

GST – AN OVERVIEW

Unit Structure :

- 1.0 Introduction and Objective
- 1.1 Direct vs Indirect Taxes
- 1.2 Pre-GST Indirect Tax Structure
- 1.3 Historical Background of GST in India
- 1.4 Indian GST vis-à-vis GST in Other Countries
- 1.5 Concept of GST
- 1.6 Need for GST in India
- 1.7 Indirect taxes Subsumed in GST
- 1.8 Framework of GST in India
- 1.9 Benefits of GST
- 1.10 GST council
- 1.11 Goods and services tax network (GSTN)
- 1.12 Self-Examination Questions

1.0 INTRODUCTION AND OBJECTIVE

The lesson explains the concept and basic feature of direct and indirect taxes, the differences between the two types of taxes and principal direct and indirect taxes levied in India.

The lesson further explains the concept, need and objective of Goods and Service Tax (GST) in India, its framework, the roadmap for its implementation, benefits accruing from implementation of GST and other incidental matters.

1.1 DIRECT VS INDIRECT TAXES

1.1.1 Tax

‘Tax’ is the money people pay to Government. It is a forced payment- not something that people are willing to pay voluntarily. “Tax” is the price of civilization people pay to the Government to raise its funds for governance, defence, development, creation of infrastructure, maintenance of law and order and provision of various services to the citizens such as healthcare, education, sanitary and welfare services. In the modern

times, taxation has increasingly become a powerful tool or a catalyst for stimulating economic growth of the nation and pursues socio-economic goals of the government.

1.1.2. Types of taxes

1.1.2.1. Broadly, the taxes are of two types namely the direct tax and the indirect taxes.

1.1.2.2. Direct Tax

A direct tax is a personal tax directly paid by a taxpayer to the government. A direct tax is paid by the person on whom it is imposed. He can not shift the tax burden on a third party. Income tax, wealth tax, estate duty and gift tax are some examples of direct taxes. In India, lately, wealth tax and estate duty have been abolished and gift tax has been merged with income tax.

1.1.2.3. Indirect Tax

An indirect tax is a tax paid by one person but borne by another person. Effectively, the taxpayer that is the manufacturer of goods, the trader or dealer in goods or the service provider acts only as an agent or an intermediary between the government and the consumer.

In the first instance, the taxpayer pays the tax to the government. Then the taxpayer adds the amounts of tax so paid to the price of the goods and/or services provided and recovers the same from the end-user or consumer of the goods or services.

As a result, an indirect tax is a destination-based tax on consumption of goods and/or services, burden of which is ultimately shifted on and borne by the end-user or consumer of the goods or services.

Excise duty, Customs Duty, Service tax, Central Sales Tax (CST), Value Added Tax (VAT), Entry Tax, Purchase Tax, Entertainment Tax, Tax on Lottery, Betting and Gambling, Luxury Tax, Tax on Advertisements are some examples of the indirect taxes.

With effect from 1 July 2017, various indirect taxes have been merged into one single uniform tax called Goods and Service Tax (GST) subject to some exceptions such as Property Tax, Stamp Duty, Customs Duty etc.

1.1.2.4. Direct V/s indirect Taxes

1.1.2.4.1. Progressive and Regressive Taxes

A direct tax is imposed on an actual taxpayer based on his capacity to pay the tax. Thus, a person with higher income pays more taxes than a person with lower income. Therefore, direct taxes are considered progressive taxes.

In contrast, indirect taxes are uniformly collected from all consumers of goods and/or services regardless of their capacity to pay. Hence, the indirect taxes are considered regressive taxes.

1.1.2.4.2. Larger Tax Base

Direct taxes are imposed directly on the actual taxpayers only while the indirect taxes are uniformly spread over all the sections of the population based on the value of goods and/or services consumed by them. Hence, the indirect taxes do not directly affect the actual taxpayers and create a larger tax base to provide the Government with a major source of revenue.

1.1.2.4.3. Inflationary Impact

As the indirect taxes are ultimately added to the prices of goods and services consumed, they have an inflationary impact on the prices of goods and/or services.

1.1.2.4.4. Socio-economic Goals

Indirect taxes act as the catalyst or tool for achieving the socio-economic goals of the Government. For instance, most governments impose steep taxes on luxury goods and services, “Sin Goods” or harmful goods such as tobacco, alcohol with the object of serving the twin goals of augmentation of revenue coupled with control on the consumption of such goods and services.

1.2 PRE-GST INDIRECT TAX STRUCTURE

1.2.1. Seventh schedule to the Constitution of India divides the legislative powers into three lists viz.

- List I-the Union List,
- List II- the State List, and
- List III the Concurrent List.

1.2.2. The Union List contains most direct taxes viz. Income Tax, Tax on Capital Gains and Corporate tax, which are in the domain of the Centre. However, the right to levy Agricultural Income tax is vested in the States as per the State List

The constitution provides two-tiered structure for levy of indirect taxes having the following features:-

- i. Union List authorizes the Centre to levy the following taxes:-
 - a. Excise or tax on manufacture of goods except alcoholic liquor for human consumption, opium, narcotics etc.
 - b. Service Tax on the value of all taxable services provided or to be provided.
- ii. The State List authorizes the States to levy taxes on intra-state sale or consumption of goods. The taxes included VAT Excise on liquor, Luxury Tax etc.

- iii. The Concurrent List authorizes both the Centre and the States to levy taxes concurrently on some items. However, residual powers remained with the Centre.
- iv. Inter-State Sales attracted both the Excise Duty and Central Sales Tax.
- v. Central Sales Tax was levied by the Centre but it was collected and retained entirely by the Originating States;

1.2.3 The indirect taxes were not mutually exclusive. The goods sold in the course of Intra-State Sale attracted VAT on the gross value of the goods, which included the Basic Value, the Excise Duty charged by manufacturer and the profit by dealer. No set off or rebate was available in respect of the credit of one tax against liability for another tax or *viceversa*. This was *due to* the following reasons:-

- a) Excise and Service Tax were Central taxes on manufacture of goods or the services provided or to be provided.
- b) VAT was a State tax on sale of goods
- c) A seller of goods could not set off excise on manufacture of goods and/or service tax on the service component of those goods paid to the Centre against the liability to pay VAT to the state.
- d) Conversely, a manufacturer or a service provider could not avail credit for VAT on purchase of inputs paid to the state against the tax liability for central taxes.

1.2.4. A service provider or a manufacturer could avail credit for the Service Tax or the Excise Duty paid on the inputs for providing taxable service or for manufacturing excisable goods, integrated at the central level both being the Central taxes. No such credit was, however, allowed for VAT paid on the inputs to the State Governments

1.2.5. Pre-GST Sales Tax regime was a combination of -

- a. An origin -based Central Sales Tax levied in the State from where the goods originated, and
- b. Destination based multi-point Value Added Tax levied in the State where the goods were consumed.

1.2.6. Thus, the pre-GST multi-tier indirect tax regime presented complex cobweb of rules and regulations in different parts of the country having cascading tax effect as it comprised of overlapping taxes levied by different authorities at different levels of the tax pyramid that denied credit or set off for the taxes paid at the previous stages.

The Credit for the VAT paid on the inputs was denied to the manufacturer and the service provider and the credit for the Excise Duty or the Service Tax paid was denied to the seller only because the Excise Duty and the Service Tax were the Central taxes, but the VAT was a State Tax.

The flaws in the indirect tax structure created the need for a uniform, integrated central tax with lower tax rates; efficient implementation and free credit across the board for various taxes paid and reduce the cascading effect of multiple taxes.

1.3 HISTORICAL BACKGROUND OF GST IN INDIA

1.3.1. In 2004, Kelkar Task Force recommended the idea of a fully integrated Goods and Services Tax (GST) on national basis. The Government accepted the recommendation of the Task force and fixed 1 April 2010 as the date for implementation of GST in India in the Union Budget for 2007-08. Thereafter, no significant progress was made due to lack of consensus among the stakeholder states. Ultimately, on 19 December 2014, the Constitution (122nd Amendment) Bill, 2014 on GST was tabled in the parliament.

1.3.2. Lok Sabha passed the bill on 6 May 2015 and Rajya Sabha on 3 August 2016. The President accorded his assent on 8 September 2016 after more than half of the stakeholder states had ratified the bill which became the Constitution (101st Amendment) Act, 2016, clearing the decks for introduction of GST in India.

1.3.3. After several post-amendment meetings among the States and the Centre, four Central GST legislations: the Central Goods and Services Tax (CGST) Bill, 2017, Integrated Goods and Services Tax (IGST) Bill, 2017, Union Territory Goods and Services Tax (UTGST) Bill, 2017 and Goods and Services Tax (Compensation to States) Bill, 2017 were introduced in the parliament on 27 March 2017 and promptly passed on 29 March 2017. The bills received the President's assent on 12 April 2017 resulting into enactment of the respective four Acts. Meanwhile, Telangana, Rajasthan, Chhattisgarh, Punjab, Goa and Bihar States passed their respective State GST laws.

1.3.4 Finally, at the stroke of midnight on 1 July 2017, at a special session of the Parliament, India rolled out GST as its path breaking indirect tax reform on the principle of one nation -one tax.

1.4 INDIAN GST VIS-À-VIS GST IN OTHER COUNTRIES

1.4.1. India is one of the 160 countries across the world to implement unified tax to adopt a unified GST model for the entire country. For record, France was the first country to implement GST in 1954 more than six decades ago. The United States does not have a unified tax model as the states have their own taxes.

1.4.2. Most countries have adopted a uniform GST subsuming all indirect taxes, grouped under one umbrella with the exception of Brazil and Canada, which opted for a dual-GST model. The GST in India under its common umbrella subsumes multiple indirect taxes such as Excise Duty, Service Tax, VAT, CST, Luxury Tax, Entertainment Tax, Entry Tax, etc. India followed the dual model having inbuilt concepts of UGST, SGST, CGST and IGST separately for central, state and Union territories and for inter-state sales.

1.4.3. The new GST regime professes to create a pan-Indian common national market, facilitate Indian businesses to become globally competitive by creating an efficient, corruption-free and transparent tax regime with minimum bureaucratic red-tape facilitating the ease of business and making inter-state movement of goods easier.

1.4.4. Efficient implementation of a simple lower tax rate to yield higher revenue is the underlying principle of an efficient GST regime globally. Singapore and Malaysia have moderate GST rates at 8% and 6% respectively. Canada has a dual system of GST with Harmonized Sales Tax (HST) with tax rates of 0%, 5% and 15%. GST in UK is at 20% with provision for lower rate, zero rate and exemptions. Different countries have different exemptions and threshold limits for liability for GST.

1.4.5. Indian GST is one of the most complex and intricate tax regime in the world with a four-tier tax structure with different State and Central levy- i.e. CGST, SGST, UTGST, and IGST levied on supply of goods and/or services.

The threshold limit of Rs 40 lakh (Rs 20 lakh in case of a service provider) to attract GST liability in India is among the lowest in the world. However it makes no difference between goods and services and both are treated at par and taxed at a single rate presently pegged at 5%, 12%, 18% & 28%. Besides, diamonds are taxable at 5% and bullion at 3%. There are some items of supply with zero rate or which are exempted supply. Besides, TDS and TCS at 2% and 1% respectively are payable in some cases such as e-commerce.

Indian GST provides option of composition to small taxpayers to pay tax at lower or nominal rates such as 1.5% or 5% or 6% on their turnover without claiming input tax credit and some restriction on issue of taxable invoices etc.

In case of goods and/or service provided by a class of suppliers, the recipient thereof is liable to pay GST under Reverse Tax Mechanism (RTM) instead of the supplier.

1.4.6. Following Singapore and many other countries, GST regime has initiated anti-profiteering laws at the retail level to protect consumers from price rise and profiteering and price swindling.

1.4.7. Unlike other countries, alcohol and petroleum products are kept outside the purview of GST in India, with each state free to set its own rates. Input credit will not be available to the manufacturers using alcohol and petroleum products thus increasing the costs for the end consumer. This is due to States' refusal to forego their rights to levy tax on these products which constitute about 40% of a State's revenues.

1.5 CONCEPT OF GST

1.5.1. GST is a multi-point tax levied **only** on the value added at each stage of supply chain, which comprises of manufacture, sale and consumption of taxable goods and/or services. Further, the GST inherently provides for a comprehensive and continuous chain of tax credits beginning from the manufacture or production of goods and/or provision of service up to the retailer or consumer to ensure that:

- (a) the tax is levied only on the value added at each stage of supply and
- (b) there is no cascading effect by levying tax on tax at each stage and

1.5.2. At each stage of supply, a supplier can avail input credit for the tax paid (ITC) on the purchase of goods and/or services at the previous stage and set off this credit against the GST payable on the supply of goods and services be made by him to the next stage.

1.5.3. The final consumer of goods and/or services the GST charged by the last supplier in the supply chain, with set-off benefits at all the previous stages.

Illustrations

(a) A supplies goods to B for Rs 25,000. B supplies these goods to the final consumer C for Rs 28,000 with value addition of 20%. Rate of tax is 6% each CGST/ STGST. Tax position will be as follows:

Particulars	A to B	B to C	Addition
Price charged for supply of goods/ services	25000	28,000	3,000
CGST @ 6%	1500	1680	180
SGST @ 6%	1500	1680	180
Total CGST+ SGST	3000	3360	360
Total price charged	28,000	31360	3,160

Notes

- A will pay Rs 3000 (1500 each CGST & STGST) without ITC as the goods originated from him in the supply chain.
- B's gross liability is Rs 3,360 (1680 each CGST & STGST).
B is entitled to avail ITC for tax of Rs 3,000 paid to A (1500 each CGST & STGST)
B is liable to pay only Rs 360 (Rs 180 each CGST & STGST)
- Government gets total GST of Rs 3360 – 1500X2 from A and 180X2 from B

4. But for the ITC, the liability would be Rs. 3,360 due to cascading effect of tax.
 5. C, the final consumer being last in the supply chain will have to bear the full GST of Rs 3360 without any ITC.
- (b) A and B belong to different states, then A will charge IGST of Rs 3000 (12%) and B will get ITC of RS 3000 against IGST and pay the balance just as before. This is an example of seamless credit flow.

