceeds of services</li> <li>Copy of GSTR-2A of the relevant period</li> <li>Statement of invoices (Annexure-B)</li> <li>Self-certified copies of invoices entered in Annexure-A whose details are not found in GSTR-2A of the relevant period</li> <li>Self-declaration regarding non-prosecution under subrule (1) of rule 91 of the CGST Rules for availing provisional refund</li> </ul>
3	Refund of unutilised ITC on account of I/c made to SEZ units/developer without payment of tax*	<ul style="list-style-type: none"> <li>Declaration under third proviso to section 54(3)</li> <li>Statement 5 under rule 89(2) (d) and rule 89(2)(e)</li> <li>Statement 5A under rule 89(4)</li> <li>Declaration under rule 89(2)(f)</li> <li>Undertaking in relation to Sections 16(2)(c) and Section 42(2)</li> <li>Self-declaration under rule 89(2)(l) if amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) otherwise</li> </ul>	<ul style="list-style-type: none"> <li>Copy of GSTR-2A of the relevant period</li> <li>Statement of invoices (Annexure-B)</li> <li>Endorsement(s) from the specified officer of the SEZ regarding receipt of goods/services for authorised operations under second proviso to rule 89(1)</li> </ul>
4	Refund of tax paid on supplies made to SEZ units/developer with payment of tax	<ul style="list-style-type: none"> <li>Declaration under second and third proviso to Section 54(3)</li> <li>Declaration under rule 89(2)(f)</li> <li>Statement 4 under rule 89(2) (d) and rule 89(2)(e)</li> <li>Undertaking in relation to Sections 16(2)(c) and Section 42(2)</li> <li>Self-declaration under rule 89(2)(l) if amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) otherwise</li> </ul>	<ul style="list-style-type: none"> <li>Endorsement(s) from the specified officer of the SEZ regarding receipt of goods/services for authorised operations under second proviso to rule 89(1)</li> <li>Self-certified copies of invoices entered in Annexure-A whose details are not found in GSTR-2A of the relevant period</li> <li>Self-declaration regarding non-prosecution under sub-rule (1) of rule 91 of the CGST Rules for availing provisional refund</li> </ul>
5	Refund of ITC unutilised on account of accumulation due to inverted tax structure*	<ul style="list-style-type: none"> <li>Declaration under second and third proviso to Section 54(3)</li> <li>Declaration under Section 54(3)(ii)</li> <li>Undertaking in relation to Sections 16(2)(c) and Section 42(2)</li> <li>Statement 1 under rule 89(5)</li> <li>Statement 1A under rule 89(2)(h)</li> <li>Self-declaration under rule 89(2)(l) if amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) otherwise</li> </ul>	<ul style="list-style-type: none"> <li>Copy of GSTR-2A of the relevant period</li> <li>Statement of invoices (Annexure-B)</li> </ul>

\* 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"> <li>Statement 5(B) under rule 89(2)(g)</li> <li>Declaration under rule 89(2)(g)</li> <li>Undertaking in relation to sections 16(2)(c) and Section 42(2)</li> <li>Self-declaration under rule 89(2)(l) if amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) otherwise</li> </ul>	<ul style="list-style-type: none"> <li>Documents required under Notification No. 49/ 2017- Central Tax dated 18/10/2017 and Circular No. 14/ 14/2017-GST dated 06/11/2017</li> </ul>
7	Refund to recipient of tax paid on deemed export supplies	<ul style="list-style-type: none"> <li>Statement 5(B) under rule 89(2)(g)</li> <li>Declaration under rule 89(2)(g)</li> <li>Undertaking in relation to Section 16(2)(c) and Section 42(2)</li> <li>Self-declaration under rule 89(2)(l) if amount claimed does not exceed INR 2 lakh, certification under rule 89(2)(m) otherwise</li> </ul>	<ul style="list-style-type: none"> <li>Documents required under Circular No. 14/14/2017- GST dated 06/11/2017</li> </ul>
8	Refund of excess payment of tax	<ul style="list-style-type: none"> <li>Statement 7 under rule 89(2)(k)</li> <li>Undertaking in relation to sections 16(2)(c) and Section 42(2)</li> <li>Self-declaration under rule 89(2)(l) if amount claimed does not exceed INR 2 lakh, certification under rule 89(2)(m) otherwise</li> </ul>	
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"> <li>Statement 6 under rule 89(2)(j)</li> <li>Undertaking in relation to Sections 16(2)(c) and Section 42(2)</li> </ul>	
10	Refund on account of assessment/provisional assessment/appeal/any other order	<ul style="list-style-type: none"> <li>Undertaking in relation to Sections 16(2)(c) and Section 42(2)</li> <li>Self-declaration under rule 89(2)(l) if amount claimed does not exceed INR 2 lakh, certification under rule 89(2)(m) otherwise</li> </ul>	<ul style="list-style-type: none"> <li>Reference number of the order and a copy of the assessment/provisional assessment/appeal/any other order</li> <li>Reference number/proof of payment of pre-deposit made earlier for which refund is being claimed</li> </ul>
11	Refund on account of any other ground or reason	<ul style="list-style-type: none"> <li>Undertaking in relation to Sections 16(2)(c) and Section 42(2)</li> <li>Self-declaration under rule 89(2)(l) if amount claimed does not exceed INR 2 lakh, certification under rule 89(2)(m) otherwise</li> </ul>	<ul style="list-style-type: none"> <li>Documents in support of the claim</li> </ul>



