

AMENDMENTS
INDIRECT TAXES

CA FINAL / INTER

Applicable for Nov 2020 Exam

By CA Vijay Gaurav

CA FINAL/INTER CLASSES

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CA FINAL – DIRECT TAX & INDIRECT TAX

CA INTER - TAXATION

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Summary of Amendment CA Final/Inter Indirect Taxes for Nov 2020 Exam

GOODS AND SERVICE TAX

1	SUPPLY GST	UNDER	<p>Notification No. 24/2019 IT (R) dated 30.09.2019 and Notification No. 25/2019 CT (R) dated 30.09.2019</p> <p>Activity or transaction undertaken by the State Governments in which they are engaged as public authorities, to be treated neither as a supply of goods nor a supply of service therefore, Service by way of grant of alcoholic liquor licence is neither a supply of goods nor a supply of service</p>
2	SUPPLY GST	UNDER	<p>Circular No. 108/27/2019 GST dated 18.07.2019</p> <p>It is clarified that:</p> <ul style="list-style-type: none"> • the activity of sending/ taking the goods out of India for exhibition or on consignment basis for export promotion, except when such activity satisfy the tests laid down in Schedule I of the CGST Act, do not constitute supply as the said activity does not fall within the scope of section 7 of the CGST Act as there is no consideration at that point in time. • Since such activity is not a supply, the same cannot be considered as "Zero rated supply" as per the provisions contained in section 16 of the IGST Act.
3	SUPPLY GST	UNDER	<p>Circular No. 116/35/2019 GST dated 11.10.2019</p> <p>GST on the service of display of name or placing of name plates of the donor in the premises of charitable organizations receiving donation or gifts from individual donors is not liable for GST, if all the three conditions are satisfied:</p> <ul style="list-style-type: none"> • The gift or donation is made to a charitable organization, • The payment has the character of gift or donation and the purpose is philanthropic (i.e., it leads to no commercial gain) • Not an advertisement

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4	CHARGE UNDER GST	<p>Notification No. 43/2019 CT dated 30.09.2019 & Notification No. 18/2019 CT (R) dated 30.09.2019</p> <p>Manufacturer of aerated water (Tariff item 2202 1010) will also not be eligible to opt for composition scheme. Likewise, a supplier of aerated water (Tariff item 2202 1010) will also not be eligible to pay concessional tax under Notification No. 2/2019 CT (R) dated 07.03.2019</p>
5	CHARGE UNDER GST	<p>Notification No. 22/2019 CT (R) dated 30.09.2019 and Notification No. 29/2019 CT (R) dated 31.12.2019/ Notification No. 21/2019 IT (R) dated 30.09.2019 and Notification No. 28/ 2019 IT (R) dated 31.12.2019</p> <p>Tax on supply of services relating to transfer or permitting the use or enjoyment of a copyright relating to original literary, dramatic, musical or artistic works (Taxable under RC Mechanism):</p> <p>BY</p> <ul style="list-style-type: none"> • Author (Option to pay GST under FC introduced with conditions*) • music composer • photographer, • artist <p>TO</p> <ul style="list-style-type: none"> • publisher • music company • producer <p>Conditions*</p> <p>An author can choose to pay tax under forward charge if-</p> <p>(i) He has taken registration under the CGST Act and filed a declaration, in the prescribed form, that he exercises the option to pay CGST on the said service under forward charge in accordance with section 9(1) of the CGST Act and to comply with all the provisions as they apply to a person liable for paying the tax in relation to the supply of any goods and/or services and that he shall not withdraw the said option within a period of 1 year from the date of exercising such option;</p> <p>(ii) He makes a declaration on the invoice issued by him in prescribed form to the publisher.</p>