1.6 NEED FOR GST IN INDIA

The main flaw of the pre-GST tax regime was the existence of multiple taxes at both the central and state level without having an across the board credit system for taxes paid earlier. This imposed hindrance in smooth movements of goods across the country besides creating scope for arbitrage of rates at different places, interstate smuggling and grey markets for goods and services. India needed a uniform tax regime with lower rates and stringent implementation. Some other reasons are as under:-

- a. Integration of different taxes such as Excise Duty, VAT, Luxury Tax, Entertainment Tax, Octroi and CST so as to avoid multiple taxation of a transaction as both goods and services;
- b. Replacement of multiple tax levies by a uniform tax regime in respect of goods and services both;
- c. Abatement of the cascading tax burden of tax on tax at different levels;
- d. Introduction of an indirect, comprehensive, broad-based consumption tax for any product or service throughout India;
- e. Provision for a continuous chain of credits from the original producer or service provider to the retailer or end consumer for taxes paid at earlier stages i.e. input credit to ensure the removal of cascading effect of multiple taxes;
- f. Imposition of tax only on the value added at every stage in the supply chain instead of tax on origin or manufacture of goods;
- g. Setting up an efficient tax regime free of corruption and bureaucratic red-tape to enable simplified tax compliance;
- h. Creation of a national market for goods and services and
- i. Safeguarding the interests of the states by opting for a dual- model GST with inbuilt provisions for CGST, SGST, UGST and IGST.

1.7 INDIRECT TAXES SUBSUMED IN GST

1.7.1. The principle objective of the GST is to reduce the complexities, remove the effects of cascading tax burden by introducing a new broad based tax regime which subsumes all the taxes levied on the sale of goods and/or provision of services by both the centre and the states and provide a larger pull for set off of taxes.

1.7.2. Principles of subsuming taxes

Following principles were applied to identify the indirect taxes levied on supply of goods or services to be subsumed:-

- Only indirect taxes on goods and/or services were subsumed.
- The taxes were part of the supply chain i.e. manufacturer, service provider or retailer or consumer,
- The taxes resulted in free flow of tax credits in intra and inter-State levels.
- The taxes such as Stamp Duty, Municipal Taxes which were specifically unrelated to supply of goods or services, were not subsumed; and
- The subsuming of the taxes maintained revenue neutrality and fairness between the Central and the States.

1.7.3. Taxes subsumed or absorbed in GST

Based on the above principles, following taxes have been subsumed in GST.

Taxes subsumed or absorbed in GST	
Central Taxes	State Taxes
Central Excise Duty (CENVAT)	
Additional Excise Duties	VAT / Sales Tax
Excise Duty under the Medicinal and Toiletries Preparations (Excise Duties) Act 1955	Entertainment Tax except levied by the Local Bodies)
Service Tax	Luxury Tax
Additional Customs Duty, commonly known as Countervailing Duty (CVD)	Taxes on Lottery, Betting and Gambling
Special Additional Duty of Customs – 4% (SAD)	State Cesses and Surcharges wherever they relate to supply of goods and services
Surcharges and Cesses levied by Centre wherever they are in the nature of taxes on goods or services e.g. cess on rubber, tea, coffee, national calamity contingent duty etc.	Octroi and Entry Tax
Central Sales Tax phased out	Purchase Tax

1.7.4. Taxes not subsumed

Following taxes were not subsumed in GST:

- 1) Basic Customs Duty levied on Import of goods into India.
- 2) Exports Duty imposed on export of goods are not available in India in abundance,
- 3) Road and Passenger Tax ,
- 4) Toll Tax
- 5) Property Tax
- 6) Stamp Duty
- 7) Electricity Duty

1.7.5. Treatment of Specific goods

a) The Alcoholic Liquor for Human Consumption

Under clause 12 A of Article 366, of the Constitution the supply of alcoholic liquor for human consumption is outside the ambit of GST. The States will continue to impose tax on it. Moreover, CST on inter-state sales of alcohol products would also continue.

a) Tobacco Products

Tobacco and tobacco products being “Sin Goods” will be subjected to GST subject to a separate excise duty by the Centre.

b) Petroleum, Crude, High Speed Diesel (HSD) , Motor Spirit, Natural Gas and Aviation Turbine Fuel(ATF)

The states will continue to levy VAT on intra-state sales of petroleum products. Inter-state sales would continue to attract Central Sales Tax (CST). However, these products may be transitioned into the GST regime on a future date to be notified by the GST Council. Moreover, these products are also subject to levy of excise duty imposed by the Centre in addition to the VAT or GST.

c) Newspapers and newspaper advertisements

There is no GST on newspaper but advertisements are subject to levy of GST.

1.8 FRAMEWORK OF GST IN INDIA

1.8.1. Subject to the prescribed exceptions, GST is a destination-based tax applicable on all transactions involving supply of goods and/or services for a consideration. It extends to whole of India including the Union Territories of Jammu and Kashmir and Ladakh.

1.8.2. India has followed the dual GST model like Canada and Brazil. Under this model, both the Centre and the States may concurrently levy GST on intra-State taxable supply of goods or services or both

1.8.3. The dual model of GST adopted in India comprises of the following components:-

- a) Central Goods and Service Tax (CGST) levied and collected by the Centre,
- b) State Goods and Service Tax (SGST) levied and collected by the States or

Union Territory Goods and Service Tax (UTGST) levied and collected by the

Union Territories with legislatures or

UTGST levied and collected by Union Territories without State Legislatures,

1.8.4. The Centre is empowered to levy Integrated Goods and Service Tax (IGST) on all the inter-state supply of taxable goods or service or both. IGST is almost equal to the sum total of CGST and SGST/UTGST.

1.8.5. Legislative Framework

Legislative framework for levy and collection of GST is as under:

Type of GST	Legislation	Levied and collected by
CGST	CGST Act, 2017	Central Government
UTGST	UTGST Act, 2017	Union territories without legislatures viz. Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, Daman and Diu and Chandigarh, Ladakh
SGST	SGST Acts	Respective States and Union Territories with their own legislatures viz. Delhi and Puducherry, Jammu & Kashmir

Different State Laws providing for levy of SGST and CGST Act are by and large uniform in respect of the basic features of the tax, chargeability, taxable event, taxable person, classification and valuation of goods and services, procedure for collection and levy of tax etc. to keep the concept of dual GST in harmony.

1.9 BENEFITS OF GST

GST will be beneficial for the economic growth of the country and all the stakeholders in the following ways: -

1.9.1 Common National Market

GST has removed economic barriers and created an integrated economy with a unified common national market with harmonised laws, common tax rates and procedures.

1.9.2. Single Tax

GST subsumes most of the central and state taxes into a single tax and provides for a seamless credit scheme in the supply chain. Elimination of multiple taxes and double taxation will remove the effect of cascading.

1.9.3 Competitive prices

As a result of mitigation of ill effects of cascading, average tax burden is likely to come down, which is expected to bring down the prices of goods and services and make them market friendly and competitive.

1.9.4 Make in India

- a) GST will give a major boost to the 'Make in India' initiative of the Government of India by making goods and services produced in India competitive in the national as well as international market giving rise to the exports and also demand for goods and services in domestic markets.
- b) More consumption and higher exports will result in higher production and manufacturing activities leading the growth of the industries to turn India into a "Manufacturing hub".
- c) Increased manufacturing will create additional job opportunities in industry and service sectors

1.9.5 Foreign Investment

Unified common national market will attract Foreign Direct investment necessary for the "Make in India" campaign.

1.9.6 Ease of Doing Business

- a) Mitigation of double taxation will make doing business easier and also reduce litigation and disputes relating to double taxation of a transaction as both goods and services
- b) GST is a simple tax regime with fewer exemptions.
- c) It will reduce multiple taxes leading to simplification and uniformity and the need for multiple records keeping for a variety of taxes saving cost of compliance.
- d) GST envisages simplified and automated procedures for various processes such as registration, returns, refunds, tax payments, etc.

- e) GST prescribes common procedures for registration, refund, filing of returns, classification of goods, etc. will make the taxation system more certain
- f) Public interface between the taxpayer and the tax administration will be considerably reduced as interaction will be through the common GSTN portal.
- g) GST regime will improve environment of compliance with online filing of returns, verification of input credits and encourage more paper trail of transactions.
- h) Electronic matching of input tax credits all-across India thus making the process more transparent and accountable
- i) Timelines are prescribed for obtaining registration, refunds, etc.;
- j) GST will help in improving liquidity of the business.

1.9.7 Economic growth and Tax compliance

- a) GST will widen the tax base, improve compliance by the taxpayers, and increase the tax revenues of the government.
- b) A cumulative effect of high production, export etc. will improve the overall investment climate in the country and be helpful in growth in economic activities, increase the GDP, boost economic growth and remove poverty.
- c) Uniform GST rates across the country will reduce tax avoidance or evasion by eliminating rate arbitrage between different stage or intra and inter-State sales.

1.9.8 Consumers

- a) Final price of goods is expected to be lower due to seamless flow of input tax credit between the manufacturer, retailer and service supplier;
- b) A large number of small retailers with turnover of supply of goods up to Rs 40 lakh (20 lakh in case of suppliers of services) are exempted from tax and those having turnover supply of goods up to Rs 1.5 Crore will be covered under a composition scheme with low to moderate tax rates. This will mean purchases from such retailers at relatively lower prices giving quantum increase to consumption of goods.

1.9.9 Uniformity in tax rates, nomenclature and interpretation

GST will ensure uniformity in rates of tax and interpretation. “Goods” include “all materials, commodities, and articles” and “service” includes “anything done for consideration which is not goods”. This will encompass all goods and services in its scope. Further the classification of goods and services is done as per HSN or Harmonised System of Nomenclature). A new scheme for classification of services has been devised under various sections, headings and groups.

1.10 GST COUNCIL

1.10.1. Under the newly inserted Article 279A, the President of India is vested with the power to constitute a joint forum of the Centre and States Goods & Services Tax Council (GST Council). These provisions came into force on 12th September 2016. Soon thereafter, the President constituted the GST Council on 15th September 2016.

1.10.2. The composition of the GST Council is as under:-

- i) Chairperson - Union Finance Minister
 - ii. Vice Chairperson – Chosen from amongst the Finance Ministers of the State Governments
 - iii. Ex-Officio Secretary -The Secretary (Revenue) (as per the decision of the Union cabinet on 12 September 2016.
 - iv. Members
 - a. Union Minister of State (Finance)/Revenue
 - b. All Ministers of Finance / Taxation of each State or any other Minister nominated by the States or Union Territories with legislatures
 - v. Permanent invitee (non-voting) -Chairperson, Central Board of Excise and Customs (CBEC)
 - vi. GST Council Secretariat
- The GST Council is managed by the GST Council Secretariat) comprising of the officers taken on deputation from both the States and the Centre. Funds for running the Secretariat will be made available and borne by the Centre. The government has appointed one Additional Secretary and four Commissioners to the Secretariat.

1.10.3 The functions of the Council

The GST Council shall perform the following functions, viz. :-

- a. To make recommendations to the Union and the States on everything related to GST including laws, rules and tax rates, exemptions, threshold limits, dispute resolution etc.
- b. To recommend the date on which GST be levied on petroleum crude, high speed diesel, motor spirit, natural gas and aviation turbine fuel.

1.10.4. Decision making at the Council

- a. Every decision of the council shall be taken in a meeting.
- b. Quorum for every such meeting shall be not less than 50% of total members.

- c. Every decision of the GST Council is taken by a majority of not less than three-fourths (75%) of the weighted votes of the members present and voting.
- d. Vote of the Centre has a weightage of one-third of total votes cast.
- e. Votes of all the State Governments taken together has a weightage of two-thirds of the total votes cast, in that meeting.

Example:

At a meeting of the Council, 24 members are present, of which 23 members are from the states and one represents the Centre.

The weightage of votes will work as under:

- Total votes cast 24
- Weightage of centre - $\frac{1}{3}$ of 24 = 8 votes
- Weightage of the 23 members of the States taken together - 16 votes
i.e. or 0.6956 votes each member.
- Votes required passing a resolution - $\frac{3}{4}$ of 24 = 18
- Weightage of Central Government - $\frac{1}{3}$ of 24 = 8
- Votes required from the States $18 - 8 = 10 =$
- States required to support to take decision : $10 / 0.6956 = 14.387$ or 15

Interestingly in the above case no decision can be taken without the support of the Central Government even if all the states present in above case concur as $\frac{3}{4}$ majorities will fall short.

1.10.5. Decision not to be invalid

Any defect in procedures adopted or appointment of members or in constitution of the council or non-filling up of any vacancy shall not render the decision making by the Council invalid.

1.10.6. The GST Council has held as many as 47 meetings 29th of June 2022 and has taken several decisions such as simplification of procedures, composition, e-way bills, threshold limit for registration, periodicity of returns to be filed, IGST credit and measures for removal of difficulties including revision of GST rates.