# E-way bill

[Section 68 of CGST Act, read with Rule 138-138F 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:

- In relation to a supply or
- For reasons other than supply or
- 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. The unique number will be generated which shall be valid for a period of 15 days for updation of Part B of FORM GST EWB-01.

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 consignor	Location of consignee	Value of consignment	Applicability of E-way bill
Delhi	Delhi	More Than INR 50,000	Yes
Delhi	Delhi	Less Than INR 50,000	No
Delhi	Punjab	More Than INR 50,000	Yes
Delhi	Punjab	Less Than INR 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 the registered person and the goods are handed over to the transporter for transportation by road, then the 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 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 an 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.

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 the registered person in Part A can be utilised while furnishing FORM GSTR-1.

E-way bill can be cancelled within 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.

## Notes

\* 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 a 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 weightment 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
  - The invoice or bill of supply or delivery challan; and
  - A copy of the E-way bill or the EBN, either physically or mapped to a RFID
  - 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 -
  - Tax invoice or bill of supply or bill of entry; or
  - 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:
  - Registered person has not filed GST returns for a consecutive period of two tax periods
  - Composition dealer has not filed GST returns for the last two quarters
  - 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](http://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, the person 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



## Information to be furnished for Intra-State movement of Gold, Precious Stones, etc., and Generation of E-Way Bills (Rule 138F)

- When the Commissioner mandates providing details for intra-State movement of specific goods listed under serial numbers 4 and 5 of the annexure in Rule 138, and the consignment value exceeds INR 2,00,000 (or another amount as notified by the Commissioner), the registered persons must provide the details relating to such goods in Part A of FORM GST EWB-01, against which a unique number shall be generated
- Further, if goods are supplied via e-commerce or courier, the operator/agency may furnish this information
- Information must be furnished before the movement starts, including the following cases:
  - Supply of goods,
  - Non-supply reasons (e.g., job work, return),
  - Inward supply from an unregistered person.
- Part B of FORM GST EWB-01 is not required for such movements. After completing Part A, an e-way bill is generated electronically
- Details from Part A are shared with the registered supplier for use in their GSTR-1
- If goods are not transported, the e-way bill can be cancelled within 24 hours unless it has been verified during transit
- No e-way bill is required in specific cases, such as:
  - Transport from customs stations to inland container depots or freight stations for clearance,
  - Transport under customs bonds between ports or customs stations,
  - Movement under customs supervision or seals.
  - Other e-way bill provisions (e.g., inspection, verification) will also apply



# Consequences of non-compliance under GST

[Section 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 the details of outward supplies, monthly return, TCS return, 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	<ul style="list-style-type: none"> <li>For registered person having aggregate turnover up to 5Cr. : INR 25 per day, subject to a maximum of 0.02% of turnover</li> <li>For registered person having turnover more than 5Cr but upto 20Cr. : INR 50 per day, subject to a maximum of 0.02% of turnover</li> <li>For registered person having T/O more than 20Cr. : INR 100 for every day, subject to a maximum of 0.25% of turnover</li> </ul>

### Notes

- 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, there is late fees of INR 10 for every day during which such failure continues

## 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 succeeding day on which the tax was due to be paid
A person wrongly availed and utilised the input tax credit	Interest at 18% on the input tax credit wrongly availed and utilised

## Cancellation of registration (Section 29 read with Rule 21)

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 the return for a financial year beyond three months from the due date of furnishing the said return
- 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
- Does not conduct any business from the declared place of business
- Issuance of invoice without supply of goods/services

- Availment of Input Tax Credit in violation of provision of Act
- Short reporting of tax liability under GSTR-3B in comparison to GSTR-1/1A for one or more tax periods
- Violates the provision of rule 86B (1% of tax liability to be paid in cash in certain cases)
- Violates the provisions of third or fourth proviso to sub-rule (1) of rule 23 (after revocation of cancellation of GST registration, all due returns, including those for periods impacted by retrospective cancellation, must be submitted within 30 days)