6	CHARGE UNDER GST	<p>Circular No. 130/49/2019 GST dated 31.12.2019</p> <p>Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged.</p> <p>Supplier is any person, other than a body corporate and does not issue an invoice charging CGST @ 6% (Effective 12%)* to the service recipient</p> <p>Recipient is Body Corporate located in the taxable territory</p> <p><u>REVERSE CHARGE PROVISIONS (ANALYSIS)</u></p> <ul style="list-style-type: none"> ▪ If supplier of service is a Body Corporate then Forward charge shall apply (यदि सेवा का आपूर्तिकर्ता एक बॉडी कॉर्पोरेट है तो फॉरवर्ड चार्ज लागू होगा !) ▪ If supplier of Service opt to pay GST @ 12%, Forward Charge shall Apply (यदि सेवा का आपूर्तिकर्ता जीएसटी @ 12% का भुगतान करने का विकल्प चुनता है, तो फॉरवर्ड चार्ज लागू होगा) ▪ if recipient is other than Body Corporate, Forward Charge shall apply (यदि प्राप्तकर्ता बॉडी कॉर्पोरेट के अलावा अन्य है, तो फॉरवर्ड चार्ज लागू होगा!) ▪ In case supplier of service is a person other than body corporate and recipient of service is a body corporate and such case does not fall stated above, GST shall be payable under reverse charge by the Service recipient @ 5% (यदि मामले में सेवा प्रदायक एक व्यक्ति है, जो बॉडी कॉर्पोरेट के अलावा कोई अन्य व्यक्ति है और सेवा प्राप्त करने वाला एक बॉडी कॉर्पोरेट है और ऐसा मामला ऊपर नहीं बताया गया है, तो जीएसटी सेवा प्राप्तकर्ता द्वारा रिवर्स चार्ज के तहत देय होगा @ 5%) <p>* GST Rate Applicable</p> <ul style="list-style-type: none"> ▪ @ 5% (2.5% CGST+2.5% SGST) provided supplier of services has taken only the limited ITC i.e. input services in the same line of business ▪ @ 12% (6% CGST+6% SGST) where supplier of services opts to pay GST at said rate. In this case, there is no restriction on availing ITC on goods and services used.
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7	CHARGE UNDER GST	<p>Circular No. 119/38/2019 GST dated 11.10.2019</p> <p>Services of lending of securities under Securities Lending Scheme, 1997 ("Scheme") of Securities and Exchange Board of India,</p> <p>Supplier of Service (Lender) i.e., a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the Scheme of SEBI</p> <p>Recipient of Service (Borrower) i.e., a person who borrows the securities under the Scheme through an approved intermediary of SEBI</p> <p>With effect from 1st October 2019, the borrower of securities shall be liable to discharge GST under reverse charge mechanism. The nature of GST to be paid shall be IGST under reverse charge mechanism.</p> <p>Meaning of Various Terms</p> <p>(i) Lender is a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the scheme.</p> <p>(ii) Borrower is a person who borrows the securities under the scheme through an approved intermediary.</p> <p>(iii) Approved intermediary is a person duly registered by the SEBI under the guidelines/scheme through whom the lender will deposit the securities for lending and the borrower will borrow the securities;</p>
8	CHARGE UNDER GST	<p>Circular No. 115/34/2019 GST dated 11.10.2019</p> <p>Services provided by an airport operator to passengers against consideration in the form of UDF (User development fee) and PSF (Passenger service fee), both are liable to GST.</p> <p>The airport operators shall pay GST on the PSF and UDF collected by them from the passengers through the airlines. Since, the airport operators are collecting PSF and UDF inclusive of GST, there is no question of their not paying GST collected by them to the Government.</p> <p>The collection charges paid by airport operator to airlines are a consideration for the services provided by the airlines to the</p>