1.11 GOODS AND SERVICES TAX NETWORK (GSTN)

1.11.1. GST regime primarily relies upon technology-based compliances. Hence, a Company Goods and Service Network (GSTN) was incorporated as a special purpose vehicle as a non –profit organisation under the provisions of section 8 of the Companies Act, 2013 with the initial capital of Rs 10 Crore. The Government of India holds 24.5% equity in GSTN and all States including Delhi and Puducherry, and the Empowered Committee of State Finance Ministers (EC), together hold another 24.5%. Balance 51% equity is with non-Government financial institutions.

1.11.2. The company set up a single portal www.gst.gov.in to provide IT infrastructure and all GST related services to the Central and State Governments, taxpayers and other stakeholders for implementation of the Goods and Services Tax (GST).

1.11.3. The portal also aims to establish a uniform interface linkage for the taxpayer and a common and shared IT infrastructure between the Centre, Union Territories and the States. The portal is accessible over Internet by taxpayers and tax professionals like Chartered Accountants, Tax Advocates, Banks, accounting and tax authorities and other stakeholders and Intranet by Tax Officials etc.

1.11.4. The functions of the GSTN

Primarily, GSTN provides three front end services to the taxpayers namely registration, payment and return through GST Common Portal. Its main functions are as under:-

- a) To facilitate Registration of the taxpayer with the help of IT, ITeS and financial technology companies called GST Suvidha providers (GSP), who provide mechanism to receive GST returns from the tax payers and forwarding the returns to Central and State authorities,
- b) To develop with the help of GSPs, applications to be used by taxpayers for interacting with the GSTN and facilitate the tax payers in uploading invoices as well as filing of returns and act as a single stop shop for GST related services
- c) To customize products that address the needs of different segment of users. GSPs may take the help of Application Service Providers (ASPs) who act as a link between taxpayers and GSPs.
- d) To compute and settle IGST with the concerned states/UT,
- e) To match payment of tax by the tax payers with the banking network;

- f) To generate MIS reports from the information furnished by the taxpayers in the GST returns information and provide such reports to the Centre and States ,
- g) To analyse and provide analysis of taxpayers' profile;
- h) To match reversal and reclaim of input tax credit.
- i) To ensure data privacy and protection along with developing data retrieval and audit trails and other value added service.

1.12 SELF-EXAMINATION QUESTIONS

- 1) Explain the concept of GST.
- 2) List the Central and State levies which will be subsumed in GST in India.
- 3) What are the taxes not subsumed in GST
- 4) Enumerate and explain the principles for subsuming taxes in GST.
- 5) What is GST Council? How decisions are made by the GST Council?
- 6) Explain the benefits and need for GST.
- 7) What were the problems in pre-GST tax regime? How does GST resolve them?
- 8) Discuss the dual GST model to be introduced in India.
- 9) Explain salient features of indirect taxes and differentiate direct and indirect taxes.
- 10) Enumerate different types of direct and indirect taxes.
- 11) Write a short note on various Lists under VII Schedule to the Constitution of India.
- 12) If A sells a product at a MRP of 20,000 rupees with GST rate of 10%. Determine the GST payable. Will it make any difference if A has purchased this product for Rs 15,000?
(Ans. GST -20,000 X 10/110 Rs 1818 , Input credit 15,000X10/110= Rs 1364 , payable Rs 1818-1364 = Rs 454
- 13) Multiple Choice questions ;
 - A. Which of the following taxes have been subsumed in GST?
 - (a) Central Sales Tax (b) Central Excise Duty (c) VAT (d) All of the above

- B. List I is the - (a) Union List (b) State List (c) Concurrent list (d) None of above
- C. List II is the - (a) Union List (b) State List (c) Concurrent list (d) None of above
- D. List III is the (a) Union List (b) State List (c) Concurrent list (d) None of above
- E. Union list provides taxes levied by
a) Centre (b) states (c) Union territories (d) None of above
- F. State list lists taxes levied by
a) Centre (b) states (c) both centre and states (d) None of above
- G. Concurrent list gives items in the domain of
a) Centre (b) states (c) both centre and states (d) None of above
- H. Weightage of Central Govt. in GST Council is a) $\frac{1}{4}$ (b) $\frac{1}{3}$ (c) $\frac{2}{3}$ (d) $\frac{3}{4}$
- I. GST council takes decisions with majority of a) $\frac{1}{4}$ (b) $\frac{1}{3}$ (c) $\frac{2}{3}$ (d) $\frac{3}{4}$
- J. The functions of Goods and Services Network (GSTN) include:
(a) facilitating registration (b) forwarding the returns to Central and State authorities (c) computation and settlement of IGST (d) All of the above
- K. GST is levied on supply of all goods and services except:
(a) Alcoholic liquor for human consumption (b) Tobacco (c) Health care services (d) All of the above
- L. On Petroleum Crude, High Speed Diesel, Motor Spirit (Petrol), Natural Gas and Aviation Turbine Fuel:
(a) GST is not levied (b) GST to be levied from a notified date decided by GST Council (c) GST is levied, but exempt (d) None of the above

(Answers : (A) c (B) a (C) b (D) c (E) (a) (F) b. (G) (c), H (d), I (d), J (d), K (a), L (d))



REGISTRATION UNDER GST

Unit Structure :

2.0 Introduction and Objectives

2.1 Need and Advantages of Registration

2.2 Liability for Registration

2.3 Registration Procedures

2.4 Self- Examination Questions

2.0 INTRODUCTION AND OBJECTIVES

The GST is a destination based tax on the consumer of the goods and services or both. Actual taxpayer, (the consumer) is different from the factual one (the supplier). Registration is the process to establish a chain between the Government vis-à-vis the supplier and the consumer.

Registration helps the Government to identify taxpayers on the one hand and enables the taxpayer to collect tax from the consumers on the other besides establishing a seamless flow for claiming credit of tax paid on inputs (ITC).

This lesson takes a detailed look at the provisions relating to Registration, its need, advantages, liability for registration, exemption from registration, procedural aspect for registration and its modification or cancellation etc.

2.1 NEED AND ADVANTAGES OF REGISTRATION

Registration is the process for obtaining a unique number from the Government by a supplier of goods or service or both. Registration authorizes the supplier to collect tax on behalf of the Government. It also enables the supplier to avail Input tax credit (ITC) for the taxes paid on his inward supplies. Without registration, a person can neither collect tax from his customers nor claim any input tax credit of tax paid by him. Registration confers the following advantages to a taxpayer:

- Registration is an official recognition to a person as the supplier of goods or services or both.
- A registered supplier is authorised to collect tax from the consumers.
- The supplier may pass on credit of the taxes paid on the goods or services or both, supplied to the consumers.

- The supplier may claim and utilise input tax credit of taxes paid towards the discharge of his liability for taxes due on supply of goods or services or both.
- Registration acts as a catalyst in establishing a supply chain at the national level with a seamless flow of Input Tax Credit from suppliers to the consumers.

2.2 LIABILITY FOR REGISTRATION

Liability for payment of GST arises on happening of the taxable event i.e. *the “supply” of goods or service or both by a supplier thereof*. Liability for registration is co-extensive with the liability to pay GST.

A supplier is liable for registration in four ways, viz.:-

- a. Migration of the existing taxpayer from the old law to the GST,
- b. Registration based on minimum turnover of supply of goods or services or both,
- c. Compulsory registration irrespective of the turnover limit, and
- d. Voluntary registration irrespective of the turnover limit.

2.2.1. Migration of the existing taxpayer from the old law to the GST

Section 22(2) of the CGST Act, 2017 made transitory provisions on implementation of the GST on 1st July 2017, called the “appointed day”. Under the section every existing taxpayer, who was registered or holding a license under the existing laws e.g. MVAT was required to migrate to the GST by 30th June 2017 i.e. a day preceding the appointed day and obtain provisional registration under the GST law.

The provisional registration was subject to final registration after submitting the documents and information required for registration. Elaborate provisions were made for declaration of stocks and unavailed input credit on 30th June 2017 to facilitate smooth transition to the new regime. This being only a transitory provision is not discussed in detail.

2.2.2 Registration based on Turnover of taxable supply

2.2.2.1. Section 22 of the CGST Act, 2017 provides that

(A) In case of **any person engaged** in making **taxable supply of goods or services or both** shall be liable for Registration under GST whose **aggregate turnover** in a **financial year exceeds**:

- **Ten lakh rupees** of supplies from any of the **Special Category States EXCEPT** the State of Assam and Union territories of Jammu & Kashmir & Ladakh

- **Twenty lakh rupees** of supplies from in all the other states & UTs and
- (B) In case of the supplier engaged **exclusively in the supply of goods**, the turnover limit will be
- **Twenty lakh** of supplies made from any of the **Special Category States**
- **Forty lakh rupees** of supplies made from in all the other states & UT.

The liability for Registration arises when the turnover exceeds the applicable threshold limit 40 lakh /20 lakh/10 lakh rupees. Hence, effective threshold limit for Registration is Rupees 40,00,001/20,00,001/10,00,001 onwards.

2.2.2.2. Special Category States are 11 in number, which include:

- Seven North Eastern States (Seven Sisters) Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Tripura,
- Three hilly States Sikkim, Himachal Pradesh, Uttarakhand, and
- Jammu & Kashmir (UT) and Ladakh (UT) (including Kargil and Leh) after bifurcation of the erstwhile State of Jammu & Kashmir on 05 August 2019
- The State of Assam, Union Territories of Jammu & Kashmir and Ladakh have opted for threshold limit of 40 lakh/20 lakh rupees

2.2.2.3. Aggregate turnover

A. “Aggregate turnover” as defined in section 2(6), means the aggregate value of-

- all taxable supplies,
- exempt supplies,
- exports of goods or services or both, and
- inter-State supplies

B. Aggregate turnover of supply of goods or services or both is computed :-

- for a supplier having the same Permanent Account Number, on the principle of one PAN- one person,
- for the whole of India taken together,
- with reference to a financial year i.e. April to March

C. The value of aggregate turnover *excludes*:-

- a. Central tax, State tax, Union territory tax, Integrated tax and Cess;
- b. The value of inward supplies on which tax is payable by a person on reverse charge basis;

D. Vide explanation to the section 22 , the aggregate turnover *includes*:-

- a. all supplies made by the taxable person on his own account ; or
- b. supplies made on behalf of all his principals; or
- c. in case of a principal, the supply of goods by a registered job worker after completion of job-work,

2.2.2.4. Persons not liable for registration-Section 23

Following persons are not liable for registration vide Section 23:-

- A Any person engaged **exclusively** in the business of supplying goods or services or both, which are
 - i. not liable to tax or
 - ii. wholly exempt from tax under the CGST Act or under the IGST Act;
- B An agriculturist, to the extent of supply of produce out of cultivation of land
- C Any class of persons specified by the Government on the recommendation of the Council, by notification. Under this section, the government has granted exemption from registration under this section to :
 - a) Individual advocates including senior advocates ,
 - b) Individual sponsorship service providers including players ,
 - c) Suppliers, whose all supplies are taxable under reverse charge.

2.2.2.4. Some relevant points

- a. The liability for registration is on “every supplier”.
- b. The supplier should make a taxable supply of (i) goods or (ii) services or (iii) both over the threshold limit of 10 lakh/20 lakh /30 lakh rupees.
- c. Under section 22 read with section 23, a supplier of only tax-free supplies is not liable for registration
- d. If a supplier makes some taxable supply in addition to tax-free supplies, then all supplies, whether taxable or tax-free in the course of export or inter-State supply, will be considered in aggregate turnover.

- e. Registration will in the State or Union Territory, from where the supplier makes the taxable supply of goods or services or both.
- f. An agriculturist is specifically exempted from registration to the extent of supply of produce out of cultivation of land even if it exceeds the threshold limit.
- g. A supplier of only supplies taxable under reverse charge, is also exempted from registration under CBIC notification.
- h. All supplies made by a taxable person will be included in his aggregate turnover whether made
 - on his own account; or
 - as an agent on behalf of all his principals; or
 - in case of a principal, the supply of goods, after completion of job-work, by a registered job worker.
- i. The value of the supply considered in the account of the principal, shall not be included in the aggregate turnover of the registered job worker because only one person should be liable for accounting the turnover of supply.

2.2.2.5. Illustrations :

1. Ashok, a Chartered Accountant provides taxable services from Agartala. Since the taxable services are provided from the State of Tripura, a Special Category State, liability for Registration will arise under section 22 of the CGST Act, 2017, when the aggregate when the value of services provided by him exceeds 10 lakh rupees.
2. Bose is a Kolkata based wholesaler in tea. Bose will be liable for registration, when the aggregate turnover or supply of tea (sales) exceeds Rs 20 lakh.
3. Suresh of Surat supplies (sells) taxable goods worth Rs 38 lakh on his account and Rs 3 lakh as an agent acting for his principal Tope. Suresh will be liable for registration, when the turnover exceeds 40 lakh rupees inclusive of supply made on his account and made on Tope's account.
4. Dilip is a diamond merchant based in Mumbai. His turnover is of rupees 15 lakh. He also sends goods on job work to the registered artisan, who completes the job work and sends back to Dilip goods valued at Rs 28 lakh.

Dilip will be liable for registration on his own turnover and the goods received from the job worker, when the aggregate turnover exceeds the threshold limit of Rs 40 lakh. However, the turnover of Rs 28 lakh will be excluded from the turnover of the job worker.

