

# ***GST AUDIT***

# *Relevant Provisions*

- **Section 35(5):** *Every registered person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant and shall submit a copy of the audited annual accounts, the reconciliation statement under sub-section (2) of section 44 and such other documents in such form and manner as may be prescribed.*
- **Section 44(2):** *Every registered person who is required to get his accounts audited in accordance with the provisions of sub-section (5) of section 35 shall furnish, electronically, the annual return under sub-section (1) along with a copy of the audited annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement, and such other particulars as may be prescribed.*
- **Rule 80(3):** *Every registered person whose **aggregate turnover** during a financial year exceeds **two crore rupees** shall get his accounts audited as specified under sub-section (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in **FORM GSTR-9C**, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.*

## ***Sec. 2(6) of the CGST Act: Aggregate Turnover***

“Aggregate Turnover” means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess.

***Particulars which may be required to be furnished as per FORM GSTR-9D (as available in public domain)***

# *List of Books of Accounts Maintained*

## **Section 35 Accounts and Records**

1) Every registered person shall keep and maintain, at his principal place of business, as mentioned in the certificate of registration, a true and correct account of-

- Production or manufacture of Goods;
- Inward and outward supply of goods or services or both;
- Stock of goods;
- Output tax payable and paid;
- such other particulars as may be prescribed;

*Provided that 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:*

*Provided further that the registered person may keep and maintain such accounts and other particulars in electronic form in such manner as may be prescribed.*

- 2) Every owner or operator of warehouse or godown or any other place used for storage of goods and every transporter, irrespective of whether he is a registered person or not, shall maintain records of the consigner, consignee and other relevant details of the goods in such manner as may be prescribed.
- 3) The Commissioner may notify a class of taxable persons to maintain additional accounts or documents for such purpose as may be specified therein.
- 4) Where the Commissioner considers that any class of taxable persons is not in a position to keep and maintain accounts in accordance with the provisions of this section, he may, for reasons to be recorded in writing, permit such class of taxable persons to maintain accounts in such manner as may be prescribed.

- 5) Every register person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant and shall submit a copy of the audited annual accounts, the reconciliation statement under sub-section (2) of section 44 and such other documents in such form and manner as may be prescribed.
- 6) Subject to the provisions of clause (h) of sub-section (5) of section 17, where the registered person fails to account for the goods or services or both in accordance with the provisions of sub-section (1), the proper officer shall determine the amount of tax payable on the goods or services or both that are not accounted for, as if such goods or services or both had been supplied by such person and the provisions of section 73 or section 74, as the case may be, shall, *mutatis mutandis*, apply for determination of such tax.

***Whether the following supplies effected by the registered person have been considered in returns (if any)?***

7. (1) For the purposes of this Act, the expression “***supply***” includes—
- (a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;
  - (b) import of services for a consideration whether or not in the course or furtherance of business;
  - (c) the activities specified in Schedule I, made or agreed to be made without a consideration; and
  - (d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II.



(2) Notwithstanding anything contained in sub-section (1),—

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

(3) Subject to the provisions of sub-sections (1) and (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as—

- (a) a supply of goods and not as a supply of services; or
- (b) a supply of services and not as a supply of goods.

## **SCHEDULE I: ACTIVITIES TO BE TREATED AS SUPPLY EVEN IF MADE WITHOUT CONSIDERATION**

1. Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.
2. Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business:  
**Provided** that gifts not exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.
3. Supply of goods—
  - (a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or
  - (b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal
4. Import of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

# **SCHEDULE II: ACTIVITIES TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES**

## **1. Transfer**

- (a)* Any transfer of the title in goods is a supply of goods;
- (b)* Any transfer of right in goods or of undivided share in goods without the transfer of title thereof, is a supply of services;
- (c)* Any transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration as agreed, is a supply of goods.

## **2. Land and Building**

- (a)* any lease, tenancy, easement, license to occupy land is a supply of services;
- (b)* any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of services.

**3. Treatment or process:** Any treatment or process which is applied to another person's goods is a supply of services.

## 4. Transfer of business assets

- (a) where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration, such transfer or disposal is a supply of goods by the person;
- (b) where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for a consideration, the usage or making available of such goods is a supply of services;
- (c) where any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless—
  - (i) the business is transferred as a going concern to another person; or
  - (ii) the business is carried on by a personal representative who is deemed to be a taxable person.

## 5. Supply of services

The following shall be treated as supply of service, namely:—

(a) renting of immovable property;

(b) construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.

*Explanation.*—For the purposes of this clause—

(1) the expression "competent authority" means the Government or any authority authorized to issue completion certificate under any law for the time being in force and in case of non-requirement of such certificate from such authority, from any of the following, namely:—

(i) an architect registered with the Council of Architecture constituted under the Architects Act, 1972; or

(ii) a chartered engineer registered with the Institution of Engineers (India); or

(iii) a licensed surveyor of the respective local body of the city or town or village or development or planning authority;

(2) the expression "construction" includes additions, alterations, replacements or remodelling of any existing civil structure;

- (c) temporary transfer or permitting the use or enjoyment of any intellectual property right;
- (d) development, design, programming, customization, adaptation, up gradation, enhancement, implementation of information technology software;
- (e) agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act; and
- (f) transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.

## **6. Composite supply**

The following composite supplies shall be treated as a supply of services, namely:—

- (a) works contract as defined in clause (119) of section 2; and
- (b) supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.

## **7. Supply of Goods**

The following shall be treated as supply of goods, namely:—

Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.

Details of Outward Supplies	Relevant Table in GSTR-1		Relevant Table in GSTR-3B	Explanation in relation to GSTR-1
Taxable Supplies (Sale, Transfer, Barter, Exchange, License, Rental, Lease, Disposal Etc.)	4A, 4C, 6C	4B, 6B,	3.1	B2B Invoices - Details of invoices of Taxable supplies made to other registered taxpayers
Taxable Supplies (Sale, Transfer, Barter, Exchange, License, Rental, Lease, Disposal Etc.)	5A, 5B		3.1	<p>B2C (Large) Invoices -Invoices for Taxable outward supplies to consumers where:</p> <ul style="list-style-type: none"> <li>a) The place of supply is outside the state where the supplier is registered and</li> <li>b) The total invoice value is more than Rs 2,50,000</li> </ul>
Taxable Supplies (Sale, Transfer, Barter, Exchange, License, Rental, Lease, Disposal Etc.)	7		3.1	<p>B2C (Small) Invoices -Supplies made to consumers and unregistered persons of the following nature:</p> <ul style="list-style-type: none"> <li>a) Intra-State: any value</li> <li>b) Inter-State: Invoice value Rs 2.5 lakh or less</li> </ul>
Exports	6A		3.1	Exports supplies including supplies to SEZ/SEZ Developer or deemed exports



## ***Whether generally non taxable supplies have been reported in the return?***

### **Section 2(47) of the CGST Act:**

“exempt supply” means supply of any goods or services or both which attracts *nil* rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply;

<b>Details of Exempt/ Nil - Rated Supplies</b>	<b>Relevant Table in GSTR-1</b>	<b>Relevant Table in GSTR-3B</b>	<b>Explanation in relation to GSTR-1</b>
<b>Exempt/ Nil - Rated Supplies</b>	8A, 8B, 8C, 8D	3.1	Details of Nil Rated, Exempted and Non-GST Supplies made during the tax period

***Whether it is ensured that transactions of the following natures have not been reported in the return?***

**a) Transactions covered under Schedule III of the Act:**

1. Services by an employee to the employer in the course of or in relation to his employment.
2. Services by any court or Tribunal established under any law for the time being in force.
3. (a) the functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities;  
(b) the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or  
(c) the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.

4. Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
5. Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.
6. Actionable claims, other than lottery, betting and gambling.

***Explanation.***—For the purposes of paragraph 2, the term "court" includes District Court, High Court and Supreme Court.

### **b) Transactions not covered by definition of supplies**

- Transactions which are not in the course of business or commerce
- Income in the nature of interest on savings account, fixed deposit, dividends, etc.

## *Whether the tax liability has been determined in accordance with Section 8 of the CGST Act, 2017? If no, specify reasons / instances*

The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:-

- (a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and
- (b) a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.

**‘Composite Supply’** means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.

**‘Mixed Supply’** shall mean the full amount which a recipient of a supply is required to pay in order to obtain the goods or services or both of like kind and quality at or about the same time and at the same commercial level where the recipient and the supplier are not related.