		airport operator and airlines shall be liable to pay GST on the same under forward charge . ITC of the same will be available with the airport operator.
Exemption from GST		
9	Entry 7 EXEMPTION FROM GST	Services provided by the Central Government, State Government, Union territory or local authority to a business entity with an aggregate turnover of up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017.
10	Entry 54 EXEMPTION FROM GST	Legal Services/Arbitral Tribunal Services to a business entity with an aggregate turnover up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017.
11	Entry 9AA EXEMPTION FROM GST	Services provided by and to Federation Internationale de Football Association (FIFA) and its subsidiaries directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020 to be hosted in India.
12	Entry 14 EXEMPTION FROM GST	Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having value of supply of a unit of accommodation below or equal to Rs. 1,000 per day or equivalent.
13	Entry 19A EXEMPTION FROM GST	Services by way of transportation of goods by an aircraft from customs station of clearance in India to a place outside India upto 30.09.2020.
14	Entry 19B EXEMPTION FROM GST	Services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India upto 30.09.2020.
15	Entry 41 EXEMPTION FROM GST	Upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable in respect of service by way of granting of long term lease of 30 years, or more) of industrial plots or plots for development of infrastructure for financial business, provided by the State Government Industrial Development Corporations or Undertakings or by any other entity having 50% 20% or more ownership of Central Government, State Government, Union territory to the industrial units or the developers in any industrial or financial business area. Conditions for Exemption <ul style="list-style-type: none"> ▪ Provided that the leased plots shall be used for the purpose for which they are allotted, that is, for industrial or financial activity in an industrial or financial

		<p>business area:</p> <ul style="list-style-type: none"> ▪ Provided also that the State Government concerned shall monitor and enforce the above condition, as per the order issued by the State Government in this regard: ▪ Provided further that in case of any violation or subsequent change of land use, due to any reason whatsoever, the original lessor, original lessee as well as any subsequent lessee or buyer or owner shall be jointly and severally liable to pay such amount of integrated tax, as would have been payable on the upfront amount charged for the long term lease of the plots but for the exemption contained herein, along with the applicable interest and penalty: ▪ Provided also that the lease agreement entered into by the original lessor with the original lessee or subsequent lessee, or sub-lessee, as well as any subsequent lease or sale agreements, for lease or sale of such plots to subsequent lessees or buyers or owners shall incorporate in the terms and conditions, the fact that the integrated tax was exempted on the long term lease of the plots by the original lessor to the original lessee subject to above condition and that the parties to the said agreements undertake to comply with the same.
16	Entry 22 EXEMPTION FROM GST	Services by way of giving on hire - to a local authority, an Electrically operated vehicle (EOV) meant to carry more than 12 passengers;
17	Entry 24B EXEMPTION FROM GST	Services by way of storage/ warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, coffee and tea.
18	Entry 29B EXEMPTION FROM GST	Services of life insurance provided/agreed to be provided by the Central Armed Police Forces (under Ministry of Home Affairs) Group Insurance Funds to their members under the Group Insurance Schemes of the concerned Central Armed Police Force.

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19	Entry 35 EXEMPTION FROM GST	Service of General Insurance Business: ▪ Bangla Shasya Bima
20	Entry 82A EXEMPTION FROM GST	Services by way of right to admission to the events organised under FIFA U-17 Women's World Cup 2020.
21	EXEMPTION FROM GST	<p>Circular No. 102/21/2019-GST dated 28.06.2019</p> <p>Clarification regarding applicability of GST on delayed payment charges in case of late payment of Equated Monthly Installments (EMI)</p> <p>There are two transaction options involving EMI that are prevalent in the trade. In view of the provisions of law, these two options, along with the GST applicability on them, have been explained with the help of examples as under -</p> <p>Example</p> <p>X sells a mobile phone to Y. The cost of mobile phone is Rs. 40,000/-. However, X gives Y an option to pay in installments, Rs. 11,000/- every month before 10th day of the following month, over next four months (Rs. 11,000/- × 4 = Rs. 44,000/-). As per the contract, if there is any delay in payment by Y beyond the scheduled date, Y would be liable to pay additional/ penal interest amounting to Rs. 500/- per month for the delay. In some instances, X is charging Y Rs. 40,000/- for the mobile and is separately issuing another invoice for providing the services of extending loans to Y, the consideration for which is the interest of 2.5% per month and an additional/ penal interest amounting to Rs. 500/- per month for each delay in payment. In this case, the amount of penal interest is to be included in the value of supply [in terms of section 15(2)(d)]. The transaction between X and Y is for supply of taxable goods i.e. mobile phone. Accordingly, the penal interest would be taxable as it would be included in the value of the mobile, irrespective of the manner of invoicing.</p> <p>Example</p> <p>X sells a mobile phone to Y. The cost of mobile phone is Rs 40,000/-. Y has the option to avail a loan at interest of 2.5% per month for purchasing the mobile from M/s. ABC Ltd. The terms of the loan from M/s. ABC Ltd. allows Y a period of four months to repay the loan and an additional/ penal interest @ 1.25% per month for any delay in payment.</p>