5. An educational institution provides tax- free education services valued at Rs 50 lakh. Assuming that there are no other taxable supplies, the institution will not be liable for registration under section 23 because it does not make supply of any taxable services.
6. A hospital provides tax-free medical services of Rs 18 lakh and taxable services of Rs 4 lakh. In this case the aggregate turnover will include both tax-free and taxable services. The hospital will accordingly be liable for registration when its aggregate turnover exceeds Rs 20 lakh.
7. A makes export of taxable goods for Rs 100 lakh. A will be liable for registration, although his tax liability will be nil.
8. Anuj of Akola is engaged exclusively in supplying tax-free goods. He is not liable for registration under this clause even if the turnover exceeds the limit of Rs 40 lakh.
9. Turnover of Bopanna of Bengaluru from supplying exempted goods is Rs 50 lakh and taxable goods are Rs 25 lakh. Bopanna will be liable for registration from the date on which the aggregate turnover of supply of goods exceeds Rs 40 lakhs.

2.2.3. Compulsory registration

Under section 24 of the CGST Act, 2017, following classes of persons are liable for compulsory registration irrespective of the amount of turnover:-

(i) Inter-State Suppliers

Persons making any inter-State taxable supply of goods (e.g. from Mumbai to Goa) is required to be registered under GST irrespective of turnover limit.

Exceptions:

- (a) Persons making inter-state supplies of taxable services and having an aggregate turnover, to be computed on all India basis, not exceeding an amount of twenty lakh rupees (ten lakh rupees for special category States except J & K, Ladakh or Assam) are exempted from obtaining registration vide Notification No. 10/2017-Integrated Tax dated 13.10.2017.
- (b) Persons engaged in supply of handicraft goods making inter-state supply are exempt from GST registration, if the aggregate value of all their supplies on all India bases is less than Rs 20 lakhs/10 lakhs per annum.
- (c) A job worker with turnover less than 20/10 lakhs is exempt from registration, even if he makes inter-State supplies to registered person. This exemption is not available to Jewellery, goldsmiths' and silversmiths' wares and other articles manufactured on job work basis – (Notification No. 7/2017-IT dated 14-9-2017 as amended on 29-1-2019).

(ii) Casual taxable persons

A casual taxable person is one who has a registered business in a different State and wants to effect taxable supplies from some other State or Union Territory where he is not having any fixed place of business. Such persons are liable for registration in the State from where they seek to effect a taxable supply as a casual taxable person.

An exception is made in case of casual taxable persons making supplies of specified handicraft goods, who will be entitled to the threshold exemption of Rs. 20 Lakh/10 lakh and thus need not take compulsory registration.

(iii) Non-Resident Taxable Persons

Non-resident taxable persons i.e. a foreigners not having fixed place of business in India has to compulsorily apply for registration if they desire to make any taxable supply in any State in India at least five days in advance of making such supply and also make advance deposit of the estimated tax liability. Registration is granted to the non-resident taxable persons only for a specified period only, but the period may be extended on making application.

(iv) Payers of tax under reverse charge

The persons who are required to pay tax under reverse charge on the supplies received by them. E.g. clients of advocates, those receiving transport services from a goods transport agency etc.

(v) E-Commerce Operators

E-commerce operators, notified as liable for GST payment under section 9(5) of the CGST Act, 2017.

(vi) Tax Deductor;

Persons required deducting tax under section 51, whether or not separately registered under this Act;

(vii) Agents

Persons making taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise;

(viii) Input Service Distributors, whether or not separately registered under this Act;

(ix) Suppliers through E-Commerce Operator subject to TCS

Persons who supply goods or services or both, other than supplies specified under section 9(5) through such E - Commerce Operator who are required to collect tax at source (TCS) under section 52;

(x) Supplier through E-Commerce Operator subject to TDS

Suppliers of goods who supply through such E-Commerce Operators, who are liable to collect tax at source. However, suppliers of taxable service

through e-commerce operators need not take compulsory registration and are entitled to avail the threshold exemption of Rs. 20 lakh/10 lakh(Notification No. 65/2017-Central tax dt. 15.11.2017)

(xi) **E-commerce Operators**, who provide platform to the suppliers to make supply through them.

(xii) Every person supplying Online Information and Database Access or Retrieval Services (**OIDAR**) from a place outside India to an unregistered person in India;

(xiii) Such other person or class of persons as may be notified by the Government on the recommendations of the Council.

2.2.4. Voluntary registration

Any person having turnover below the threshold limit may opt apply for voluntary registration. However, such a person will not get the benefit of the threshold limit of Rs 20 lakh /10 lakh and his entire turnover will be subject to GST from the day of registration. Further, voluntary registration will not be cancelled until one year from the date of registration.

2.3 REGISTRATION PROCEDURES

There are different procedures for registration for a non-resident taxable person, casual taxable persons, deductors of tax, collectors of tax and supplier of Online Information Database Access and Retrieval (OIDAR) services and other suppliers. Some relevant provisions have been dealt with separately at the appropriate places. For all other suppliers the following will be the procedure for registration .

2.3.1. Nature of Registration

- (i) Registration is not tax specific but common for all the taxes i.e. CGST, SGST/UTGST, IGST and Cesses.
- (ii) Registration is PAN based and State specific. A given PAN based legal entity would have one GSTIN per State. It would mean:-
 - a. A taxable person is required to register in each State or Union territory from where he effects supply.
 - b. An entity having branches in multiple States will have to take separate State wise registration for the branches in different States.
 - c. If the branches of the entity are within one State or Union territory, it can have single registration declaring one place as the principal place of business and other as the branches as additional place of business.
 - d. The above rule subject to the following three exceptions , where separate registration is required even within a state :-

- a) a unit in SEZ; or
- b) a SEZ developer; or
- c) Each of **business verticals** separately of business entity within a State or Unit Territory.

As per Section 2(18) of CGTS Act, 2017 “**business vertical** means a distinguishable component of an enterprise that is engaged in supplying an individual product or service or a group of related products or services and that is subject to risks and returns that are different from those of other business verticals;

Explanation: Factors that should be considered in determining whether products or services are related include:

- (a) the nature of the products or services;
 - (b) the nature of the production processes;
 - (c) the type or class of customers for the products or services;
 - (d) the methods used to distribute the products or provide the services; and
 - (e) if applicable, the nature of the regulatory environment, for example, banking, insurance, or public utilities.”
- (iii) Upon registration each supplier is allotted 15-digit ‘Goods and Service Tax Identification Number or “GSTIN” comprising of the first 2 digits for the State code followed by 10 digits PAN of the legal entity, 2 digits for the entity code and the last digit for check number.
 - (iv) A centralised unique identification number (UIN) is issued in respect of supplies to some notified agencies of United Nations organisation, multinational financial institutions and other organisations.
 - (v) Upon Registration a certificate of registration incorporating the GSTIN is issued to the taxpayer and the GSTIN is made available to the applicant on the GSTN common portal.

2.3.2. Standardisation of procedures for Registration

The GST registration rules prescribe as many as 30 standard forms / formats to be used for every process in the registration chain such as application for registration, acknowledgment, query, rejection, registration certificate, show cause notice for cancellation, reply, cancellation, amendment, field visit report etc., This is to ensure uniformity of the process all over the country and speeding up the decision making process. Further, the rules stipulate strict timelines for completion of different stages of registration process. The standardized process for Registration is given below.

I. Procedure for RegistrationRegular Taxpayers

A. Submission of Application for Registration

- Every taxable person, who is not a non-resident, deductor of tax and collector of tax is required to submit an application for Registration within thirty days from the date when liability to register arose
- The application is to be submitted online in form GST REG-01 through the common portal (GSTN) or the Facilitation Centre.
- Form for GST REG-01 contains two parts A & B
 - (i) Part A contains the applicant entity's name PAN, Mobile, email etc. and
 - (ii) Part B shows application reference no. given in acknowledgment in GST-REG-02

B. Documents required for GST registration

- (i) PAN of the applicant
- (ii) Identify and address proof of the promoters
- (iii) Proof of registration of business e.g. partnership Deed , Registration Certificate, Certificate of Incorporation etc.
- (iv) Address proof for place of business such as Rent receipt, electricity bill , Municipal certificate etc.
- (v) Bank account proof
- (vi) Digital Signature.

C. Acknowledgment

On submission of the application, PAN of the applicant is verified through GST portal Mobile no. and PAN through One Time Password (OTP) and if these documents are found to be in order, an acknowledgment will be issued in Form GST-REG-02 electronically.

D. Verification process

- (i) The application is forwarded to the Proper Officer of the respective State or the Central Government, who shall examine the application and the accompanied documents.
- (ii) After the verification, the Proper Officer shall approve and grant the registration within three working days.
- (iii) Where the Proper Officer finds the application to be deficient for any reason or requires any further clarification, he shall intimate to the applicant in form GST-REG-03.

- (iv) The applicant shall submit the reply with clarification in form GST-REG-04 within seven working days starting from the fourth day of filing the original application/ the date of receipt of such information in form GST-REG-03. The clarification includes modification or correction of particulars declared in the application for registration.

E. Grant or Refusal of Registration

- (i) The proper officer would have to grant the application for registration within seven working days thereafter and
- a) issue Registration Certificate in form GST-REG-06 ; or
 - b) reject the application in form GST-REG-05.
- (ii) If the proper officer does not respond within 3 working days of receipt of application or within 7 working days from receipt of clarification, then application under this Act shall be deemed to have been approved.

F. Physical verification in connection with registration

Since the basic premise of the GST is to evolve a technology based tax regime to reduce physical interface, ordinarily, physical verification is avoided. However, where the Proper Officer is satisfied and deems necessity or desirable, may carry out physical verification only after granting the Registration. Within fifteen working days of the verification the Proper Officer is required upload the verification report along with the supporting documents and photographs on the common portal.

II. Registration procedure for Casual Taxable Persons

- (i) Registration under GST is compulsory for the Casual Taxable Persons regardless of the annual aggregate turnover.

For this purpose “A **Casual Taxable Person** is defined as a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, in a State or a Union territory or both where he has no fixed place of business unlike the regular taxable person.

Persons running temporary businesses like event management, business fairs, exhibitions or other seasonal businesses examples of Casual Taxable Persons under the GST.

- (i) A Casual Taxable person shall make the application for GST Registration in form GST REG-01 at least 5 days prior to the commencement of business.

(ii) Deposit for GST Registration

- A Casual Taxable person is not allowed to opt for composition scheme. Instead, he will have to deposit an amount equivalent to the expected tax liability during the validity period of GST registration in advance

for GST registration. For this purpose, a temporary reference number is generated for payment of GST deposit.

(iii) On paying the GST deposit, the Electronic Cash Ledger of the taxpayer is credited, and GST registration certificate is released, which will be valid initially for a period specified in the application or 90 days, whichever is earlier.

(iv) The period of Registration may be extended for a further period of 90 days on making application in form -GST-REG-11 before the expiry of the original validity period of registration and amount of additional tax liability during the extended period will have to be made. Other procedures will be similar as those applicable *mutatis mutandis* to regular taxable persons

(v) Filing of returns:

A registered a casual taxable person has to file the following monthly returns

- Form GSTR-1 on or before the 10th of the following month giving detail of the outward supplies of goods or service made by him
- Form GSTR-2 after the 10th but on or before the 15th of the following month giving detail of the inward supplies made by him
- Form GSTR-2 after the 15th but on or before the 20th of the following month showing the tax liability base on auto populated details of GSTR 1 & 2.
- There is no requirement for filing annual return by a casual taxable person.

(iv) Refund of Tax

After filing all the returns for the registration period, a refund may be claimed in GSTR3 and allowed in respect of the excess tax paid by the Causal Taxable Person.

II. Registration procedure for Non- Resident Taxable Persons

(i) A Non-Resident Taxable Person means any person, business or Not-For-Profit Organisation who occasionally undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India. Foreigners and foreign entities supplying goods or services to India would be Non-Resident Taxable Persons as per the GST.

- (ii) Registration under GST is compulsory for the Non-Resident Taxable Person irrespective of the annual aggregate turnover or any other criteria.
- (iii) A Non-Resident Taxable person shall identify a person in India to act as its authorised representative who shall be a person resident in India having a valid PAN.
- (iv) Application for registration shall be submitted
- at least 5 days prior to the commencement of business in India ,
 - shall be in form GST REG-09, and
 - signed by his authorized signatory having a valid PAN in India
- (v) the non-resident taxable person during the GST registration process must file the following documents :
- Documents showing proof of Principal Place of Business (Rent receipt agreement, electricity bill or consent letter from the owner of the premises etc.
 - Identity proof of the non-resident taxable person - Passport , Visa etc.
 - Tax identification number or unique number on the basis of which the entity is identified by the Government of that country or its PAN, if available.
 - Authorisation for Authorised Representative in India along with the copy of the resolution of the board of directors granting such Authorisation, if any,
 - Certificate of Incorporation of the Company .
 - License issued by foreign country, if any,
 - Clearance certificate issued by Government of India, if any,
 - Bank Account Proof with IFC Code MICR etc.

(vi) GST Deposit for Non-Resident Taxable Persons

Like the Casual Taxable Persons, Non-Resident Taxable Persons are also required to remit in advance a deposit equivalent to the expected tax liability during the validity of the registration for GST registration, where upon the Registration Certificate will be issued. Similar process is to be followed for extension of restoration period and additional deposit will be required to be made equivalent to the estimated tax liability for the extended period. An application reference number would be generated for payment of advance tax for obtaining GST registration and an allocation will have to be filed for extension of registration Period in for GST-REG-11.

- (vii) For final registration, an application is required to be submitted in form GST REG-26 electronically within a period of 3 months from the

provisional registration Other provisions are similar to those applicable on the regular taxable persons in regard to the final registration

(viii) The Proper Officer, after verification shall issue registration in form GST REG-06.

(ix) If The Proper Officer shall issue a Show Cause Notice to the applicant in Form GST REG-27 if he is not satisfied with the correctness or completeness of the information submitted or needs additional information.