***Details of inward supply of notified goods/services liable to tax under reverse charge mechanism u/s 9(3) of the CGST Act, read with Section 5(3) of the IGST Act, on which tax has not been remitted.***

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

**Section 5(3) of the IGST Act:** On similar lines with Section 9(3) of CGST Act as given *supra*.

## ***Relevant Notifications***

*NN 13/2017-CT(rate) dated 28.06.2017, corrigendum dated 25.09.2017 read with NN 10/2017-IT(rate) dated 28.06.2017, corrigendum dated 25.09.2017, -NN 22/2017-CT(rate) dated 22.08.2017 & NN 22/2017-IT(rate) dated 22.08.2017, NN 33/2017-CT(rate) dated 13.10.2017 & NN 34/2017-CT(rate) dated 13.10.2017 and NN 3/2018-CT(rate) dated 25.01.2018 & NN 3/2018-IT(rate) dated 25.01.2018*

1. Supply of Services by a goods transport agency (GTA) (***w.e.f. 22.08.2017 GTA who has not paid central tax at the rate of 6%***) in respect of transportation of goods by road to-

- (a) any factory registered under or governed by the Factories Act, 1948(63 of 1948);or
- (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or
- (c) any co-operative society established by or under any law; or
- (d) any person registered under the CGST Act or IGST Act or SGST Act or UTGST Act; or
- (e) any body corporate established, by or under any law; or
- (f) any partnership firm whether registered or not under any law including association of persons; or (g) any casual taxable person.

## Reverse Charge Notification

2. Services provided by an individual advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly.

“legal service” means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority.”

3. Services supplied by an arbitral tribunal to a business entity.

4. Services provided by way of sponsorship to any body corporate or partnership firm.

5. Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding,-

(1) renting of immovable property, and

## Reverse Charge Notification

(2) services specified below-

- (i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government, State Government or Union territory or local authority;
- (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;
- (iii) transport of goods or passengers.

6. Services supplied by a director of a company or a body corporate to the said company or the body corporate.

7. Services supplied by an insurance agent to any person carrying on insurance business.

8. Services supplied by a recovery agent to a banking company or a financial institution or a nonbanking financial company



## **Reverse Charge Notification**

9. Supply of services by an author, music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary, dramatic, musical or artistic works to a publisher, music company, producer or the like.

10. Any service supplied by any person who is located in a non-taxable territory to any person other than non-taxable online recipient.

11. Services supplied by a person located in non- taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India.

12. Supply of services by the members of Overseeing Committee to Reserve Bank of India. (w.e.f. 13.10.2017)

13. Services supplied by the Central Government, State Government, Union territory or local authority by way of renting of immovable property to a person registered under the CGST Act, 2017. (w.e.f. 25.01.2018)

## ***Relevant Notifications for RCM on Goods***

*NN 04/2017-CT (rate) & IT (rate) dated 28.06.2017 read with NN 36/2017-CT(rate) & NN 37/2017-IT (rate) dated 22.09.2017 and NN 43/2017-CT (rate) & NN 45/2017-CT (rate) dated 14.11.2017*

1. Cashew nuts, not shelled or peeled
2. Bidi wrapper leaves (tendu)
3. Tobacco leaves
4. Silk yarn
5. Used vehicles, seized and confiscated goods, old and used goods, waste and scrap, supplied by Central Government, State Government, Union territory or a local authority to any registered person
6. Raw Cotton (w.e.f. 15<sup>th</sup> November' 2017)

***Details of inward supply of taxable goods/services effected from unregistered persons liable to tax under reverse charge mechanism u/s 9(4) of the CGST Act, read with Section 5(4) of the IGST Act, on which tax has not been remitted.***

**Section 9(4) of the CGST Act:** The central tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

**Section 5(4) of the IGST Act:** On similar line with Section 9(4) of the CGST Act as given *supra*.

*However, for Financial Year 2017-18, Section 9(4) of the CGST Act and Section 5(4) of the IGST Act is applicable till 12.10.2017.*

*Whether any exemption notifications or special orders under the Act are applicable to the registered person? Provide summary details*

### **Section 11: Power to grant exemption**

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

## *Exemption Notification*

<b>Nature</b>	<b>Original Notification No.</b>	<b>Amendment Notification No.</b>	<b>Dated</b>
<b>Exempted Goods</b>	02/2017-CT(rate)		28-06-2017
		28/2017-CT(rate)	22-09-2017
		35/2017-CT(rate)	13-10-2017
		42/2017-CT(rate)	14-11-2017
		07/2018-CT(rate)	25-01-2018

<b>Nature</b>	<b>Original Notification No.</b>	<b>Amendment Notification No.</b>	<b>Dated</b>
<b>Exempted Services</b>	12/2017-CT(rate)		28-06-2017
		21/2017-CT(rate)	22-08-2017
		25/2017-CT(rate)	21-09-2017
		32/2017-CT(rate)	13-10-2017
		02/2018-CT(rate)	25-01-2018

# *Time of Supply - Tax paid in compliance with the provisions of Time of Supply*

## **Section 12 – Time of supply of Goods**

- 1) The liability to pay tax on goods shall arise at the time of supply, as determined in accordance with the provisions of this section.
- 2) The time of supply of goods shall be the earlier of the following dates, namely:
  - a) The date of issue of invoice by the supplier or the last date on which he is required, under sub-section (1) of section 31, to issue the invoice with respect to the supply; or

### ***Clause 1 and 4 of Section 31 (Tax Invoice)***

- 1) A registered person supplying taxable goods shall, before or at the time of,—*
- a) Removal of goods for supply to the recipient, where the supply involves movement of goods; or*
  - b) delivery of goods or making available thereof to the recipient, in any other case,*
- issue a tax invoice showing the description, quantity and value of goods, the tax charged thereon and such other particulars as may be prescribed:*

## *Time of Supply - Tax paid in compliance with the provisions of Time of Supply*

### **Section 12 – Time of supply of Goods**

Provided that the Government may, on the recommendations of the Council, by notification, specify the categories of goods or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed.

*4) Section 31(4) Says that in case of 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 or, as the case may be, each such payment is received.*

## *Time of Supply - Tax paid in compliance with the provisions of Time of Supply*

### **Section 12 – Time of supply of Goods**

b) the date on which the supplier receives the payment with respect to the supply:

**Provided** that where the supplier of taxable goods receives an amount up to one thousand rupees in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice in respect of such excess amount.

*However, vide Notification no. 40/2017 – Central Tax dated 13 October 2017 read with Notification no. 66/2017 – Central Tax dated 15 November 2017, the supplier of goods has to make payment of tax upon issuance of invoice only under Section 12(2)(a).*



# *Time of Supply - Tax paid in compliance with the provisions of Time of Supply*

## **Section 12 – Time of supply of Goods**

*Explanation 1.*—For the purposes of clauses (a) and (b), “supply” shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.

*Explanation 2.*—For the purposes of clause (b), “the date on which the supplier receives the payment” shall be the date on which the payment is entered in his books of account or the date on which the payment is credited to his bank account, whichever is earlier.

- 3) In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely:—
- a) the date of the receipt of goods; or
  - b) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or
  - c) the date immediately following thirty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier:

# *Time of Supply - Tax paid in compliance with the provisions of Time of Supply*

## **Section 12 – Time of supply of Goods**

*Provided that where it is not possible to determine the time of supply under clause (a) or clause (b) or clause (c), the time of supply shall be the date of entry in the books of account of the recipient of supply.*

- 4) In case of supply of vouchers by a supplier, the time of supply shall be—
  - a) the date of issue of voucher, if the supply is identifiable at that point; or
  - b) the date of redemption of voucher, in all other cases.
  
- 5) Where it is not possible to determine the time of supply under the provisions of sub-section (2) or sub-section (3) or sub-section (4), the time of supply shall—
  - a) in a case where a periodical return has to be filed, be the date on which such return is to be filed; or
  - b) in any other case, be the date on which the tax is paid.
  
- 6) The time of supply to the extent it relates 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.