### Notes

- 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
- Tampers 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 encourages or assists any of the offences listed above

### Any person:

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

### Any electronic commerce operator, who is liable to collect tax at source under Section 52

- Allows supply of goods/services through it by an unregistered person other than a person exempted from obtaining registration
- Allows an inter-State supply of goods/services through it by a ineligible person
- Fails to furnish the correct details in the statement to be furnished of outward supply of goods effected through it by a person exempted from obtaining registration

## 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)

Higher of INR 10,000 or an amount equivalent to the tax involved



## Conditional waiver of interest and penalty for demands under non-fraud cases (Section 128A read with Rule 164)

A person may avail a waiver of interest and penalties under the scheme if the following conditions are met:

- **Tax demand:** The tax is payable due to one of the following circumstances:
  - A notice issued for tax demands (not involving fraud, suppression, or wilful misstatement, etc.) (under Section 73(1) or a statement issued under Section 73(3), and where no order under Section 73(9) of the CGST Act has been issued)
  - An order under Section 73(9) issued, confirming the tax demand (not involving fraud, suppression, or wilful misstatement, etc.). However, no order by the Appellate Authority under Section 107(11) or Revisional Authority under Section 108(1) has been issued
  - An order by the Appellate Authority under Section 108(1) of the CGST Act or Revisional Authority under Section 113(1) of the CGST Act, with no order by the Appellate Tribunal under Section 73 of the CGST Act, has been issued
- **Tax period:** The demands pertain to the period from 1 July 2017 to 31 March 2020 or a part of it.
- **Exclusions:** This benefit will not be available in the following cases:
  - Erroneous refund;
  - Interest and penalty have already been paid
  - Where an appeal or writ petition is pending before the Appellate Authority, Appellate Tribunal, or court, and the same has not been withdrawn before the effective date of the scheme

### Procedure for availing the benefit (Rule 164)

The procedure is enumerated below:

- **Filing of application:** Eligible persons can file an application electronically in FORM GST SPL-01 on the common portal, along with the details of the payments made in FORM GST DRC-03 within three months from the date notified u/s 128A(1) of the CGST Act, i.e., till 30 June 2025  
  
For orders u/s 128A(1)(b) and (c) of the CGST Act, the application should be in FORM GST SPL-02, along with the payment details six months from the communication of the proper officer's order. Applications can be filed only after paying the full amount of tax demanded for erroneous refunds and other reasons as provided under Sub-rule 4
- **Payment requirements:** Payments should be credited to the electronic liability register against the debit entry created by the order. If the payment is made through FORM GST DRC-03, a FORM GST DRC-03A must be filed to credit the amount before filing FORM GST SPL-02
- **Withdrawal of appeals:** The application must include documents evidencing the withdrawal of any appeal or writ petition. If the withdrawal order is pending, the application for withdrawal should be uploaded, along with the application
- **Proper officer's review:** If the proper officer finds the application ineligible, a notice (FORM GST SPL-03) will be issued within three months, and the applicant can reply in FORM GST SPL-04 within one month. The proper officer will then issue an order either accepting (FORM GST SPL-05) or rejecting (FORM GST SPL-07) the application



## Timelines for officer's decision:

Category	Timeline for issuance of order
Notice in FORM GST SPL-03 is not issued	Within three months from the date of receiving the application
Notice in FORM GST SPL-03 is issued	<ul style="list-style-type: none"><li>• Three months from the date of receiving the applicant's reply, or</li><li>• Four months from the date of issuing the notice in FORM GST SPL-03 if no reply is received from the applicant.</li></ul>

If no order is issued within the time limit, the application is deemed approved, and proceedings shall be deemed to be concluded.

## Restoration of appeals:

- If no appeal is filed against the order in FORM GST SPL-07 within the specified time under Section 107(1) of the CGST Act, the original appeal withdrawn earlier will be restored
- If an appeal is filed, then the following process is to be followed:
  - If the appellate authority finds that the proper officer wrongly rejected the waiver application, the authority will accept the application and conclude proceedings in FORM GST SPL-06
  - If the appellate authority upholds the rejection of the application, the original appeal withdrawn earlier will be restored if the taxpayer submits an undertaking in FORM GST SPL-08 within a period of three months from the appellate authority's order in FORM GST APL-04, stating that no further appeal will be filed against the said order
- **Additional provisions:** If the taxpayer is required to pay additional tax liability and fails to do so, the waiver becomes void. If a taxpayer must pay interest, penalty, or both for an erroneous refund or for a period not covered us 128A(1) of the CGST Act, as detailed in FORM GST SPL-05 or SPL-06, they must do so within three months from the issuance of these forms. Failure to pay within this period will void the waiver