(x) If the reply is satisfactory, the Show Cause Notice may be cancelled by issuing an order in Form GST REG-20, and if the reply is not satisfactory, then the officer after giving opportunity of being heard to the applicant may pass an order for cancellation of the provisional registration granted to the applicant in Form GST REG-28.

(xi) The rules for filing of returns, refunds etc. are similar to those applicable to the casual taxable persons.

III. Registration Procedure for OIDAR Service Providers

A taxable person supplying online information and data base access or retrieval (OIDAR) services to a non-taxable online recipient shall file the application for registration in Form GST REG-10 electronically and follow the procedure applicable to non-taxable persons.

IV. Registration Procedure for Deductor or collector of GST

A person who is liable to deduct GST at source or collect GST e.g. E-Commerce Operator will have to follow the normal procedure as applicable except that application for registration shall be submitted electronically in Form GST REG-7

V. Registration Procedure for Special agency like United Nation Organization etc.

United Nations and other connected specified agencies are not liable to GST under the international protocol, but registration will still be required to claim refund of taxes paid on inward supply of goods or service or both by making application Form GST-REG-13.

VI. Succession or Transfer of Business

On succession or transfer of business as going concern as a result of amalgamation, merger, demerger, or change in constitution etc., liability to obtain registration from the date of transfer or succession of such business is on the transferee thereof by following the applicable procedure as above.

Amendment in particulars of registration may be for the three reasons:-

(i) Change in Core field

Under Rule 12, a taxable person may make an application for amendment in Form GST -REG-14 within 15 days of the following changes, which do not require cancellation under section 29 of CGST Act,:

- (i) legal name of the business, or
- (ii) the State of place of business or
- (iii) additional place of business., or
- (iv) names of the functionaries – like partners, directors etc.

The proper officer, shall, after making necessary inquiry, approve the amendment electronically in form GST -REG-15 within next 15 days from the date of application.

(ii) Change in Non- Core field

A taxable person *suo motu* (on his own motion) without seeking approval of the Proper Officer, may effect the change on the common portal all the other corrections amendments or change in the particulars of registration the change in Non- Core Field. This change includes a change in the name of the authorised signatory by adding another name of signatory. Any change is not so effected on the common portal will not be effective.

(iii) Change in Mobile, email etc.

Change in e mail, or mobile numbers may be effected in the common portal by the taxable person after an online verification through One Time Password issued.

(iv) Eligible persons

A taxpayer may also change the particulars of the following categories of persons:

- (i) Applicant Taxable person
- (ii) Person holding UIN Card or other notified person for registration under TDS/TCS U. N. bodies category,
- (iii) Non-Resident taxpayer
- (iv) GST Practitioner , and
- (v) Online application and retrieval service provider.

(v) Fields , which cannot be changed

GST is State specific PAN based tax. Hence, the following changes which have the effect of changing these particulars are not allowed:

- a. PAN details,
- b. Change in constitution of business,

c. Modification of place of business from one state to another,

In these cases, a fresh registration will have to be obtained after cancelling the existing registration. The amendments will come into effect from the date of application for amendment. However, the Commissioner may allow the amendments with retrospective effect.

2.3.4. Cancellation of Registration

2.3.4.1 Under section 29(1), registration can be cancelled only in two circumstances :-

- (i) Voluntary cancellation when a taxable person no more requires it or
- (ii) the Proper Officer considers the registration is liable to be cancelled due to some specific defaults.

2.3.4.2. Voluntary Cancellation

a) Cancellation of Registration of Migrated Taxpayers:

An existing taxpayer, who has migrated from old tax to GST, may opt for cancellation only for the following reasons if his-

- a) Turnover is below the threshold limit or
- b) Supply is in exempted category.

Such option may be exercised:-

- a) online on GSTN portal, the taxpayer has not issued any tax invoice, or
- b) in Form GST- REG- 16 if he has issued any tax invoice.

a) Cancellation of Registration of Other Taxpayers

A Time condition

- (i) Where a taxable person not being liable for obtaining registration, has taken voluntary registration, cancellation of registration is not allowed until expiry of one year from the effective date of registration.
- (ii) Other taxpayers may opt for cancellation anytime as the condition of one year does not apply to them.

B Reasons for cancellation

The cancellation of Registration may be for the following reasons:-

- a) the business of the taxpayer has been discontinued ; or
- b) the business has been sold or transferred to some other entity and that other entity needs to register under GST; or
- c) turnover is below the threshold limit; or
- d) the supply is in exempted category.

A taxable person desirous of cancellation of registration may apply on the common portal within 30 days of event warranting cancellation in Form GST-REG-16. Such person is required to

- a) declare in the application the stock held on the date with effect from which he seeks cancellation,
- b) work out and declare:-
 - (i) Amount of payments due,
 - (ii) Particulars of credit reversal, and
 - (iii) Particulars of payments made towards discharge of such liabilities.

D On receipt of the application the Proper officer shall cancel the registration within 30 days from the date of application or receipt of explanations or clarifications in response to his notice issued by him in Form GST-REG-16, if any.

The notice has to be replied in in Form GST-REG-18 within seven days. The order of cancellation will be in Form GST-REG-19.

Revocation of notice will be in in Form GST-REG-20.

D. Suo-motu cancellation by the Officer

The Proper Officer may issue a Show Cause Notice in Form GST-REG-16 to a registered person and call for information.

The Proper Officer after considering such information and hearing the taxpayer, may cancel the registration by passing an order in Form GST-REG-19, if he is satisfied that the registered person has:

- (i) contravened the provision of the Act and the Rules;
- (ii) not furnished returns for-
 - a) three consecutive tax periods in case of a composition taxpayer, or
 - b) continuous period of six month in case of a regular taxpayer;
- (iii) obtained voluntary registration but not commenced business within six months of registration;
- (ii) obtained registration by means of fraud, wilful misstatement or suppression of facts;
- (iii) discontinued business from the registered place of business;
- (iv) been issuing tax invoice without making the supply of goods or services; or
- (v) committed such other defaults as may be specified.

2.3.5. Revocation of Cancellation

Where registration is cancelled suo-motu, the taxable person, within a period of 30 days the service of cancellation order, may apply to the Proper Officer for revoking the cancellation order.

No such application shall be entertained unless the taxable person, before making such application, has made good the defaults by filing all pending returns, making payment of all dues etc. for which the registration was cancelled by the officer.

On receipt of the application, the Proper Officer, if satisfied, may either revoke the cancellation earlier ordered by him or reject the request for revocation of cancellation, after observing the principle of natural justice by way of issuing notice to the person and hearing him on the issue.

2.3.6. Cancellation not to affect pending tax liability :

Cancellation of Registration will not affect the liability of taxes prior to cancellation. Further, the taxpayer will have to pay his due taxes by reversing the input credit in stock (raw materials, finished or semi-finished goods) or make payment, whichever is higher. Similarly, input credit on capital goods also will have to be reversed or the payment will have to be made.

2.4 SELF EXAMINATION QUESTIONS

1. Explain the concept of Casual Taxable person .
2. What are the provisions for registration of a non- resident taxable person
3. List out the forms used for registration and cancellation
3. State whether the following are true or false:
 - a) A migrated person cannot cancel his registration
 - b) Registration may be refused if turnover does not exceed the taxable limit
 - c) A farmer is not liable to GST in respect of his agriculture
 - d) A plastic surgeon, who provides life-saving surgery for Rs 10 lakh (exempt) and cosmetic surgery (taxable) for Rs 12 lakh not liable for registration .
 - e) A charitable trust is not liable for registration under GST.
 - f) An advocate is liable for registration under GST.
 - g) A Jammu taxpayer with taxable turnover of Rs 15 lakh not liable for registration .

h) Application for registrant in is to be made in GST-REG 1

i) A non- resident has to pay tax in advance

j) A GST number taken by fraud can be cancelled

k) A cancellation order can not be revoked.

(False a, b, d, e, f and j , True c, g, h, i)



munotes.in

COLLECTION OF TAXES UNDER IGST, ACT, 2017

Unit Structure :

3.0 Introduction and Objectives

3.1 Cross-Utilisation of Credit

3.2 Nature and Place of Supply

3.3 Self-Examination Questions

3.0 INTRODUCTION AND OBJECTIVES

1. Under the pre- GST tax regime, States and Union Territories collected local sales tax or VAT on Intrastate sales of goods within the State/ UT. The Central Sales Tax Act, 1956(CST) regulated the interstate trade or commerce. Although, the CST Act is a central law, the levy and collection of taxes on sales of goods in the course of inter-State trade is delegated entirely to the states of origin of goods taking place in the course of interstate trade or commerce.
2. The tax regime suffered from several flaws, namely:-
 - (i) The state of origin of goods collected and retained the CST instead of the destination state having jurisdiction over the consumer. This was contrary to the cardinal principle of taxation that incidence of any indirect tax being a consumption tax should be borne by the consumer.
 - (ii) Input Tax Credit (ITC) of CST was not allowed to the buyer resulting in cascading of tax (tax on tax) in the supply chain.
 - (iii) CST had its own protocol for compliance and different forms required to be filed viz., C Form, E1, E2, F, I, J Forms etc. which increased the compliance cost of the business and impeded the free flow of trade.
 - (iv) The CST provided opportunity for “arbitrage” because of the huge difference between tax rates under VAT and CST levied on intrastate sales and interstate sales respectively.
2. The Goods and Services Tax (GST) replaced the multiple taxes levied and collected by the Centre and the States. The GST is one multistage value added tax levied on the consumption of goods or services or both. Having regard to its federal character, India adopted a “Dual GST” model, enabling the Centre and States /Union Territories to

simultaneously levy GST on every supply of goods or services or both, which takes place within a State or Union Territory i.e.:-

- (i) CGST is levied and collected under the authority of CGST Act, 2017 passed by the Parliament,
 - (ii) (SGST) / UTGST levied and collected under the authority of SGST/ UTGST Acts passed by the States or the Union Territories having legislatures
3. In addition, the parliament passed the Integrated Goods and Services Tax (IGST) Act, 2017 to provide a mechanism to-
- a) monitor the interstate trade of goods and services,
 - b) maintain the integrity of ITC chain in interstate supplies, and
 - c) ensure that the SGST component accrues to the consumer State.
4. Under the Act, the Central Government levies and collects IGST on all interstate transactions of taxable goods or services, which is broadly equal to CGST rate plus SGST rate. For instance, CGST rate on intrastate sales of goods is say 5%, then SGST/UTGST rate will also be 5%. Total tax on the product will be 10%. The IGST rate on interstate taxable supply of these goods will be 10%. This may be clear from the following figure:-

IGST Rate on Interstate Sales (10%) (Sales from one state/UT to another state/ UT)	
CGST Rate (5%)	SGST Rate (5%)
(Intrastate sales within same State/UT)	

This lesson will discuss all these aspects with reference to cross utilization of credits of different taxes against one another and other relevant matters.

3.1 CROSS-UTILISATION OF CREDIT

Input tax credit can be utilised in the following manner :-

1. The supplier will transfer funds to IGST account in the state of origin. The IGST may be paid by utilising the ITC
2. The buyer in the destination state can utilise IGST credit for payment of CGST and SGST by the transfer of funds from IGST account.
3. The amount of ITC on account of IGST is allowed to be utilised towards the payment in the following order, viz:-
 - a. IGST
 - b. CGST
 - c. SGST.

4. The amount of ITC on account of CGST is allowed to be utilised towards the payment in the following order , viz:-
 - a. CGST
 - b. IGST
 5. The amount of ITC on account of SGST is allowed to be utilised towards the payment in the following order , viz:-
 - a. SGST,
 - b. IGST.
 6. Input tax credit of CGST and SGST cannot be cross utilised.
 7. Set off of ITC not available to a person under composition scheme.
- Following chart summarises the position

SET OFF OF INPUT CREDIT			
Input Credit	UTILISATION OF INPUT CREDIT		
	First utilisation	Second Utilisation	Balance
CGST	CGST	IGST	No
SGST/ UTGST	SGST/ UTGST	IGST	No
IGST	IGST	CGST,	SGST/UTGST
Input tax credit of CGST and SGST cannot be cross- utilised			

Following illustrations will explain the position;

Illustration -1

A of Akola sells goods of Rs 10,000 to G of Goa. The CGST /SGST rate is 5%each and IGST rate is 10% integrating the CGST and SGST. G sells these goods in Goa for Rs 12,000.

- (a) This is a case of interstate supply of goods involving movement of goods between two different states viz. Maharashtra and Goa liable to IGST. Hence , A will have to transfer Rs 1000 to IGST account. A can transfer this amount by paying cash or by utilising any ITC due to him.
- (b) (i) For G, it will an intrastate supply within the state of Goa. Hence, G is liable for,
 - 5% or Rs 600 towards CGST and
 - 5% or Rs 600 towards Goa SGST.
- (ii) G can avail credit of ITC in respect of IGST of Rs 1000 in the following manner:
 - Firstly Rs 600 towards the CGST and
 - Balance Rs 400 towards the Goa SGST.

G will have to transfer the balance of Rs 200 towards the Goa SGST.