# *Time of Supply - Tax paid in compliance with the provisions of Time of Supply*

## **Section 13 – Time of supply of Services**

- 1) The liability to pay tax on services shall arise at the time of supply, as determined in accordance with the provisions of this section:
- 2) The time of supply of services shall be the earliest of the following dates, namely:—
  - a) the date of issue of invoice by the supplier, if the invoice is issued within the period prescribed under sub-section (2) of section 31 or the date of receipt of payment, whichever is earlier; or
  - b) the date of provision of service, if the invoice is not issued within the period prescribed under sub-section (2) of section 31 or the date of receipt of payment, whichever is earlier; or

# *Time of Supply - Tax paid in compliance with the provisions of Time of Supply*

## **Section 13 – Time of supply of Services**

### *Clause 2 and 5 of Section 31 (Tax Invoice)*

*(2) A registered person supplying taxable services shall, before or after the provision of service but within a prescribed period, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed:*

***Provided** that the Government may, on the recommendations of the Council, by notification and subject to such conditions as may be mentioned therein, specify the categories of services in respect of which—*

- a) any other document issued in relation to the supply shall be deemed to be a tax invoice; or*
- b) Tax invoice may not be issued.*

## ***Time of Supply - Tax paid in compliance with the provisions of Time of Supply***

### **Section 13 – Time of supply of Services**

- 5) *Subject to the provisions of clause (d) of sub-section (3), in case of continuous supply of services,—*
- a) *where the due date of payment is ascertainable from the contract, the invoice shall be issued on or before the due date of payment;*
  - b) *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;*
  - c) *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.*

# *Time of Supply - Tax paid in compliance with the provisions of Time of Supply*

## **Section 13 – Time of supply of Services**

c) the date on which the recipient shows the receipt of services in his books of account, in a case where the provisions of clause (a) or clause (b) do not apply:

**Provided** that where the supplier of taxable service receives an amount up to one thousand rupees in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice relating to such excess amount.

*Explanation.*—For the purposes of clauses (a) and (b)—

- i. the supply shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment;
- ii. The date of receipt of payment” shall be the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.

# *Time of Supply - Tax paid in compliance with the provisions of Time of Supply*

## **Section 13 – Time of supply of Services**

- 3) In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earlier of the following dates, namely:—
- a) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or
  - b) the date immediately following sixty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier:

**Provided** that where it is not possible to determine the time of supply under clause (a) or clause (b), the time of supply shall be the date of entry in the books of account of the recipient of supply:

**Provided** further that in case of supply by associated enterprises, where the supplier of service is located outside India, the time of supply shall be the date of entry in the books of account of the recipient of supply or the date of payment, whichever is earlier.

## *Time of Supply - Tax paid in compliance with the provisions of Time of Supply*

### **Section 13 – Time of supply of Services**

- 4) In case of supply of vouchers by a supplier, the time of supply shall be—
  - a) The date of issue of voucher, if the supply is identifiable at that point;  
or
  - b) The date of redemption of voucher, in all other cases.
- 5) Where it is not possible to determine the time of supply under the provisions of sub-section (2) or sub-section (3) or sub-section (4), the time of supply shall—
  - a) in a case where a periodical return has to be filed, be the date on which such return is to be filed; or
  - b) in any other case, be the date on which the tax is paid.



## *Time of Supply - Tax paid in compliance with the provisions of Time of Supply*

### **Section 13 – Time of supply of Services**

- 6) The time of supply to the extent it relates 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.

# *Time of Supply - Tax paid in compliance with the provisions of Time of Supply*

## **Section 14 – Change in rate of tax in respect of supply of goods or services**

Notwithstanding anything contained in section 12 or section 13, the time of supply, where there is a change in the rate of tax in respect of goods or services or both, shall be determined in the following manner, namely:—

- (a) in case the goods or services or both have been supplied before the change in rate of tax,
  - i. where the invoice for the same has been issued and the payment is also received after the change in rate of tax, the time of supply shall be the date of receipt of payment or the date of issue of invoice, whichever is earlier; or
  - ii. where the invoice has been issued prior to the change in rate of tax but payment is received after the change in rate of tax, the time of supply shall be the date of issue of invoice; or
  - iii. where the payment has been received before the change in rate of tax, but the invoice for the same is issued after the change in rate of tax, the time of supply shall be the date of receipt of payment;

## *Time of Supply - Tax paid in compliance with the provisions of Time of Supply*

### **Section 14 – Change in rate of tax in respect of supply of goods or services**

- b) in case the goods or services or both have been supplied after the change in rate of tax.
  - i. where the payment is received after the change in rate of tax but the invoice has been issued prior to the change in rate of tax, the time of supply shall be the date of receipt of payment; or
  - ii. where the invoice has been issued and payment is received before the change in rate of tax, the time of supply shall be the date of receipt of payment or date of issue of invoice, whichever is earlier; or
  - iii. where the invoice has been issued after the change in rate of tax but the payment is received before the change in rate of tax, the time of supply shall be the date of issue of invoice:

## *Time of Supply - Tax paid in compliance with the provisions of Time of Supply*

### **Section 14 – Change in rate of tax in respect of supply of goods or services**

Provided that the date of receipt of payment shall be the date of credit in the bank account if such credit in the bank account is after four working days from the date of change in the rate of tax.

*Explanation.*—For the purposes of this section, “the date of receipt of payment” shall be the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.

## *Time of Supply - Tax paid in compliance with the provisions of Time of Supply*

### **List of Notifications with respective dates in relation to changes in rates of Goods**

<b>Nature</b>	<b>Original Notification No.</b>	<b>Amendment Notification No.</b>	<b>Dated</b>
<b>Goods</b>	01/2017-CT(rate)		28-06-2017
		18/2017-CT(rate)	30-06-2017
		19/2017-CT(rate)	18-08-2017
		27/2017-CT(rate)	22-09-2017
		34/2017-CT(rate)	13-10-2017
		41/2017-CT(rate)	14-11-2017
		06/2018-CT(rate)	25-01-2018
		08/2018-CT(rate)	25-01-2018

## *Time of Supply - Tax paid in compliance with the provisions of Time of Supply*

### **List of Notifications with respective dates in relation to changes in rates of Services**

<b>Nature</b>	<b>Original Notification No.</b>	<b>Amendment Notification No.</b>	<b>Dated</b>
<b>Services</b>	11/2017-CT (rate)		28-06-2017
		20/2017-CT (rate)	22-08-2017
		24/2017-CT (rate)	21-09-2017
		31/2017-CT (rate)	13-10-2017
		47/2017-CT (rate)	14-11-2017
		01/2018-CT (rate)	25-01-2018

## *Time of Supply - Tax paid in compliance with the provisions of Time of Supply*

### **Section 142(12) – Sale on approval basis**

Where any goods sent on approval basis, not earlier than six months before the appointed day, are rejected or not approved by the buyer and returned to the seller on or after the appointed day, no tax shall be payable thereon if such goods are returned within six months from the appointed day:

**Provided** that the said period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:

**Provided** further that the tax shall be payable by the person returning the goods if such goods are liable to tax under this Act, and are returned after a period specified in this sub-section:

**Provided** also that tax shall be payable by the person who has sent the goods on approval basis if such goods are liable to tax under this Act, and are not returned within a period specified in this sub-section.

***Place of Supply: Specify instances where the registered person has not determined the place of supply in terms of Section 10–13 of the IGST Act, 2017.***

**Section 10: Place of supply of Goods other than imported into, or exported from India**

- 1) The place of supply of goods, other than supply of goods imported into, or exported from India, shall be as under,—
  - a) Where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient;
  - b) Where the goods are delivered by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such person;



## **Section 10: Place of supply of Goods other than imported into, or exported from India**

- c) Where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient;
  - d) Where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly;
  - e) Where the goods are supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, the place of supply shall be the location at which such goods are taken on board.
- 2) Where the place of supply of goods cannot be determined, the place of supply shall be determined in such manner as may be prescribed.

## **Section 11: Place of supply of goods imported into, or exported from India**

The place of supply of goods,—

- (a) imported into India shall be the location of the importer;
- (b) exported from India shall be the location outside India.

### ***Section 2 of the IGST Act:***

“Import of Goods” with its grammatical variations and cognate expressions means bringing goods into India from a place outside India.

“Export of Goods” with its grammatical variations and cognate expressions means taking goods out of India to a place outside India.

## **Section 12: Place of supply of services where location of supplier and recipient is in India**

- 1) The provisions of this section shall apply to determine the place of supply of services where the location of supplier of services and the location of the recipient of services is in India.
- 2) The place of supply of services, except the services specified in sub-sections (3) to (14),—
  - a) made to a registered person shall be the location of such person;
  - b) made to any person other than a registered person shall be,—
    - i. the location of the recipient where the address on record exists and;
    - ii. the location of the supplier of services in other cases.