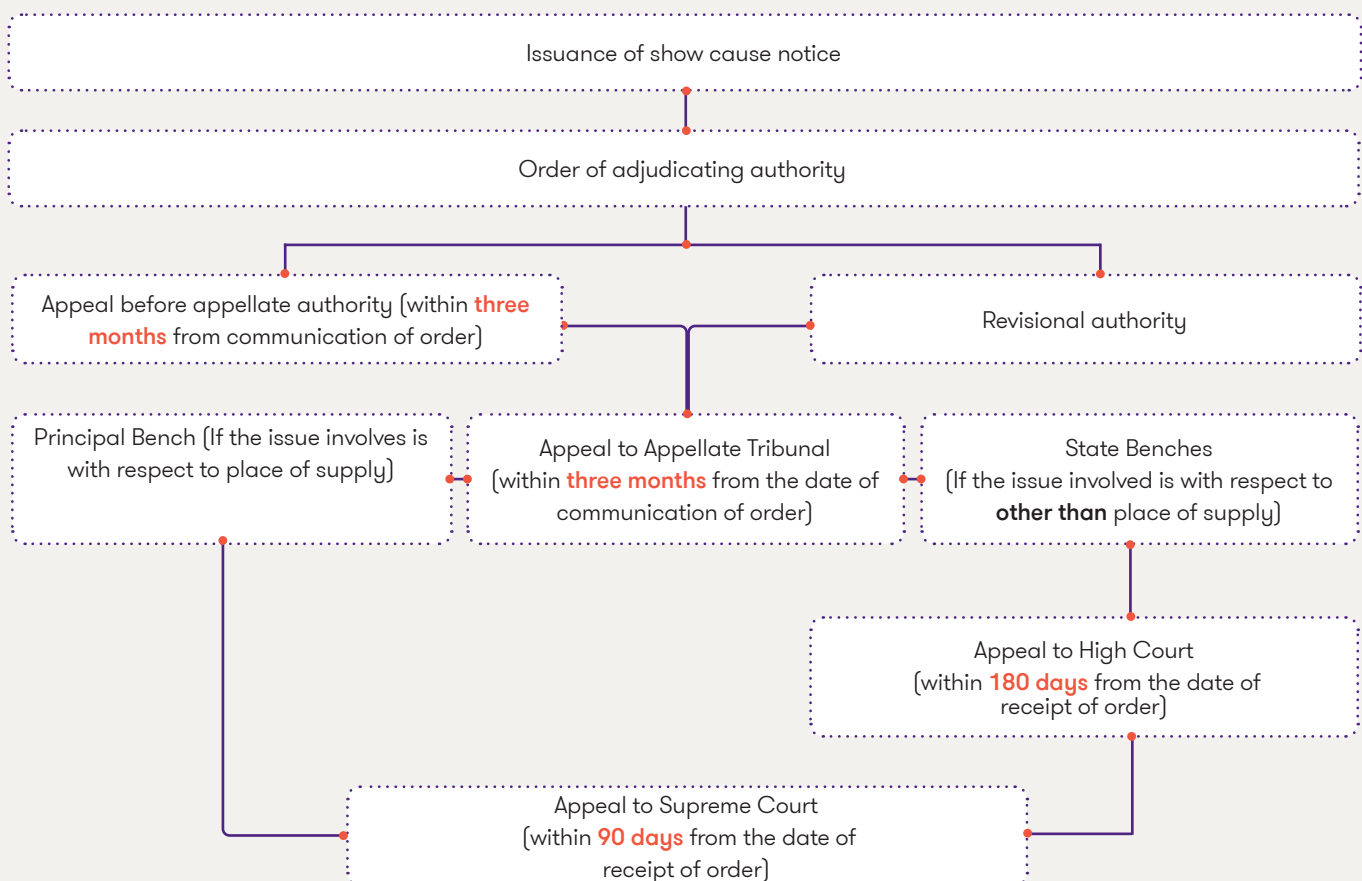


# Litigation under GST Laws

[Section 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 objectives behind introduction of GST was to reduce litigation. Keeping this in mind, an easily accessible advance ruling mechanism has been introduced. However, considering a 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 a 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 misstatement and suppression of facts (Section 74)
- Other cases, not involving fraud, willful misstatement or suppression of facts (Section 73)

A new section 74A would be applicable to determine tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized for any reason pertaining to financial year 2024-25 onwards.