Illustration -2

Following is the summary of GST payable and input credit available to Ashok :

Tax	Output tax Liability	Input Tax Credit (ITC)
	Rupees	
IGST	35,000	18000
CGST	10,000	15000
SGST	10,000	15000

The tax payable will be calculated as follows:

Tax	Output tax Liability	Input Tax Credit			Cash Payment Balance
		IGST	CGST	SGST	
	Rupees				
IGST	35,000	18000	5,000	5000	7000
CGST	10,000	NA	10,000	NA	0
SGST	10,000	NA	NA	10000	0
Total	55000	18000	15000	15000	7000

Illustration -3

Following is the summary of GST payable and input credit available to Avesh:

Tax	Output tax Liability	Input Tax Credit (ITC)
	Rupees	
IGST	15,000	54000
CGST	36,000	12000
SGST	36,000	12000

The tax payable will be calculated as follows:

Tax	Output tax Liability	Input Tax Credit			Payment Balance
		IGST	CGST	SGST	
	Rupees				
IGST	15,000	15,000	NIL	NIL	0
CGST	36,000	24,000	12,000	NA	0
SGST	36,000	15,000	NA	12,000	9,000
Total	87,000	54,000	12,000	12,000	9,000

3.2 NATURE AND PLACE OF SUPPLY

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

1. Inter-State Supply:

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

- (a) Two different States;
- (b) Two different Union territories; or
- (c) A State and a Union Territory.

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

Any supply of goods or services in the taxable territory, not being an intra-State supply, shall be deemed to be a supply of goods or services in the course of inter-State trade or commerce. Supplies to or by SEZs are defined as inter-State supply.

Further, the supply of goods imported into the territory of India till they cross the customs frontiers of India or the supply of services imported into the territory of India shall be treated as supplies in the course of inter-State trade or commerce.

Also, the supplies to international tourists are to be treated as inter-State supplies.

2. Intra-State supply:

Intra-State supply has been defined as any supply where the location of the supplier and the place of supply are in the same State or Union Territory. In other words

Intra- State supply means

- Supply of goods within the same State or Union Territory.
- Supply of services within the same State or Union Territory
- Supply of goods from one State or Union Territory to another State or Union Territory • Supply of services from one State or Union Territory to another State or Union Territory • Import of goods till they cross the customs frontier
- Import of services
- Export of goods or services
- Supply of goods/services to/by SEZ
- Supplies to international tourists

- Any other supply in the taxable territory which is not intra-state supply

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

3. Location of Supplier

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

4. Place of supply

- (i) Places of supply provisions have been framed for goods and services, keeping in mind the destination/consumption principle. In other words, **the place of supply is based on the place of consumption of goods or services**. As goods are tangible, the determination of their place of supply, based on the consumption principle, is not difficult.

Generally, **the place of delivery of goods becomes the place of supply**. However, the services being intangible in nature, it is not easy to determine the exact place where services are acquired, enjoyed and consumed. In respect of certain categories of services, the place of supply is determined with reference to a proxy.

- (ii) A distinction has been made between

- B2B (Business to Business) and
- B2C (Business to Consumer) transactions,

B2B transactions are wash transactions since the ITC is availed by the registered person (recipient) and no real revenue accrues to the Government.

- (iii) Separate provisions for the determination of the place of supply in respect of domestic supplies and cross border supplies have been framed.

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

Nature of supply	Place of supply
1. Where the supply involves the movement of goods, whether by the supplier, recipient or by any other person	the Location of the goods at the time at which, the movement of goods terminates for delivery to the recipient
2. Where the goods are delivered to the recipient or any person on the direction of the third person by way of transfer of title or otherwise, it shall be deemed it shall be deemed that the third person has received the goods.	The principal place of business of such person
3. Where there is no movement of goods either by supplier or recipient	Location of such goods at the time of delivery to the recipient
4. Where goods are assembled or installed at site	The place where the goods are assembled or installed
5. Where the goods are supplied on-board a conveyance like a vessel, aircraft, train or motor vehicle	The place where such goods are taken on-board the conveyance
6. Where the place of supply of goods cannot be determined in terms of subsections (2), (3), (4) and (5)	It shall be determined in such manner as may be prescribed

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

Nature of supply	Place of supply
1. Import	Location of importer
2. Export	Location outside India

C. Place of supply of services in case of Domestic Supplies [Section 12]

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

Nature of supply	Place of supply
1. Immovable property related to services, including hotel accommodation	Location at which the immovable property or boat or vessel is located or intended to be located If Located outside India- Location of the recipient
2. Restaurant and catering services, personal grooming, fitness, beauty treatment and health service	Location where the services are actually performed
3. Training and performance appraisal	B2B: Location of such Registered Person B2C: Location where the services are actually performed
4. Admission to an event or amusement park	Place where the event is actually held or where the park or the other place is located
5. Organisation of an event	B2B: Location of such Registered person B2C: Location where the event is actually held If the event is held outside India: Location of the recipient .
6. Transportation of goods, including mails	B2B: Location of such Registered Person B2C: Location at which such goods are handed over for their transportation
7. Passenger transportation	B2B: Location of such Registered Person B2C: Place where the passenger embarks on the conveyance for a continuous journey
8. Services on board a conveyance	Location of the first scheduled point of departure of that conveyance for the journey
9. Banking and other financial services	Location of the recipient of services on the records of the supplier Location of the supplier of services if the location of the recipient of services is not available

10. Insurance services	B2B: Location of such Registered Person B2C: Location of the recipient of services on the records of the supplier
11. Advertisement services to the Government	The place of supply shall be taken as located in each of such States Proportionate value in case of multiple States
12. Telecommunication services	
• involving fixed line, circuits, dish etc.	The Location of such fixed equipment
• Mobile/ Internet post-paid services,	the location of billing address of the recipient
• Sale of pre-paid voucher	the place of sale of such voucher
• In other cases,	the address of the recipient in records

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

Nature of supply	Place of supply
• B2B	Location of such Registered Person
• B2C	Location of the recipient where the address on record exists, in other cases Location of the supplier of services

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

Where the location of the supplier of services or the location of the recipient of services is outside India(i) In respect of the following categories of services, the place of supply is determined with reference to a proxy. Rest of the services are governed by a default provision.

Sr. No.	Nature of supply	Place of supply
1.	Services supplied for goods that are required to be made physically available from a remote location by way of electronic means.	<ul style="list-style-type: none"> The location where the services are actually performed, The location where the goods are situated.
	Not applicable in case of goods that are temporarily imported into India for repairs and exported	
2.	Services supplied to an individual and requiring the physical presence of the receiver	The location where the services are actually performed
3.	Immovable property-related services, including hotel accommodation	Location at which the immovable property is located
4.	Admission to or organisation of an event	The place where the event is actually held
5.	If the ABOVE services are supplied at more than one locations. i.e., (i) Goods & individual related (ii) Immovable property-related (iii) Event related	
	IAt more than one location, including a location in the taxable territory	the location in the taxable territory where the greatest proportion of the service is provided
	IIIn more than one State	each such State in proportion to the value of services provided in each State
6.	Banking, financial institutions, NBFC Intermediary services, hiring of vehicles' services etc.	Location of the supplier of service
7.	Transportation of goods	The place of destination of the goods
8.	Passenger transportation	Place where the passenger embarks on the conveyance for a continuous journey

9.	Services on-board a conveyance	The first scheduled point of departure of that conveyance for the journey
10.	Online information and database access or retrieval services	The location of recipient of service
11.	Default Rule for the cross border supply of services other than THE ABOVE nine specified services	<ul style="list-style-type: none"> Any Location of the recipient of service If not available in the ordinary course of business: The location of the supplier of service
12.	Supplies in territorial waters	Where the location of the supplier is in the territorial waters, the location of such supplier, or where the place of supply is in the territorial waters, the place of supply is deemed to be in the coastal State or Union Territory where the nearest point of the appropriate baseline is located.
13.	Export/Import of Service	A supply would be treated as import or export, if certain conditions are satisfied. These conditions are as under
	Export	<p>Export of services Means the supply of any service, where</p> <p>a) the supplier of service is located in India,</p> <p>(b) the recipient of service is located outside India,</p> <p>(c) the place of supply of service is outside India,</p> <p>(d) the payment for such service has been received by the supplier of service in convertible foreign exchange, and</p> <p>(e) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with explanation 1 of section 8</p>

	Import	<p>Import of services means the supply of any service, where (a) the supplier of service is located outside India,</p> <p>(b) the recipient of service is located in India, and</p> <p>(c) the place of supply of service is in India</p>
14	Zero rated supply	<p>Exports and supplies to SEZs are considered as 'zero rated supply' on which no tax is payable. However, ITC is allowed, subject to such conditions, safeguards and procedure as may be prescribed, and refunds in respect of such supplies may be claimed by following either of these options:</p> <p>(i) Supply made without the payment of IGST under Bond and claim refund of unutilised ITC or</p> <p>(ii) Supply made on payment of IGST and claim refund of the same</p>
15.	Refund of integrated tax paid on supply of goods to tourist leaving India - Section 15 of the IGST Act	<p>Refund of IGST paid to an international tourist leaving India on goods being taken outside India, subject to such conditions and safeguards as may be prescribed. An international tourist has been defined as a non-resident of India who enters India for a stay of less than 6 months. IGST would be charged on such supplies as the same in the course of export.</p>

3.3 SELF-EXAMINATION QUESTIONS

1. Collection of IGST is part of the GST regime , explain ?
2. What are rules of cross utilization of credit of one tax against another?
3. How does the nature of supply and place of supply affect collection of taxes?
4. What are the limitation of cross- utilization of taxes?



PLACE OF SUPPLY UNDER IGST

Unit Structure :

- 4.0 Introduction and Objective
- 4.1 Inter -State Vs. Intra-State Supply
- 4.2 Location of the Recipient of services
- 4.3 Location of the Supplier of services
- 4.4 Place of supply in respect of goods and services
- 4.5 Place of supply in respect of goods
- 4.6 place of supply in case of supply of services, when location of the supplier and recipient is in India
- 4.7 place of supply in case of supply of services, when location of the supplier and recipient is in India
- 4.8 Self- Examination Questions

4.0 INTRODUCTION AND OBJECTIVE

Determination of the place of supply of goods and/or services is of great importance as the GST being a destination based tax is levied at the place, where the goods and/or services are consumed, not at the place of origin. Accordingly, each transaction has to pass through the test of the place of supply to determine: -

- a. whether tax is to be levied on a particular cross-border transaction;
- b. whether a particular transaction is an Inter-state supply or Intra-state supply;
- c. who will collect the tax on such transaction; and
- d. type of the tax to be levied; IGST, CGST, or SGST/UTGST, on that transaction.

Further, the Place of supply depends upon the location of the recipient of services and the location of the supplier of services. This lesson will deal with the provisions relating to the place of supply of goods and their implication

4.1 INTER-STATE SUPPLY VS INTRA-STATE SUPPLY

4.1.1. Broadly, the transactions may fall in two categories: -

A. International or cross border transactions :-

- a. Imports of goods into India; or
- b. Export of goods outside India, and

B. Domestic transactions :-

- a. Inter-state supply
- b. intra-state supply

4.1.2. Inter-state supply is when “location of supplier” and “place of supply” are in different States or Union Territories (section 7 of the IGST Act).

In contrast, intra-state supply is when “location of supplier” and “place of supply” are in the same state or same union territory (section 8 of the IGST Act).

Examples

1. A supplier in Gujarat sells good in Gujarat. It is intra-state supply, liable to CGST and SGST as location of the supplier and the place of supply are within the same State (Gujarat).
2. The supplier in Gujarat sells goods in Goa. it is an inter-state supply attracting IGST as the location of the supplier and the place of supply fall in different states.

Section 2(70) and 2(71) of CGST Act define “location of the recipient of services” and “location of the supplier of services” respectively but the Act does not define “location of the recipient of goods” and “location of the supplier of goods” at any place.

4.2 “LOCATION OF THE RECIPIENT OF SERVICES

As per section, 2(70) of CGST Act, 2017, “location of the recipient of services” 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;

Thus, the location of the recipient primarily means: -

Supply Received at	Location of Recipient of Service
Place of business for which the Registration has been obtained	Recipient's Registered Office;
Place being a fixed establishment other than the place of business for which Registration has been obtained,	Recipient's fixed establishment
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
in absence of such places	the location of the usual place of residence of the recipient;

Illustration:

A is registered at Fort, has head office at Dadar and branches at Thane and Borivali. His residence is in Juhu.

For any supply received in Thane office, the place of recipient will be at:

1. Registered office at fort,
2. Dadar office, if A does not have registration at fort; or
3. Most connected office at Thane (in absence of fort and Dadar offices, and
4. Residence at Juhu, in absence of any of the above.

4.3 LOCATION OF THE SUPPLIER OF SERVICES

As per section 2(71), of the CGST Act, "location of the supplier of services" means: —

- (a) where a supply is made from a place of business for which the registration has been obtained, the location of such place of business;
- (b) where a supply is made from 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 made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provisions of the supply; and
- (d) in absence of such places, the location of the usual place of residence of the supplier;

The yardstick for determining the location of the provider or supplier of service are more or less similar to those applicable on location of the receiver of the supply.

Supply made from	Location of Supplier of Service
Place of business for which the registration has been obtained	Recipient's Registered Office
Place being a fixed establishment other than the place of business for which registration has been obtained,	Recipient's fixed establishment
at more than one establishment, whether the place of business or fixed establishment	the location of the establishment most directly concerned with the provision of the supply
in absence of such places	the location of the usual place of residence of the supplier

Illustration

Goods are supplied to Jamnagar Branch of Reliance Industries Limited. Its registered office is in Surat and the corporate office is in Mumbai. Place of supply will be Surat, Mumbai and Jamnagar in that order.

4.4 PLACE OF SUPPLY OF GOODS AND SERVICES

Section 10 and section 12 of the IGST Act, 2017 lay down the principles for determination of place of supply broadly in three categories viz.: -

Section 10 Supply of goods

Section 12 Supply of services where location of both the supplier and the recipient is in India;

Section 13 Supply of services, where location of either the supplier or the recipient is outside India.