## **Section 12: Place of supply of services where location of supplier and recipient is in India**

3) The place of supply of services,—

- a) directly in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work; or
- b) by way of lodging accommodation by a hotel, inn, guest house, home stay, club or campsite, by whatever name called, and including a house boat or any other vessel; or
- c) by way of accommodation in any immovable property for organising any marriage or reception or matters related thereto, official, social, cultural, religious or business function including services provided in relation to such function at such property; or

## **Section 12: Place of supply of services where location of supplier and recipient is in India**

- d) any services ancillary to the services referred to in clauses (a), (b) and (c), shall be the location at which the immovable property or boat or vessel, as the case may be, is located or intended to be located:

Provided that if the location of the immovable property or boat or vessel is located or intended to be located outside India, the place of supply shall be the location of the recipient.

### ***Explanation.—***

Where the immovable property or boat or vessel is located in more than one State or Union territory, the supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

## **Section 12: Place of supply of services where location of supplier and recipient is in India**

- 4) The place of supply of restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery shall be the location where the services are actually performed.
- 5) The place of supply of services in relation to training and performance appraisal to,—
  - (a) a registered person, shall be the location of such person;
  - (b) a person other than a registered person, shall be the location where the services are actually performed.
- 6) The place of supply of services provided by way of admission to a cultural, artistic, sporting, scientific, educational, entertainment event or amusement park or any other place and services ancillary thereto, shall be the place where the event is actually held or where the park or such other place is located.

## **Section 12: Place of supply of services where location of supplier and recipient is in India**

7)The place of supply of services provided by way of,—

- a) organisation of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of services in relation to a conference, fair, exhibition, celebration or similar events; or
- b) services ancillary to organisation of any of the events or services referred to in clause (a) , or assigning of sponsorship to such events,—
  - i. to a registered person, shall be the location of such person;
  - ii. to a person other than a registered person, shall be the place where the event is actually held and if the event is held outside India, the place of supply shall be the location of the recipient.

## **Section 12: Place of supply of services where location of supplier and recipient is in India**

*Explanation*—Where the event is held in more than one State or Union territory and a consolidated amount is charged for supply of services relating to such event, the place of supply of such services shall be taken as being in each of the respective States or Union territories in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.



## **Section 12: Place of supply of services where location of supplier and recipient is in India**

- 8) The place of supply of services by way of transportation of goods, including by mail or courier to,—
- a) a registered person, shall be the location of such person;
  - b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation.
- 9) The place of supply of passenger transportation service to,—
- a) a registered person, shall be the location of such person;
  - b) a person other than a registered person, shall be the place where the passenger embarks on the conveyance for a continuous journey:

## **Section 12: Place of supply of services where location of supplier and recipient is in India**

Provided that where the right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage, the place of supply of such service shall be determined in accordance with the provisions of sub-section (2).

*Explanation.*—For the purposes of this sub-section, the return journey shall be treated as a separate journey, even if the right to passage for onward and return journey is issued at the same time.

- 10) The place of supply of services on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, shall be the location of the first scheduled point of departure of that conveyance for the journey.

## **Section 12: Place of supply of services where location of supplier and recipient is in India**

- 11) The place of supply of telecommunication services including data transfer, broadcasting, cable and direct to home television services to any person shall,—
- a) in case of services by way of fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna, be the location where the telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of services;
  - b) in case of mobile connection for telecommunication and internet services provided on post-paid basis, be the location of billing address of the recipient of services on the record of the supplier of services;
  - c) in cases where mobile connection for telecommunication, internet service and direct to home television services are provided on pre-payment basis through a voucher or any other means,—

## **Section 12: Place of supply of services where location of supplier and recipient is in India**

- i. through a selling agent or a re-seller or a distributor of subscriber identity module card or re-charge voucher, be the address of the selling agent or re-seller or distributor as per the record of the supplier at the time of supply; or
  - ii. by any person to the final subscriber, be the location where such prepayment is received or such vouchers are sold;
- d) in other cases, be the address of the recipient as per the records of the supplier of services and where such address is not available, the place of supply shall be location of the supplier of services:
- Provided** that where the address of the recipient as per the records of the supplier of services is not available, the place of supply shall be location of the supplier of services:
- Provided** further that if such pre-paid service is availed or the recharge is made through internet banking or other electronic mode of payment, the location of the recipient of services on the record of the supplier of services shall be the place of supply of such services.

## **Section 12: Place of supply of services where location of supplier and recipient is in India**

*Explanation.*—Where the leased circuit is installed in more than one State or Union territory and a consolidated amount is charged for supply of services relating to such circuit, the place of supply of such services shall be taken as being in each of the respective States or Union territories in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

12) The place of supply of banking and other financial services, including stock broking services to any person shall be the location of the recipient of services on the records of the supplier of services:

**Provided** that if the location of recipient of services is not on the records of the supplier, the place of supply shall be the location of the supplier of services.

## **Section 12: Place of supply of services where location of supplier and recipient is in India**

- 13) The place of supply of insurance services shall,—
- a) to a registered person, be the location of such person;
  - b) to a person other than a registered person, be the location of the recipient of services on the records of the supplier of services.
- 14) The place of supply of advertisement services to the Central Government, a State Government, a statutory body or a local authority meant for the States or Union territories identified in the contract or agreement shall be taken as being in each of such States or Union territories and the value of such supplies specific to each State or Union territory shall be in proportion to the amount attributable to services provided by way of dissemination in the respective States or Union territories as may be determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

## **Section 13: Place of supply of services where location of supplier or recipient is outside India**

- 1) The provisions of this section shall apply to determine the place of supply of services where the location of the supplier of services or the location of the recipient of services is outside India.
- 2) The place of supply of services except the services specified in sub-sections (3) to (13) shall be the location of the recipient of services:

**Provided** that where the location of the recipient of services is not available in the ordinary course of business, the place of supply shall be the location of the supplier of services.

- 3) The place of supply of the following services shall be the location where the services are actually performed, namely:—

## **Section 13: Place of supply of services where location of supplier or recipient is outside India**

- a) 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 to provide the services

**Provided** that when such services are provided from a remote location by way of electronic means, the place of supply shall be the location where goods are situated at the time of supply of services:

**Provided** further that nothing contained in this clause shall apply in the case of services supplied in respect of goods which are temporarily imported into India for repairs and are exported after repairs without being put to any other use in India, than that which is required for such repairs;

- b) services supplied to an individual, represented either as the recipient of services or a person acting on behalf of the recipient, which require the physical presence of the recipient or the person acting on his behalf, with the supplier for the supply of services.



## **Section 13: Place of supply of services where location of supplier or recipient is outside India**

- 4) The place of supply of services supplied directly in relation to an immovable property, including services supplied in this regard by experts and estate agents, supply of accommodation by a hotel, inn, guest house, club or campsite, by whatever name called, grant of rights to use immovable property, services for carrying out or co-ordination of construction work, including that of architects or interior decorators, shall be the place where the immovable property is located or intended to be located.
- 5) The place of supply of services supplied by way of admission to, or organization of a cultural, artistic, sporting, scientific, educational or entertainment event, or a celebration, conference, fair, exhibition or similar events, and of services ancillary to such admission or organization, shall be the place where the event is actually held.
- 6) Where any services referred to in sub-section (3) or sub-section (4) or sub-section (5) is supplied at more than one location, including a location in the taxable territory, its place of supply shall be the location in the taxable territory.

## **Section 13: Place of supply of services where location of supplier or recipient is outside India**

- 7) Where the services referred to in sub-section (3) or sub-section (4) or sub-section (5) are supplied in more than one State or Union territory, the place of supply of such services shall be taken as being in each of the respective States or Union territories and the value of such supplies specific to each State or Union territory shall be in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.
- 8) The place of supply of the following services shall be the location of the supplier of services, namely:—
  - a) services supplied by a banking company, or a financial institution, or a non-banking financial company, to account holders;

## **Section 13: Place of supply of services where location of supplier or recipient is outside India**

- b) intermediary services;
  - c) services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of 1 month.
- 9) The place of supply of services of transportation of goods, other than by way of mail or courier, shall be the place of destination of such goods.
- 10) The place of supply in respect of passenger transportation services shall be the place where the passenger embarks on the conveyance for a continuous journey.