		<p>Here, the additional/ penal interest is charged for a transaction between Y and M/s. ABC Ltd., and the same is getting covered under exemption Entry 27. Consequently, in this case the 'penal interest' charged thereon on a transaction between Y and M/s. ABC Ltd. would not be subject to GST as the same would be covered under said exemption entry.</p>
22	EXEMPTION FROM GST	<p>Circular No. 109/28/2019 GST dated 22.07.2019 Clarification on issues related to GST on monthly subscription/ contribution charged by a Residential Welfare Association from its members</p> <p>ISSUE 🤔</p> <p>Are the maintenance charges paid by residents to RWA in a housing society exempt from GST and if yes, is there an upper limit on the amount of such charges for the exemption to be available?</p> <p>CLARIFICATION</p> <p>Supply of service by RWA (unincorporated body or a non-profit entity registered under any law) to its own members by way of reimbursement of charges or share of contribution up to an amount of Rs. 7,500/- per month per member for providing services and goods for the common use of its members in a housing society or a residential complex are exempt from GST.</p> <p>ISSUE 🤔</p> <p>A RWA has aggregate turnover of Rs. 20 lakh or less in a FY. Is it required to take registration and pay GST on maintenance charges if the amount of such charges is more than Rs. 7500/- per month per member?</p> <p>CLARIFICATION</p> <ul style="list-style-type: none"> ▪ No. If aggregate turnover of an RWA does not exceed Rs.20 Lakh in a FY, it shall not be required to take registration and pay GST even if the amount of maintenance charges exceeds Rs. 7,500/- per month per member. ▪ RWA shall be required to pay GST on monthly subscription/ contribution charged from its members, only if <ul style="list-style-type: none"> ○ Such subscription is more than Rs. 7,500/- per month per member AND ○ Annual aggregate turnover of RWA by way of

supplying of services and goods is also Rs. 20 lakh or more.

ISSUE 🤔

Is the RWA entitled to take ITC of GST paid on input and services used by it for making supplies to its members and use such ITC for discharge of GST liability on such supplies where the amount charged for such supplies is more than Rs. 7,500/- per month per member?

CLARIFICATION

RWAs are entitled to take ITC of GST paid by them on capital goods (generators, water pumps, lawn furniture etc.), goods (taps, pipes, other sanitary/hardware fillings etc.) and input services such as repair and maintenance services.

ISSUE 🤔

Where a person owns 2 or more flats in the housing society/residential complex, whether the ceiling of Rs. 7,500/- per month per member on the maintenance for the exemption to be available shall be applied per residential apartment or per person?

CLARIFICATION

As per general business sense, a person who owns 2 or more residential apartments in a housing society/residential complex shall normally be a member of the RWA for each residential apartment owned by him separately. The ceiling of Rs. 7,500/- per month per member shall be applied separately for each residential apartment owned by him.