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

Particulars	Section 73	Section 74	Section 74A
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 the issuing order	Within 42 months from the due date for furnishing of the annual return for the financial year to which the tax demand pertains
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 the annual return for the year to which the issue under dispute relates or within three years from the date of the erroneous refund	Within 12 months from the date of issuance of the notice, which can be further extended by a maximum of six months
Quantum of liability if demand of SCN/order paid within 30/60 days of SCN	<ul style="list-style-type: none"> <li>• Tax – full</li> <li>• Interest – full</li> <li>• Penalty – 25% of tax</li> </ul>	<ul style="list-style-type: none"> <li>• Tax – full</li> <li>• Interest – full</li> <li>• Penalty – NIL</li> </ul>	<ul style="list-style-type: none"> <li>• Tax – full</li> <li>• Interest – full</li> <li>• Penalty – 25% of tax within 60 days of receiving the notice</li> <li>• Penalty - 50% of the tax as penalty within 60 days of receiving the order</li> </ul>

\*The provisions of these sections shall be applicable for determination of tax pertaining to the period up to FY 2023-24.

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

### Notes

Other points which merit consideration in this regard are:

- Person issued an SCN and chargeable with tax, interest, or penalty will be given an opportunity to be heard
- Such person will be granted time for hearing, with adjournments limited to three during proceedings
- The adjudicating authority's order must be a speaking order, clearly stating the facts and basis of the 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 electronically.

Exceptions to electronic filing:

- the Commissioner has so notified, or
- the same cannot be filed electronically due to non-availability of the decision or order to be appealed against on the common portal, and in such case, a provisional acknowledgement shall be issued to the appellant immediately

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 20 crore (w.e.f. 1/11/2024) (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 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 & Rule 110-113)

Any person aggrieved by the order passed by appellate authority or revisional authority can file an appeal before Appellate Tribunal. This appellate tribunal can also conduct an examination or adjudicating the cases referred in sub-section 171(2), if so notified under the said section. This 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. Principal Bench and State Bench. GST law also defines jurisdiction of the Tribunals, as below:

#### Principal Bench

If the issue in dispute is in relation to place of supply, then principal bench would have the jurisdiction to hear the appeal. [Proviso to Section 109(5)].

Certain other cases to be heard only by the Principal Bench are discussed below:

- Some cases under section 171(2) of the GST Act (anti-profiteering cases)
- The Government, with recommendation from the GST Council, can declare more types of cases that will also be handled only by the Principal Bench

Any appeal against the order passed by Principal Bench would directly be filed before Supreme Court [Section 118(1)]

#### State bench/area benches:

Any appeal against the order of state 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 : 10% of the disputed tax, subject to a maximum of INR 20 crore (w.e.f. 1/11/2024) (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 or the date, as may be notified by the Government, on the recommendations of the Council, whichever is later. Such period of three months can be further extended by three months in case the appellant provides sufficient cause for the delay

### Summary of Pre-deposit requirements:

Forum	Earlier	Current
Appellate authority	10% (Maximum cap – INR 25 crore each for CGST and SGST)	10% (Maximum cap – INR 20 crore each for CGST and SGST) (w.e.f. 1/11/2024)
GSTAT	20% (Maximum cap – INR 50 crore each for CGST and SGST)	10% (Maximum cap – INR 20 crore each for CGST and SGST) (w.e.f. 1/11/2024)

- **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 electronically or it may be filed manually in FORM GST APL-05, along with the relevant documents, only if the Registrar allows the same
- **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 electronically or it may be filed manually in FORM GST APL-06, only if the Registrar allows the same. 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
- **Withdrawal of Appeal or Application filed before the Appellate Tribunal:**
  - i. An appellant can withdraw an appeal or application filed before the Appellate Tribunal by submitting FORM GST APL-05/07W before the tribunal issues its order
  - ii. If FORM GST APL-02 (admission order) has already been issued, the withdrawal is subject to the Tribunal's approval
  - iii. If a fresh appeal or application is filed after withdrawal, it must comply with the time limits specified under Section 112(1) or 112(3) of the GST Act

As of now, the GST Tribunals are yet to be formed, so there is no mechanism to appeal before the GSTAT and the only recourse is filing a writ petition with the High Court

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

Any person aggrieved by the order passed by the State Benches 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 Principal Bench 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 subordinate 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 the applicant as well as to the concerned officer
- AAR would pronounce its ruling within 90 days from the date of receipt of application
- Subsequently, a 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 the concerned officer, jurisdictional officer and the taxpayer. (Section 101)





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