4.5 PLACE OF SUPPLY IN RESPECT OF GOODS

Section 10 of the IGST, Act, 2017, lays down the following principles to determine place of service of goods

4.5.1 When there is movement of goods

When there is movement of goods, there may be two situations: -

- A.** Where supply involves movement of goods whether by the supplier or the recipient or by any other person, place of supply is the place where the movement terminates i.e. where the goods are delivered or the ownership in goods is transferred.

Illustrations

1. Ashok of Akola sells 100 cotton bales to Dharmesh of Dhule. The place of supply is Dhule in Maharashtra, where the movement of goods is terminated. Both Akola and Dhule being in the same state Maharashtra, it is intra-State sales liable to CGST & (MAH) SGST.
2. If Ashok sells goods to Bhavin of Bhopal in M.P., the place of supply will be in Bhopal M. P. M.P. and Maharashtra being different states; it will be inter-state sales attracting IGST.
3. Pravin of Pune places an order to Reliance, Surat (Gujarat) for purchase of mobile phones goods *ex-factory*.

Surat will be the place of supply as the goods are delivered in Surat (*ex-factory*) there. Hence, the place of supply and location of the supplier being in same State Gujarat, it will be intra-State sales chargeable to CGST and (GUJ) SGST.

It is immaterial that Pravin after collecting goods from the factory of Reliance Surat transports the goods to his place of business in Pune or anywhere else.

B. Delivery to a third party as per instructions

When goods are delivered by a seller to the recipient (whether agent or not) on the direction of a buyer before or during the movement of goods, by way of transfer of document of title to the goods or otherwise, the place of supply will be the principal place of the buyer on the assumption that the buyer has received the goods.

Illustrations

1. Rakesh of Ranchi buys umbrellas from Mahesh of Mysuru to be delivered to his father Manilalin Mumbai.

When Mahesh of Mysuru delivers umbrellas to Manilalin Mumbai as per the instructions of the buyer Rakesh of Ranchi, it will be assumed that Rakesh has received the goods at his principal place in Ranchi.

Place of supply Ranchi (Jharkhand) and Mysuru (Karnataka) being in different States, it will be inter-State sale Chargeable to IGST.

Place of Supply Under IGST

2. Raju of Mumbai places an order for a watch on Snapdeal (an e-commerce operator) manufactured by Foss Ltd., Bengaluru (registered with Snapdeal) to be delivered to Rakhi, his sister in Delhi.

This is again a case of delivery of third party. Delivery of watch to Rakhi in Delhi will be assumed to be delivery to Raju at his principal place in Mumbai by the Supplier Foss, Bengaluru Karnataka. Hence, Mumbai will be the place of supply and as inter-State sales, IGST will be chargeable.

4.5.2 When there is no movement of goods

- A. Where supply does not involve movement of goods, the place of delivery of goods will be the place of supply.

Illustrations

1. A of Mumbai has goods stored in B's godown in Pune. A sell these goods to B.

Place of supply will be in Pune, when B appropriates the goods although there is no physical movement of goods. This being intra-state as the supplier and the place of supply both are in the same state CGST and SGST will be charged.

2. If A of Mumbai sells good lying in Jaipur to B of Jaipur, the place of delivery will be Jaipur. The place of supply Jaipur and the location of the supplier A (Mumbai) being in different states, IGST will be charged.

3. Bhansali, a Mumbai based film producer purchases a studio in Ramoji Rao Complex in Hyderabad with pre-installed audi-visual equipments. The place of supply is Hyderabad being the location of equipments at the time of delivery along with the studio building, which is same as the location of the supplier. Hence, CGST and SGST will be charged as intra-State sale. There is no GST on sale of building being a capital asset.

B. The goods assembled or installed at site

Where goods are assembled or installed at the site of the buyer, site will be the place of supply.

Illustration

L & T Ltd., Mumbai fabricates oil storage tank at a Refinery in Odisha.

The place of supply is Odisha, where the oil storage tank is installed or fabricated. This being an inter-State sale from Mumbai (Maharashtra) to Odisha, IGST will be charged. However, L & T may apply for registration as Casual Taxable Person in Odisha and pay CGST & SGST.

C. Goods Supplied on a Vessel/Conveyance

Where the goods are supplied on board a conveyance including any vessel, aircraft, train or a motor vehicle, place of supply is the location where such goods are taken (loaded) on board.

Illustrations

1. A buys food articles on board while travelling from Mumbai to Delhi by air.

Mumbai is the place of supply since the food items are loaded into the plane in Mumbai. If the Airline is registered in Mumbai, CGST & SGST will be charged. But if the Airline is registered in Delhi, IGST will be charged. (Ordinarily CGST/SGST is charged as most Airlines are registered across the country).

2. Kamal, a consultant for JW Ltd, Delhi buys food articles on board, while flying from Chennai to Bengaluru.

CGST & SGST will be charged as inter-State sales in Chennai being the place of supply, where the food articles were loaded.

3. Vinod is travelling from Bhopal (M. P.) to Kolkata by Gitnajali Express starting from Mumbai. Vinod buys lunch on board at Raipur in Chhattisgarh. The Lunch was loaded by the IRCTC in Nagpur (Maharashtra).

The food items were loaded in Nagpur, hence place of supply is Nagpur. Since IRCTC is registered throughout India, CGST & SGST will be charged.

- D. Where place of supply can not be determined, Parliament will make rule on the recommendation of GST Council.
- E. Where, supply is by transfer of documents, place of supply will be the principal place of business of the person receiving the supply.

Illustration

A. of Delhi sells goods by endorsing airways bill for goods lying in Mumbai, from where the buyer takes the delivery of the goods. The place of supply is in Mumbai by a supplier in Delhi. It will be inter-state sales and CGST and SGST will be charged.

F. In case of import of goods into India, place of supply is location of the importer and IGST will be charged.

Illustration

A toy dealer having his principal office in Pune imports Chinese toys in Mumbai port.

Place of supply is Pune and IGST will be charged on the value of imports.

G. In case of export of goods outside India, place of supply is outside India. Exports are exempt from GST.

Place of Supply Under IGST

Illustration

A of Allahabad exports garments to R of Rome in Italy from Kolkata port.

The Place of supply will be outside India in Rome, Italy. This being export of goods will be exempt from GST.

4.6 PLACE OF SUPPLY IN RESPECT OF SERVICES WHEN LOCATION OF THE SUPPLIER AND RECIPIENT IS IN INDIA

Section 12 of the IGST Act spells out the principles for determination of place of supply in case of supply of services, when location of the supplier and recipient is in India, which are as under: -

1. General Rule

Where the services are provided to a registered person, place of supply of services is place of location of the registered recipient of services.

Illustration

A computer mechanic provides services to a Chartered Accountant registered in Mumbai. Place of service will be in Mumbai.

2. Where the recipient is not registered, place of supply is address on record of the recipient.

3. Illustration

A computer mechanic provides services to a Chartered Accountant in Mumbai, who is not registered and his address on record is at Pune

Place of service will be at Pune being the address on record.

4. In other cases, it is location of supplier of services.

5. Immovable Properties-Architects, surveyor etc.

Place of supply of services in case of services related to immovable property like architects, interior decorators, property agents, surveyors, engineers, hotels, inns, guest houses, lodges, club, banquet halls etc. shall be the location of the immovable property.

Illustration

An U.S. Architect makes designs and plans for Trump Tower in Pune. Place of service shall be Pune as the service is related to immovable property located in Pune

6. Performance based service

In case of restaurant and catering, personal grooming services like beauty treatment, health, fitness etc. shall be the place of performance of these services.

Illustration

A bridal makeup artist of Mumbai goes to provide service in wedding in Delhi. Place of service will be Delhi, where the grooming service was provided.

7. Transport & Insurance etc.

Several services such as transportation of goods, transportation of passengers, Insurance etc, place of supply shall be the location of registered person.

8. Banking Services

In case of banking services, place of supply is location of the recipient on record.

9. Telecommunication services

In case of telecommunication services involving fixed line, circuits, dish etc., place of supply is location of such fixed equipment.

Illustration

In respect of set top box fixed at the homes of viewers, place of service will be at the place where such box is installed.

10. Mobile / Internet Services

For mobile/ internet Services: place of service will be -

- The location of billing address of the recipient in case of Post-paid services,
- The place of sale of pre-paid voucher, and
- The address of the recipient in records In other cases.

Illustrations

1. Billing Address for mobile phone of X a resident of Thane is his Pune address. Place of service shall be Pune.
2. Y has purchased an Airtel prepaid talk-time voucher in Delhi. Place of service shall be Delhi even if he is resident of Chandigarh.

4.7 PLACE OF SUPPLY OF SERVICES WHEN LOCATION OF EITHER THE SUPPLIER OR THE RECIPIENT IS OUTSIDE INDIA – SECTION 13

International Transactions

The Transactions, in which both the recipient of service as well as provider of service are outside India will not be taxable in India. Conversely, the transactions between the recipient of service and the provider of service both located in India will be subject to GST per the above rules.

The transactions where either the service recipient or the service provider is located outside India, the place of service will be determined as per section 13 of IGST, Act, 2017. The section provides several principles for determination of place of service as given below.

A. General Rule

As a general rule, transactions treated as international transactions, the place of supply of services shall be the location of recipient of service.

Illustration

A consultant provides service to his U.S. counterpart, this being an international transaction, where the recipient of service is outside India, section 13 comes into focus, under which the place of supply shall be U.S.

B. Non- availability of the location of service recipient

Where the location of service recipient is not available, the place of supply shall be location of the supplier of services.

Illustration

A Consultant provides service to a person outside India, whose location is not known, the place of service shall be India being the location of the supplier of services

C. Services involving actual performance

Services involving actual performance, place of actual performance of services will be location of service.

Illustration

An Indian singer performs in a concert in Sydney. Place of service shall be Sydney.

D. Processing of goods

When supply of service involves doing some activity on some goods, place of supply is location of goods.

Illustration

If packing of goods imported is to be done in London, the place of service shall be London for providing packing service.

E. Services related to immovable property

Services related to immovable property, place of supply of services is location of immovable property.

Illustration

An Engineer in India makes structural plans for a tower in Dubai. The place of service will be Dubai, not India.

F. Event based Services

Place of supply with respect to event based services like exhibition, conference, fair etc. shall be place where such events are held.

Illustration

1. A decorator organises a business fair in Paris, the place of service will be Paris.
2. An American Event manager organises AIFA award ceremony in Mumbai. The place of service shall be Mumbai. The event manager will have to take registration as a non-resident taxable person at least five days advance of the event.

G. Services of Banking companies, transport hiring and intermediaries

In case of banking company, or intermediary services or hiring of means of transport etc. shall be location of the supplier of services.

Illustrations

1. A German company gives buses on rent to an Indian troupe visiting Berlin and charts a plane for returning to Mumbai. Place of service will be the location of supplier in Germany.
2. Bank charges payable to a London bank, the place of service will be London.

H. Transportation of goods

Place of supply in case of transportation of goods shall be place of destination of such goods.

1. A freight of a Truck carrying goods to Nepal, the place of service shall be Nepal.
2. All ocean going ships or air crafts, place of service will be the destination port.

I. Transportation of passengers

In case of transportation of passengers, place where the passenger embarks on the conveyance.

Illustration

A travel agent carries passengers from Lucknow to Mansrovar in China; the place of service shall be Lucknow.

J. Online data information

Place of supply of services in case of online information and database access, place of recipient of services.

Illustration

Charges paid to Google or Facebook for making available or data information in India, the place of service shall be India.

Although, the syllabus covers sections 10 and 12 only. But in the context of other topics, it is important to determine whether any supply is import of service attracting IGST on import of services or export of services exempted from GST if the place of supply is outside India. Hence, provisions of section 13 are discussed, as the provisions are both overlapping and relevant.

4.8 SELF- EXAMINATION QUESTIONS

1. What is the meaning of “location of the recipient of service:
2. Explain the term ‘ location of provider of service ‘
3. How the place of service is determined for supply of goods?
4. Explain the rules for determining place of supply of services.
5. What determination of place of service is important.
6. What are the types of taxes,, How the will be affected by the place of service.



PAYMENTS OF GST

Unit Structure :

- 5.0 Introduction
- 5.1 Recording / Maintenance of Register/Ledgers
- 5.2 Interest on Delayed Payment
- 5.3 Payment of GST
- 5.4 Tax Deduction at Source (TDS)
- 5.5 Collection of tax AT Source (TCS)
- 5.6 Unique Identification Number (UIN)
- 5.7 Discrepancy
- 5.8 Self- Examination Questions

5.0 INTRODUCTION

This Lesson deals with provisions for payment of GST contained in section 49 of the CGST Act, 2017 and the Payment of Tax Rules. Main thrust of the provisions is on payment of tax, interest, penalty and other amounts payable under the Act through electronic mode.

“Over The Counter Payments” have been permitted by cash / cheque/ DD etc. subject to a limit of Rs. 10,000 per challan per tax period. Further, the provisions also provide for maintenance of Electronic Cash Ledger, Electronic Credit Ledger in the Electronic Liability Register and payment of adjustment of Input Credit through these electronically maintained registers.

5.1 RECORDING / MAINTENANCE OF REGISTER/ LEDGERS

5.1.1 Recording and maintenance of register / ledgers on the common portal:-

Following types of Register/Ledgers are maintained on the common portal:

- i. Electronic Liability Register
- ii. Electronic Credit Ledger
- iii. Electronic Cash Ledger.