## **Section 13: Place of supply of services where location of supplier or recipient is outside India**

- 11) The place of supply of services provided on board a conveyance during the course of a passenger transport operation, including services intended to be wholly or substantially consumed while on board, shall be the first scheduled point of departure of that conveyance for the journey.
- 12) The place of supply of online information and database access or retrieval services shall be the location of the recipient of services.

*Explanation.*—For the purposes of this sub-section, person receiving such services shall be deemed to be located in the taxable territory, if any two of the following non contradictory conditions are satisfied, namely:—

- a) the location of address presented by the recipient of services through internet is in the taxable territory;

## **Section 13: Place of supply of services where location of supplier or recipient is outside India**

- b) the credit card or debit card or store value card or charge card or smart card or any other card by which the recipient of services settles payment has been issued in the taxable territory;
- c) the billing address of the recipient of services is in the taxable territory;
- d) the internet protocol address of the device used by the recipient of services is in the taxable territory;
- e) the bank of the recipient of services in which the account used for payment is maintained is in the taxable territory;
- f) the country code of the subscriber identity module card used by the recipient of services is of taxable territory;
- g) the location of the fixed land line through which the service is received by the recipient is in the taxable territory.

## **Section 13: Place of supply of services where location of supplier or recipient is outside India**

13) In order to prevent double taxation or non-taxation of the supply of a service, or for the uniform application of rules, the Government shall have the power to notify any description of services or circumstances in which the place of supply shall be the place of effective use and enjoyment of a service

***Basis of identification of location of recipient, in case of supply of services if Place of Supply determined u/s 12(2) or 13(2) of the IGST Act***

**Section 2(14) of the IGST Act:**

“Location of recipient of service” means:

- a) where a supply is received at a place of business for which the registration has been obtained, the location of such place of business;
- b) where a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;
- (c) where a supply is received at more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the receipt of the supply; and
- (d) in absence of such places, the location of the usual place of residence of the recipient;

## ***Value of Supply - Transaction Value of Outward Supplies and Inward supplies liable to Reverse Charge***

### **Section 15(1) & (2) – List of inclusions to form part of Value of Supply**

- 1) The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.
- 2) The value of supply shall include—
  - a) any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the State Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier;
  - b) any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;



## ***Value of Supply - Transaction Value of Outward Supplies and Inward supplies liable to Reverse Charge***

### **Section 15(1) & (2) – List of inclusions to form part of Value of Supply**

- c) incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any 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 delivery of goods or supply of services;
- d) interest or late fee or penalty for delayed payment of any consideration for any supply; and
- e) Subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.

*Explanation.*—For the purposes of this sub-section, the amount of subsidy shall be included in the value of supply of the supplier who receives the subsidy.

## *Value of Supply - Transaction Value of Outward Supplies and Inward supplies liable to Reverse Charge*

### **Section 15 (3) – Discount adjustment in Value of Supply**

- 3) The value of the supply shall not include any discount which is given—
- a) before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply; and
  - b) after the supply has been effected, if—
    - i. such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and
    - ii. Input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.

# *Value of Supply - Transaction Value of Outward Supplies and Inward supplies liable to Reverse Charge*

## **Section 15**

*Explanation.*—for the purposes of this Act,—

- a) persons shall be deemed to be “related persons” if—
- i. such persons are officers or directors of one another’s businesses;
  - ii. such persons are legally recognized partners in business;
  - iii. such persons are employer and employee;
  - iv. any person directly or indirectly owns, controls or holds twenty-five per cent or more of the outstanding voting stock or shares of both of them;
  - v. one of them directly or indirectly controls the other;
  - vi. both of them are directly or indirectly controlled by a third person;
  - vii. together they directly or indirectly control a third person; or
  - viii. they are members of the same family;
- b) The term “person” also includes legal persons;
- c) 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 to be related.

## *Value of Supply - Transaction Value of Outward Supplies and Inward supplies liable to Reverse Charge*

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

Where the supply of goods or services is for a consideration not wholly in money, the value of the supply shall,

- a) be the open market value of such supply;
- b) if open market value is not available, be the sum total of consideration in money and any such further amount in money as is equivalent to the consideration not in money if such amount is known at the time of supply;
- c) if the value of supply is not determinable under clause (a) or clause (b), be the value of supply of goods or services or both of like kind and quality;

## ***Value of Supply - Transaction Value of Outward Supplies and Inward supplies liable to Reverse Charge***

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

d) if value is not determinable under clause (a) or clause (b) or clause (c), be the sum total of consideration in money and such further amount in money that is equivalent to consideration not in money as determined by application of rule 30 or rule 31 in that order.

#### ***Illustration:***

*(1) Where a new phone is supplied for Rs.20000 along with the exchange of an old phone and if the price of the new phone without exchange is Rs.24000, the open market value of the new phone is Rs 24000.*

*(2) Where a laptop is supplied for Rs.40000 along with a barter of printer that is manufactured by the recipient and the value of the printer known at the time of supply is Rs.4000 but the open market value of the laptop is not known, the value of the supply of laptop is Rs.44000.*

## ***Value of Supply - Transaction Value of Outward Supplies and Inward supplies liable to Reverse Charge***

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

The value of the supply of goods or services or both between distinct persons as specified in sub-section (4) and (5) of section 25 or where the supplier and recipient are related, other than where the supply is made through an agent, shall,-

- a) be the open market value of such supply;
- b) if open market value is not available, be the value of supply of goods or services of like kind and quality;
- c) if value is not determinable under clause (a) or (b), be the value as determined by application of rule 30 or rule 31, in that order:

## *Value of Supply - Transaction Value of Outward Supplies and Inward supplies liable to Reverse Charge*

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

Provided that where goods are intended for further supply as such by the recipient, the value shall, at the option of the supplier, be an amount equivalent to ninety percent of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person:

**Provided** where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of goods or services.

#### ***Illustration:***

*Where a mobile phone is available in the market and the price is not available and at the same time another mobile is available on the other brand is available in the same configuration amounting to Rs. 30,000, then the value of mobile phone will be Rs. 30,000.*

## *Value of Supply - Transaction Value of Outward Supplies and Inward supplies liable to Reverse Charge*

### **Rule 29 - Value of supply of goods made or received through an agent**

The value of supply of goods between the principal and his agent shall,-

a) be the open market value of the goods being supplied, **or** at the option of the supplier, be ninety percent of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person, where the goods are intended for further supply by the said recipient;

#### ***Illustration:***

*Where a principal supplies groundnut to his agent and the agent is supplying groundnuts of like kind and quality in subsequent supplies at a price of Rs.5000 per quintal on the day of supply. Another independent supplier is supplying groundnuts of like kind and quality to the said agent at the price of Rs.4550 per quintal. The value of the supply made by the principal shall be Rs.4550 per quintal or where he exercises the option the value shall be 90% of the Rs.5000 i.e. is Rs.4500 per quintal.*



## ***Value of Supply - Transaction Value of Outward Supplies and Inward supplies liable to Reverse Charge***

### **Rule 29 - Value of supply of goods made or received through an agent**

b) Where the value of a supply is not determinable under clause (a), the same shall be determined by application of rule 30 or rule 31 in that order.

### **Rule 30 - Value of supply of goods or services or both based on cost**

Where the value of a supply of goods or services or both is not determinable by any of the preceding rules, the value shall be one hundred and ten percent of the cost of production or manufacture or cost of acquisition of such goods or cost of provision of such services.

### ***Illustration:***

*The Cost of production of Supply is Rs. 50,000, then the value of such supply will be Rs. 55,000 (50,000+110%).*

## ***Value of Supply - Transaction Value of Outward Supplies and Inward supplies liable to Reverse Charge***

### **Rule 31 - Residual method for determination of value of supply of goods or services or both**

Where the value of supply of goods or services or both cannot be determined under rules 27 to 30, the same shall be determined using reasonable means consistent with the principles and general provisions of section 15 and these rules:

***Provided that in case of supply of services, the supplier may opt for this rule, disregarding rule 30.***

## ***Value of Supply - Transaction Value of Outward Supplies and Inward supplies liable to Reverse Charge***

### **Rule 31 A - Value of supply in case of lottery, betting, gambling and horse racing**

- (1) Notwithstanding anything contained in the provisions of this Chapter, the value in respect of supplies specified below shall be determined in the manner provided hereinafter.
- (2) (a) The value of supply of lottery run by State Governments shall be deemed to be  $100/112$  of the face value of ticket or of the price as notified in the Official Gazette by the organising State, whichever is higher.  
(b) The value of supply of lottery authorised by State Governments shall be deemed to be  $100/128$  of the face value of ticket or of the price as notified in the Official Gazette by the organising State, whichever is higher.

## ***Value of Supply - Transaction Value of Outward Supplies and Inward supplies liable to Reverse Charge***

### **Rule 31A - Value of supply in case of lottery, betting, gambling and horse racing**

Explanation:– For the purposes of this sub-rule, the expressions-

(a) “lottery run by State Governments” means a lottery not allowed to be sold in any State other than the organizing State;

(b) “lottery authorised by State Governments” means a lottery which is authorised to be sold in State(s) other than the organising State also; and

(c) “Organising State” has the same meaning as assigned to it in clause (f) of sub-rule (1) of rule 2 of the Lotteries (Regulation) Rules, 2010.

(3) The value of supply of actionable claim in the form of chance to win in betting, gambling or horse racing in a race club shall be 100% of the face value of the bet or the amount paid into the totalizator.

# *Value of Supply - Transaction Value of Outward Supplies and Inward supplies liable to Reverse Charge*

## **Rule 32 - Determination of value in respect of certain supplies**

(1) Notwithstanding anything contained in the provisions of this Chapter, the value in respect of supplies specified below shall, at the option of the supplier, be determined in the manner provided hereinafter.

(2) The value of supply of services in relation to the purchase or sale of foreign currency, including money changing, shall be determined by the supplier of services in the following manner, namely:-

(a) for a currency, when exchanged from, or to, Indian Rupees, the value shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India reference rate for that currency at that time, multiplied by the total units of currency:

Provided that in case where the Reserve Bank of India reference rate for a currency is not available, the value shall be one per cent. of the gross amount of Indian Rupees provided or received by the person changing the money:

## ***Value of Supply - Transaction Value of Outward Supplies and Inward supplies liable to Reverse Charge***

### **Rule 32 - Determination of value in respect of certain supplies**

Provided further that in case where neither of the currencies exchanged is Indian Rupees, the value shall be equal to one per cent. of the lesser of the two amounts the person changing the money would have received by converting any of the two currencies into Indian Rupee on that day at the reference rate provided by the Reserve Bank of India.

Provided also that a person supplying the services may exercise the option to ascertain the value in terms of clause (b) for a financial year and such option shall not be withdrawn during the remaining part of that financial year.

(b) at the option of the supplier of services, the value in relation to the supply of foreign currency, including money changing, shall be deemed to be-

(i) one per cent. of the gross amount of currency exchanged for an amount up to one lakh rupees, subject to a minimum amount of two hundred and fifty rupees;

## *Value of Supply - Transaction Value of Outward Supplies and Inward supplies liable to Reverse Charge*

### **Rule 32 - Determination of value in respect of certain supplies**

(ii) one thousand rupees and half of a per cent. of the gross amount of currency exchanged for an amount exceeding one lakh rupees and up to ten lakh rupees; and

(iii) five thousand and five hundred rupees and one tenth of a per cent. of the gross amount of currency exchanged for an amount exceeding ten lakh rupees, subject to a maximum amount of sixty thousand rupees.

(3) The value of the supply of services in relation to booking of tickets for travel by air provided by an air travel agent shall be deemed to be an amount calculated at the rate of five percent. of the basic fare in the case of domestic bookings, and at the rate of ten per cent. of the basic fare in the case of international bookings of passage for travel by air.

Explanation.- For the purposes of this sub-rule, the expression “basic fare” means that part of the air fare on which commission is normally paid to the air travel agent by the airlines.

## *Value of Supply - Transaction Value of Outward Supplies and Inward supplies liable to Reverse Charge*

### **Rule 32 - Determination of value in respect of certain supplies**

(4) The value of supply of services in relation to life insurance business shall be,-

(a) the gross premium charged from a policy holder reduced by the amount allocated for investment, or savings on behalf of the policy holder, if such an amount is intimated to the policy holder at the time of supply of service;

(b) in case of single premium annuity policies other than (a), ten per cent. of single premium charged from the policy holder; or

(c) in all other cases, twenty five per cent. of the premium charged from the policy holder in the first year and twelve and a half per cent. of the premium charged from the policy holder in subsequent years:

Provided that nothing contained in this sub-rule shall apply where the entire premium paid by the policy holder is only towards the risk cover in life insurance.



## ***Value of Supply - Transaction Value of Outward Supplies and Inward supplies liable to Reverse Charge***

### **Rule 32 - Determination of value in respect of certain supplies**

(5) Where a taxable supply is provided by a person dealing in buying and selling of second hand goods i.e., used goods as such or after such minor processing which does not change the nature of the goods and where no input tax credit has been availed on the purchase of such goods, the value of supply shall be the difference between the selling price and the purchase price and where the value of such supply is negative, it shall be ignored:

*Provided that the purchase value of goods repossessed from a defaulting borrower, who is not registered, for the purpose of recovery of a loan or debt shall be deemed to be the purchase price of such goods by the defaulting borrower reduced by five percentage points for every quarter or part thereof, between the date of purchase and the date of disposal by the person making such repossession.*

## ***Value of Supply - Transaction Value of Outward Supplies and Inward supplies liable to Reverse Charge***

### **Rule 32 - Determination of value in respect of certain supplies**

- (6) The value of a token, or a voucher, or a coupon, or a stamp (other than postage stamp) which is redeemable against a supply of goods or services or both shall be equal to the money value of the goods or services or both redeemable against such token, voucher, coupon, or stamp.
- (7) The value of taxable services provided by such class of service providers as may be notified by the Government, on the recommendations of the Council, as referred to in paragraph 2 of Schedule I of the said Act between distinct persons as referred to in section 25, where input tax credit is available, shall be deemed to be NIL.

## *Value of Supply - Transaction Value of Outward Supplies and Inward supplies liable to Reverse Charge*

### **Rule 34 - Rate of exchange of currency, other than Indian rupees, for determination of value**

- (1) The rate of exchange for determination of value of taxable goods shall be the applicable rate of exchange as notified by the Board under section 14 of the Customs Act, 1962 for the date of time of supply of such goods in terms of section 12 of the Act.
- (2) The rate of exchange for determination of value of taxable services shall be the applicable rate of exchange determined as per the generally accepted accounting principles for the date of time of supply of such services in terms of section 13 of the Act.

## *Value of Supply - Whether the registered person has reversed any output tax liability on account of bad debts?*

### **Section 34 – Credit and Debit Notes**

- (1) Where a tax invoice has been issued for supply of any goods or services or both and **the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply**, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient a **credit note** containing such particulars as may be prescribed.

*Analysis – As per Section 34(1) of CGST Act 2017, credit note can be issued wherein the taxable value or tax charged in invoice is more than the actual tax payable in respect of any supply. Therefore in case of bad debts, Section 34(1) of the Act will come under picture and whether credit note has been raised in such case needs to be checked.*

## ***Value of Supply - Transaction Value of Outward Supplies and Inward supplies liable to Reverse Charge***

### **Rule 33 - Value of supply of services in case of pure agent**

Notwithstanding anything contained in the provisions of this Chapter, the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied, namely,-

- (i) the supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorization by such recipient;
- (ii) the payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and
- (iii) the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.

## ***Value of Supply - Transaction Value of Outward Supplies and Inward supplies liable to Reverse Charge***

### **Rule 33 - Value of supply of services in case of pure agent**

Explanation.- For the purposes of this rule, the expression “pure agent” means a person who-

- (a) enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;
- (b) neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply;
- (c) does not use for his own interest such goods or services so procured; and
- (d) receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.

## *Value of Supply - Transaction Value of Outward Supplies and Inward supplies liable to Reverse Charge*

### **Rule 33 - Value of supply of services in case of pure agent**

**Illustration.-** Corporate services firm A is engaged to handle the legal work pertaining to the incorporation of Company B. Other than its service fees, A also recovers from B, registration fee and approval fee for the name of the company paid to the Registrar of Companies. The fees charged by the Registrar of Companies for the registration and approval of the name are compulsorily levied on B. A is merely acting as a pure agent in the payment of those fees. Therefore, A's recovery of such expenses is a disbursement and not part of the value of supply made by A to B.