5.1.2. Electronic Liability Register

Under section 49(7) of the CGST Act, 2017 read with Rule 1 of Payment of Tax Rules, all liabilities of a taxable person under this Act shall be recorded and maintained in an Electronic Liability Register in Form GST PMT-01. The Register shall contain the debit and credit entries therein as per the following details.

A. Debit Entries

All amounts payable shall be debited to this Register:-

- i. Tax and other dues as per return;
- ii. Tax and other dues determined by Proper Officer;
- iii. Tax & interest due to mismatch;
- iv. Any interest chargeable for delayed payment or late filing of return .

B. Credit Entries

Correspondingly, all credits will be made by debiting Electronic Cash Ledger or Credit Ledger.

C. Sequence of discharging tax and other dues:

Following shall be the chronological order of discharge of tax and other dues

- i. Previous tax period
- ii. Current tax period
- iii. Any other amount payable under this Act.

Illustration:

The Electronic Liabilities Register shows the following liability

- Tax for July ,2022 Rs 25,000
- Assessed Tax for May,2022 Rs 17,000
- Interest for the month of May,2022 Rs 15,000
- Late filing fees Rs 3000 for July 2022.

Assuming the tax credit in the month of July, 2020 at Rs 40,000, the liabilities shall be settled as under:-

Liabilities	Previous tax Period(May)	Current tax period (July)	Any other amount	Total
Balance	17000+ 15,000	25000+3000	NIL	60,000
Credit used	32000	8000	NIL	40,000
Balance	NIL	20,000	NIL	20,000

5.1.3. Electronic Credit Ledger

Under section 49(2) of the CGST Act, 2017 read with Rule 2 of Payment of Tax Rules, Electronic Credit Ledger shall be to be maintained in Form GST PMT-02 for a registered person and the Ledger shall contain debit and credit entries therein as per the following details:-

A. Credit Entries

- i. Input Tax Credit (ITC) self assessed as per the return as per Section 41 read with Section 49(2) shall be credited to the ledger.
- ii. In case, where the refund is rejected, then ledger shall be re-credited by Proper Officer by order in Form GST PMT-03.

B. Debit Entries

- i. Utilization of the ITC towards output tax shall be debited to the ledger.
- ii. Unutilized amount in the Electronic Credit Ledger after payment of tax and other dues can be claimed as refund subject to the provisions of Section 54 of CGST Act, 2017 read with Refund Rules and the Ledger shall be debited accordingly.

C. Sequence and restriction for the utilization of Input Tax Credit(ITC):-

- i. Credit of any tax will be first credited against the liability of that tax only i.e.
 - a. Central tax against Central Tax,
 - b. State/UT tax against State/UTTax and
 - c. IGST against IGST.
- ii. Balance, if any, of both Central and State/UT Tax Credits can be adjusted against the IGST;
- iii. IGST credit can be adjusted against Central Tax and State Tax in that order.
- iv. Cross utilization of SGST & CGST & UTGST is not permissible.

In other words :

- a) CGST will be first utilised against CGST, then against IGST.
- b) SGST will be first utilised against SGST, then against IGST.
- c) UTGST will be first utilised against UTGST, then against IGST.
- d) IGST will be first utilised against IGST, then against CGST and thereafter against SGST/UTGST.
- e) Cross utilization of SGST & CGST & UTGST is not permissible

This is given in the following table:

Payments of GST

Input Tax Credit	Can be utilized against	Order of utilization	
CGST	CGST & IGST	1. CGST	2. IGST
SGST	SGST & IGST	1. SGST	2. IGST
UTGST	UTGST & IGST	1. UTGST	2. IGST
IGST	IGST, CGST, SGST & UTGST	1. IGST	2. CGST then 3. SGST/UTGST
Cross utilization of SGST & CGST & UTGST is not permissible			

Illustration

ITC available – CGST Rs 20,000, SGST Rs 15,000 IGST Rs 14,000

Outstanding liabilities- CGST 22,000, SGST Rs 18,000, IGST 11,000

The utilization will be as under :-

Liability	IGST	CGST	SGST
Liabilities Outstanding	11,000	22,000	18,000
Less ITC credits available under same head	14,000	20,000	15,000
Balance Liability / Credit	-3000	2,000	3,000
IGST used first against CGST Balance against SGST	-3000	2,000	1,000
Balance payable/ Credit available	NIL	NIL	2,000

5.1.4. Electronic Cash Ledger

5.1.4.1. Under section 49(1) of the CGST Act, 2017 read with Rule 3 of Payment of Tax Rules, every deposit made towards tax, interest, penalty, fee or any other amount by a person shall be credited to the Electronic Cash Ledger to be maintained in Form GST PMT-05. Following transactions shall have an effect on the Electronic Cash Ledger and shall be debited/ credited accordingly: -

A. Entries credited to the Electronic Cash Ledger

- Self-payment
- Tax Deducted at Source (TDS) under section 51 in deductee's ledger
- Tax Collection at Source (TCS) under section 52 in the ledger of the person from whom the tax was collected
- Refund of balance in the Ledger after paying taxes interest, if rejected, shall be re-credited by Proper Officer by order in Form GST PMT-03;

This is because the amount of refund is debited in the Ledger, hence for any rejection of claim, the entry will be reversed.

B. Entries debited to the Electronic Cash Ledger

- a. Any tax, interest, penalty, fee or any other amount payable by the registered taxpayer,
 - b. Any amount of refund claimed and granted as per rules, of the balance in Electronic Cash Ledger after payment of tax and other dues,
 - c. Interest on delayed payment
- ii. Levy of TDS, TCS, tax under reverse charge and tax in case of composition, can be made by debiting Electronic Cash Ledger only.

5.2 INTEREST ON DELAYED PAYMENT

When a register tax payer does not pay the tax on time , interest is payable on such delayed payment under section 50 and the interest so payable shall be debited to the Ledger. The rate of interest is as under :-

- a) 18% per annum in case of delayed payment
- b) 24% for excess claim of ITC
- c) 24% for excess reduction in output tax liability.

5.3 PAYMENT OF GST

5.3.1. Mode of payment

Payment of GST by the taxpayer can be made by two modes, viz.: -

- a) Online banking;
 - i. Internet banking
 - ii. Debit card/Credit card
 - iii. National Electronic Funds Transfer (NEFT)
 - iv. Real Time Gross Settlement (RTGS)
- b) Over the counter (OTC)
 - Permitted up to Rs 10,000 per Challan per tax period by following modes :
 - i. Cash
 - ii. Cheque
 - iii. Demand Draft or Banker' Cheque

5.3.2. Payment procedure:

- i. Challan is generated in Form GST PMT-06 for the tax, interest, etc. to be deposited and such challan shall remain valid for 15 days.
- ii. Payment by Non-Registered Person (e. g – Casual or Non- Resident Taxable Person) shall be made by generating a temporary identification number.

5.3.3. Mandate form in case of NEFT and RTGS:

Where the payment is made by way of NEFT or RTGS mode, the mandate form shall be generated along with the challan on the Common Portal and the same shall be submitted to the bank from where the payment is to be made. The mandate form will be valid for 15 days from the date of generation of challan.

5.3.4. Challan Identification Number (CIN)

On successful payment, a Challan Identification Number (CIN) will be generated and indicated in the challan. On receipt of CIN from the authorised Bank, the amount paid shall be credited to the Electronic Cash Ledger. In case the CIN is not generated or not communicated, the taxpayer may represent in Form GST PMT-07 to bank/electronic gateway.

5.4 TAX DEDUCTION AT SOURCE (TDS)

5.4.1. Section 51 of the CGST, Act, 2017 provides for

- a) Deduction of tax at source (TDS) @ 1% from the payment made or credited to the supplier of taxable goods or services or both in respect of the value of the supply;
- b) The value of supply excludes GST i.e. CGST/ SGST/ UTGST/ IGST and cess indicated in the invoice;
- c) TDS applicable to the supply made to:
 - i) a department or establishment of the Central Government or State Government; or
 - ii. Local Authority; or
 - iii. Governmental Agencies; or
 - iv. other persons or category of persons notified by the Government on the recommendations of the Council. and
- d) Total value of such supply, under a contract exceeds rupees 2,50,000.

5.4.2. The supplier or the receiver of payment is called “the deductee” and the person deducting the tax is called “the deductor”.

5.4.3. Tax will not be deducted if the location of the supplier and the place of supply is in a State / UT different from the State / UT of registration of the recipient.

5.4.4. Procedural provisions

a) Deductor is required to

- i. Pay the tax deducted to the Government within 10 days of the end of the month of deduction. E.g. Tax deducted for the month of July, shall be paid on or before 10th August and
- ii. Issue a TDS certificate to the deductee mentioning the contract value, rate of deduction, amount deducted and paid to the Government and such other prescribed particulars within five days of crediting the amount so deducted to the Government. For delay beyond 5 days, a late fee of 100 rupees per day will be levied till the certificate is issued subject to a maximum of 5,000 rupees

b) Effect of TDS will be that :

- i. The deductee shall claim credit, in his Electronic Cash Ledger, of the tax deducted and reflected in the return of the deductor furnished under section 39(3).
- ii. Correspondingly, no refund to the deductor shall be granted, if the amount deducted has been credited to the Electronic Cash Ledger of the deductee.

c) In case of failure to pay the tax,

- i. Interest under section 50(1) in addition to the amount of tax deducted will be payable by the deductor; and.
 - ii. Amount of unpaid TDS shall be deemed to be the amount in default under section 73/74 for issuing show cause notice.
- d) The refund to the deductor or the deductee arising on account of excess or erroneous deduction shall be dealt as per section 54:

5.5 COLLECTION OF TAX AT SOURCE (TCS)

5.5.1. Under section 52, an Electronic Commerce operator, not being an agent is required to collect tax at source at prescribed rate not exceeding 1% of the net value of taxable supplies made by other suppliers through such operator if the consideration with respect to such supplies is to be collected by it.

Net value of taxable supplies” means :

- the aggregate value of taxable supplies of goods or services or both,
- made during any month by all registered persons through the operator,
- reduced by the aggregate value of taxable supplies returned to the suppliers during the said month.
- Supply shall not include the services notified under section 9(5)

Illustration

During July 2022, different suppliers sold taxable goods valued at Rs 50 lakh through Amazon, an E-Commerce Operator, out of which goods worth rupees 10 lakh were returned. Amazon collected payment of 30 lakh rupees as supplier for 10 lakh rupees were using their own payment

gateway. Amazon shall collect tax at source @ 1% on 30 lakh or 30,000 rupees from the supplier from the payment received.

Payments of GST

5.5.2. Procedural Provisions

1. The operator is required to
 - a) pay the tax deducted to the Government by the next 10th from the end of the month of deduction, and
 - b) furnish a statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected during a month, in prescribed form and manner by that date.
 - c) furnish an annual statement in prescribed form electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected during the financial year before the thirty first day of December following the end of such financial year .

Example –

- i. Monthly statement for January ,2023 should be filed by 10 February, 2023 .
 - ii. Annual statement for F. Y. 2021-228 shouldbe filed before 31 December, 2022.
 - iii. The monthly statement filed as above may be rectified for any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, subject to payment of interest under section 50. Time limit for such rectification is
 - the due date for furnishing of statement for the month of September following the end of the financial year, or
 - the actual date of furnishing of the relevant annual statement, whichever is earlier.
2. The supplier of the goods or services or both through the operator shall claim credit, in his Electronic Cash Ledger, of the amount collected and reflected in the statement of the operator furnished .
 3. The statement filed by the operator shall be matched with the corresponding details of outward supplies furnished by the concerned supplier.

4. In case of a mismatch between the two statements, the discrepancy shall be communicated to both persons in the prescribed time.
5. If the discrepancy so communicated is not rectified by the supplier in his valid return or the operator in his statement for the month in which discrepancy is communicated, shall be added to the output tax liability of the said supplier. If the value of outward supplies furnished by the operator is more than the value of outward supplies furnished by the supplier, in his return for the month succeeding the month in which the discrepancy is communicated.
6. The concerned supplier, in whose output tax liability any amount has been added shall pay the tax payable in respect of such supply along with interest, under section 50(1) on the amount so added from the date such tax was due till the date of its payment.
7. Any authority not below the rank of Deputy Commissioner may serve a notice, either before or during the course of any proceedings under this Act, requiring the operator to furnish such details relating to ‘
 - (a) supplies of goods or services or both effected through such operator during any period; or
 - (b) stock of goods held by the suppliers making supplies through such operator in the godowns or warehouses, managed by such operator and declared as additional places of business by such suppliers, specified in the notice.
8. Every operator on whom a notice has been served shall furnish the required information within fifteen working days of the date of service of such notice. Failure will invite a penalty up to 25,000 rupees in addition to any action under section 122.
9. The power to collect the amount shall be without prejudice to any other mode of recovery from the operator.

5.6 UNIQUE IDENTIFICATION NUMBER (UIN)

A Unique Identification Number (UIN) shall be generated, when any payment is made through electronic cash or credit ledger, or any other amount is debited or credited in the said ledgers. The UIN relating to discharge of any liability shall be indicated in the corresponding entry in the Electronic Liability Register.

5.7 DISCREPANCY

Any discrepancy in Electronic Liability Register, Electronic Credit or Cash Ledger is required to be communicated to the proper officer in FORM GST PMT-04.

5.8 SELF- EXAMINATION QUESTIONS

1. List out various forms in connection with payment of GST.
 2. What is Electronic Liability Register
- Explain the contents of Electronic Credit or Cash Ledger
4. What is rate of interest of delayed payment /
 5. What are the provisions regarding TDS.
 6. Discuss the responsibility of an e- commerce operator for collection of tax.