## *Ineligible Input Tax Credit – Details of ineligible credit (Separately for Related Person and Distinct Person)*

- 1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.
- 2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,—
  - a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;
  - b) he has received the goods or services or both.



## *Ineligible Input Tax Credit – Details of ineligible credit (Separately for Related Person and Distinct Person)*

*Explanation.*—For the purposes of this clause, it shall be deemed that the registered person has received the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;

- c) Subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilization of input tax credit admissible in respect of the said supply; and
- d) He has furnished the return under section 39:

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

## *Ineligible Input Tax Credit – Reclaim of Credit taken without Payment*

Section 16(2) .....

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

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

## ***Ineligible Input Tax Credit – Details of ineligible credit (Separately for Related Person and Distinct Person)***

### **Section 17(2)**

Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.

### **Section 17(3)**

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

***Rule 42 - Manner of determination of input tax credit in certain cases and reversal thereof***

1)The input tax credit in respect of inputs or input services, which attract the provisions of sub-sections (1) or (2) of section 17, being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempted supplies, shall be attributed to the purposes of business or for effecting taxable supplies in the following manner, namely,-

- a) total input tax involved on inputs and input services in a tax period, be denoted as 'T';
- b) the amount of input tax, out of 'T', attributable to inputs and input services intended to be used exclusively for purposes other than business, be denoted as 'T1';
- c) the amount of input tax, out of 'T', attributable to inputs and input services intended to be used exclusively for effecting exempt supplies, be denoted as 'T2';
- d) the amount of input tax, out of 'T', in respect of inputs on which credit is not available under sub-section (5) of section 17, be denoted as 'T3';

d) the amount of input tax credit credited to the electronic credit ledger of registered person, be denoted as 'C1' and calculated as:

$$\mathbf{C1 = T - (T1+T2+T3);}$$

f) the amount of input tax credit attributable to inputs and input services used exclusively in or in relation to taxable supplies including zero rated supplies, be denoted as 'T4';

g) 'T1', 'T2', 'T3' and 'T4' shall be determined and declared by the registered person at the invoice level in **FORM GSTR-2**;

h) Input tax credit left after attribution of input tax credit under clause (g) shall be called common credit, be denoted as 'C2' and calculated as:

$$\mathbf{C2 = C1 - T4;}$$

i) The amount of input tax credit attributable towards exempt supplies, be denoted as 'D1' and calculated as:

$$\mathbf{D1 = (E \div F) \times C2}$$

where,

‘E’ is the aggregate value of exempt supplies, that is, all supplies other than taxable and zero rated supplies, during the tax period, and

‘F’ is the total turnover of the registered person during the tax period:

Provided that where the registered person does not have any turnover during the said tax period or the aforesaid information is not available, the value of ‘E/F’ shall be calculated by taking values of ‘E’ and ‘F’ of the last tax period for which details of such turnover are available, previous to the month during which the said value of ‘E/F’ is to be calculated;

***Explanation:*** For the purposes of this clause, the aggregate value of exempt supplies and total turnover shall exclude the amount of any duty or tax levied under entry 84 of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule.

- j) the amount of credit attributable to non-business purposes if common inputs and input services are used partly for business and partly for non-business purposes, be denoted as 'D2', and shall be equal to five per cent. of C2; and
- k) the remainder of the common credit shall be the eligible input tax credit attributed to the purposes of business and for effecting taxable supplies including zero rated supplies and shall be denoted as 'C3', where,-

$$C3 = C2 - (D1+D2);$$

- l) The amount 'C3' shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax;
- m) The amount equal to 'D1' and 'D2' shall be added to the output tax liability of the registered person:

**Provided** that if the amount of input tax relating to inputs or input services which have been used partly for purposes other than business and partly for effecting exempt supplies has been identified and segregated at invoice level by the registered person, the same shall be included in 'T1' and 'T2' respectively, and the remaining amount of credit on such input or input services shall be included in 'T4'.



- 2) The input tax credit determined under sub-rule (1) shall be calculated finally for the financial year before the due date for filing the return for the month of September following the end of the financial year to which such credit relates, in the manner prescribed in the said sub-rule and,
- a) where the aggregate of the amounts calculated finally in respect of 'D1' and 'D2' exceeds the aggregate of the amounts determined under sub-rule (1) in respect of 'D1' and 'D2', such excess shall be added to the output tax liability of the registered person for a month not later than the month of September following the end of the financial year to which such credit relates and the said person shall be liable to pay interest on the said excess amount at the rate specified in sub-section (1) of section 50 for the period starting from first day of April of the succeeding financial year till the date of payment; or

- b) where the aggregate of the amounts determined under sub-rule (1) in respect of 'D1' and 'D2' exceeds the aggregate of the amounts calculated finally in respect of 'D1' and 'D2', such excess amount shall be claimed as credit by the registered person in his return for a month not later than the month of September following the end of the financial year to which such credit relates.

***Whether in case of banking / financial / NBFC, credit have been availed in contravention of Section 17(4) of the Act?***

**Section 17(4)**

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

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

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

# *Whether on 01<sup>st</sup> July 2017, transitional credits have been availed in contravention of Section 139 to 142 of the Act?*

## **Section 140 –Transitional Arrangements for Input Tax Credit**

- (1) A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, the amount of CENVAT credit carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law in such manner as may be prescribed:

*Provided that the registered person shall not be allowed to take credit in the following circumstances, namely:—*

- (i) where the said amount of credit is not admissible as input tax credit under this Act; or*
- (ii) where he has not furnished all the returns required under the existing law for the period of six months immediately preceding the appointed date; or*
- (iii) where the said amount of credit relates to goods manufactured and cleared under such exemption notifications as are notified by the Government*

(2) A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, credit of the unavailed CENVAT credit in respect of capital goods, not carried forward in a return, furnished under the existing law by him, for the period ending with the day immediately preceding the appointed day in such manner as may be prescribed:

*Provided that the registered person shall not be allowed to take credit unless the said credit was admissible as CENVAT credit under the existing law and is also admissible as input tax credit under this Act.*

*Explanation.—For the purposes of this sub-section, the expression “unavailed CENVAT credit” means the amount that remains after subtracting the amount of CENVAT credit already availed in respect of capital goods by the taxable person under the existing law from the aggregate amount of CENVAT credit to which the said person was entitled in respect of the said capital goods under the existing law.*

(3) A registered person, who was not liable to be registered under the existing law, or who was engaged in the manufacture of exempted goods or provision of exempted services, or who was providing works contract service and was availing of the benefit of notification No. 26/2012 — Service Tax, dated the 20th June, 2012 or a first stage dealer or a second stage dealer or a registered importer or a depot of a manufacturer, shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions, namely:—

(i) such inputs or goods are used or intended to be used for making taxable supplies under this Act;

(ii) the said registered person is eligible for input tax credit on such inputs under this Act;

(iii) the said registered person is in possession of invoice or other prescribed documents evidencing payment of duty under the existing law in respect of such inputs;

(iv) such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day; and

(v) the supplier of services is not eligible for any abatement under this Act:

*Provided that where a registered person, other than a manufacturer or a supplier of services, is not in possession of an invoice or any other documents evidencing payment of duty in respect of inputs, then, such registered person shall, subject to such conditions, limitations and safeguards as may be prescribed, including that the said taxable person shall pass on the benefit of such credit by way of reduced prices to the recipient, be allowed to take credit at such rate and in such manner as may be prescribed.*

(4) A registered person, who was engaged in the manufacture of taxable as well as exempted goods under the Central Excise Act, 1944 or provision of taxable as well as exempted services under Chapter V of the Finance Act, 1994, but which are liable to tax under this Act, shall be entitled to take, in his electronic credit ledger,—

- (a) the amount of CENVAT credit carried forward in a return furnished under the existing law by him in accordance with the provisions of sub-section (1); and
- (b) the amount of CENVAT credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day, relating to such exempted goods or services, in accordance with the provisions of sub-section (3).

(5) A registered person shall be entitled to take, in his electronic credit ledger, credit of eligible duties and taxes in respect of inputs or input services received on or after the appointed day but the duty or tax in respect of which has been paid by the supplier under the existing law, subject to the condition that the invoice or any other duty or tax paying document of the same was recorded in the books of account of such person within a period of thirty days from the appointed day:

*Provided that the period of thirty days may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding thirty days:*

*Provided further that said registered person shall furnish a statement, in such manner as may be prescribed, in respect of credit that has been taken under this sub-section.*

(6) A registered person, who was either paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the existing law shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions, namely:—



- (i) such inputs or goods are used or intended to be used for making taxable supplies under this Act;
- (ii) the said registered person is not paying tax under section 10;
- (iii) the said registered person is eligible for input tax credit on such inputs under this Act;
- (iv) the said registered person is in possession of invoice or other prescribed documents evidencing payment of duty under the existing law in respect of inputs; and
- (v) such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day.

(7) Notwithstanding anything to the contrary contained in this Act, the input tax credit on account of any services received prior to the appointed day by an Input Service Distributor shall be eligible for distribution as credit under this Act even if the invoices relating to such services are received on or after the appointed day.

(8) Where a registered person having centralized registration under the existing law has obtained a registration under this Act, such person shall be allowed to take, in his electronic credit ledger, credit of the amount of CENVAT credit carried forward in a return, furnished under the existing law by him, in respect of the period ending with the day immediately preceding the appointed day in such manner as may be prescribed:

*Provided that if the registered person furnishes his return for the period ending with the day immediately preceding the appointed day within three months of the appointed day, such credit shall be allowed subject to the condition that the said return is either an original return or a revised return where the credit has been reduced from that claimed earlier:*

*Provided further that the registered person shall not be allowed to take credit unless the said amount is admissible as input tax credit under this Act:*

*Provided also that such credit may be transferred to any of the registered persons having the same Permanent Account Number for which the centralized registration was obtained under the existing law.*

(9) Where any CENVAT credit availed for the input services provided under the existing law has been reversed due to non-payment of the consideration within a period of three months, such credit can be reclaimed subject to the condition that the registered person has made the payment of the consideration for that supply of services within a period of three months from the appointed day.

(10) The amount of credit under sub-sections (3), (4) and (6) shall be calculated in such manner as may be prescribed.

*Explanation 1.— Contains the meaning of ‘eligible duties’ to define what all credit(s) shall be eligible under GST.*

*Whether all the certificate(s) required under Section 18 has/have been obtained?*

**Section 18 – Availability of credit in special circumstances**

- (1) Subject to such conditions and restrictions as may be prescribed—
- (a) a person who has applied for registration under this Act within thirty days from the date on which he becomes liable to registration and has been granted such registration shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act;
  - (b) a person who takes registration under sub-section (3) of section 25 shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of grant of registration;

*Whether all the certificate(s) required under Section 18 has/have been obtained?*

## **Section 25 – Procedure of registration**

(3) A person, though not liable to be registered under section 22 or section 24 may get himself registered voluntarily, and all provisions of this Act, as are applicable to a registered person, shall apply to such person.

## ***Job Work - Tax to be discharged by the assessee, where assessee is the principal***

### **Section 143**

- 1) A registered person (hereafter in this section referred to as the “principal”) may under intimation and subject to such conditions as may be prescribed, send any inputs or capital goods, without payment of tax, to a job worker for job work and from there subsequently send to another job worker and likewise, and shall,—
  - a) bring back inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within 1 year and 3 years, respectively, of their being sent out, to any of his place of business, without payment of tax;
  - b) supply such inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within 1 year and 3 years, respectively, of their being sent out from the place of business of a job worker on payment of tax within India, or with or without payment of tax for export, as the case may be:

## ***Job Work - Tax to be discharged by the assessee, where assessee is the principal***

Provided that the principal shall not supply the goods from the place of business of a job worker in accordance with the provisions of this clause unless the said principal declares the place of business of the job worker as his additional place of business except in a case—

- i. where the job worker is registered under section 25; or
- ii. where the principal is engaged in the supply of such goods as may be notified by the Commissioner.

- 2) The responsibility for keeping proper accounts for the inputs or capital goods shall lie with the principal.
- 3) Where the inputs sent for job work are not received back by the principal after completion of job work or otherwise in accordance with the provisions of clause (a) of sub-section (1) or are not supplied from the place of business of the job worker in accordance with the provisions of clause (b) of sub-section (1) within a period of one year of their being sent out, it shall be deemed that such inputs had been supplied by the principal to the job worker on the day when the said inputs were sent out.

## ***Job Work - Tax to be discharged by the assessee, where assessee is the principal***

- 4) Where the capital goods, other than moulds and dies, jigs and fixtures, or tools, sent for job work are not received back by the principal in accordance with the provisions of clause (a) of sub-section (1) or are not supplied from the place of business of the job worker in accordance with the provisions of clause (b) of sub-section (1) within a period of 3 years of their being sent out, it shall be deemed that such capital goods had been supplied by the principal to the job worker on the day when the said capital goods were sent out.
  
- 5) Notwithstanding anything contained in sub-sections (1) and (2), any waste and scrap generated during the job work may be supplied by the job worker directly from his place of business on payment of tax, if such job worker is registered, or by the principal, if the job worker is not registered.

*Explanation.*—For the purposes of job work, input includes intermediate goods arising from any treatment or process carried out on the inputs by the principal or the job worker.



## *Job Work - Tax to be discharged by the assessee, where assessee is the principal*

### **Rule 45: Conditions and restrictions in respect of inputs and capital goods sent to the job worker**

(1) The inputs, semi-finished goods or capital goods shall be sent to the job worker under the cover of a challan issued by the principal, including where such goods are sent directly to a job-worker, [and where the goods are sent from one job worker to another job worker, the challan may be issued either by the principal or the job worker sending the goods to another job worker.

**Provided** that the challan issued by the principal may be endorsed by the job worker, indicating therein the quantity and description of goods where the goods are sent by one job worker to another or are returned to the principal:

**Provided** further that the challan endorsed by the job worker may be further endorsed by another job worker, indicating therein the quantity and description of goods where the goods are sent by one job worker to another or are returned to the principal.

(2) The challan issued by the principal to the job worker shall contain the details specified in rule 55.

## *Job Work - Tax to be discharged by the assessee, where assessee is the principal*

### **Rule 45: Conditions and restrictions in respect of inputs and capital goods sent to the job worker**

(3) The details of challans in respect of goods dispatched to a job worker or received from a job worker or sent from one job worker to another during a quarter shall be included in FORM GST ITC-04 furnished for that period on or before the twenty-fifth day of the month succeeding the said quarter [or within such further period as may be extended by the Commissioner by a notification in this behalf.

(4) Where the inputs or capital goods are not returned to the principal within the time stipulated in section 143, it shall be deemed that such inputs or capital goods had been supplied by the principal to the job worker on the day when the said inputs or capital goods were sent out and the said supply shall be declared in FORM GSTR-1 and the principal shall be liable to pay the tax along with applicable interest.

## *Payments - Legal provisions relating to Electronic cash ledger and Electronic credit ledger [Section 49 (1&2)]*

Payment of tax liability under GST can be made through two modes –

- i. Electronic Credit Ledger** – The liability of tax on outward supplies can be set off through utilisation of Input tax credit as self-assessed in the return of the registered person.
- ii. Electronic Cash Ledger** – The liability of tax on outward supplies remaining after utilisation of the available credit balance shall be credited to the electronic cash ledger of such person. Such deposit made towards tax, interest, penalty, fee or any other amount by a person can be made through internet banking or by using credit or debit cards or National Electronic Fund Transfer or Real Time Gross Settlement.

## ***Payments - Liability of Interest on Delayed Payment of Taxes and in case of undue or excess claim of Input Tax Credit (Section 50)***

- (1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council.
- (2) The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid.
- (3) A taxable person who makes an undue or excess claim of input tax credit under sub-section (10) of section 42 or undue or excess reduction in output tax liability under sub-section (10) of section 43, shall pay interest on such undue or excess claim or on such undue or excess reduction, as the case may be, at such rate not exceeding twenty-four per cent., as may be notified by the Government on the recommendations of the Council.

***Payments - Penalty where tax has been collected by the registered person but not deposited with the Government [Section 73 (9&11)]***

Penalty shall be payable where any amount of self-assessed tax or any amount collected as tax has not been paid within a period of thirty days from the due date of payment of such tax.

The amount of tax, interest and a penalty shall be equivalent to ten per cent. of tax or ten thousand rupees, whichever is higher, due from the person chargeable to pay tax.

Thank You  
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