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23	EXEMPTION FROM GST	<p>Circular No. 117/36/2019 GST dated 11.10.2019 w.e.f. 01.10.2019</p> <p>it has been clarified that Maritime Training Institutes and their training courses are approved by the Director General of Shipping which are duly recognised under the provisions of the Merchant Shipping Act, 1958 read with the Merchant Shipping (standards of training, certification and watch-keeping for Seafarers) Rules, 2014. Therefore, Maritime Training Institutes are educational institutions under GST Law and the courses conducted by them are exempt from levy of GST subject to fulfilment of other conditions specified under entry 66 of the exemption notification</p>
24	EXEMPTION FROM GST	<p>Circular No. 120/39/2019 GST dated 11.10.2019</p> <p>It is hereby clarified that the explanation having been inserted under section 11(3) of the CGST Act, is effective from the inception of the entry in notification and not from the date from which the notification (that inserted said explanation) becomes effective.</p>
25	PLACE OF SUPPLY	<p>Notification No. 04/2019 IT dated 30.09.2019</p> <p>Place of supply of research and development services related to pharmaceutical sector and B2B maintenance, repair or overhaul services</p> <p>When research and development services related to pharmaceutical sector as specified in Note below are supplied by a person located in taxable territory to a person located in the non-taxable territory, the place of supply shall be the location of the recipient of services subject to fulfillment of the following conditions:-</p> <p>(i) Supply of services from the taxable territory is provided as per a contract between the service provider located in taxable territory and service recipient located in non-taxable territory.</p> <p>(ii) Such supply of services fulfills all other conditions in the definition of export of services, except the condition that place of supply is outside India.</p> <p>Note</p> <ul style="list-style-type: none"> ▪ Integrated discovery and development ▪ Integrated development ▪ Evaluation of the efficacy of new chemical/ biological entities in animal models of disease ▪ Evaluation of biological activity of novel chemical/

			<p>biological entities in in-vitro assays</p> <ul style="list-style-type: none"> ▪ Drug metabolism and pharmacokinetics of new chemical entities ▪ Safety Assessment/ Toxicology ▪ Stability Studies ▪ Bio-equivalence and Bioavailability Studies ▪ Clinical trials ▪ Bio analytical studies
26	PLACE SUPPLY	OF	<p>Notification No. 2/2020 IT dated 26.03.2020 w.e.f 01.04.2020</p> <p>Supply of maintenance, repair or overhaul service in respect of aircrafts, aircraft engines and other aircraft components or parts supplied to a person for use in the course or furtherance of business, The place of supply of services shall be the location of the recipient of service</p>
27	PLACE SUPPLY	OF	<p>Circular No. 103/22/2019 GST dated 28.06.2019</p> <p>CBIC has clarified certain issues relating to determination of place of supply in following cases-</p> <ul style="list-style-type: none"> ▪ Services provided by Ports ▪ Services rendered on goods temporarily imported in India <p>ISSUE 🤔</p> <p>Various services are being provided by the port authorities to its clients in relation to cargo handling. Some of such services are in respect of arrival of wagons at port, haulage of wagons inside port area up-to place of unloading, siding of wagons inside the port, unloading of wagons, movement of unloaded cargo to plot and staking hereof, movement of unloaded cargo to berth, shipment/loading on vessel etc. Whether the place of supply for such services would be determined in terms of the provisions contained in section 12(2) or section 13(2) of the IGST Act, as the case may be, or the same shall be determined in terms of the provisions contained in section 12(3) of the IGST Act?</p> <p>CLARIFICATION</p> <p>It is hereby clarified that such services are ancillary to or related to cargo handling services and are not related to immovable property. Accordingly, the place of supply of such services will be determined as per the provisions contained in section 12(2) or section 13(2) of the IGST Act, as the case may be, depending upon the terms of the contract between</p>

		<p>the supplier and recipient of such services..</p> <p>ISSUE 🤔</p> <p>What would be the place of supply in case of supply of various services on unpolished diamonds such as cutting and polishing activity which have been temporarily imported into India and are not put to any use in India?</p> <p>CLARIFICATION</p> <p>Place of supply in case of performance-based services is to be determined as per the provisions contained in section 13(3)(a) of the IGST Act and generally the place of services is where the services are actually performed. But an exception has been carved out in case of services supplied in respect of goods which are temporarily imported into India for repairs or for any other treatment or process and are exported after such repairs or treatment or process without being put to any use in India, other than that which is required for such repairs or treatment or process. In case of cutting and polishing activity on unpolished diamonds which are temporarily imported into India and are not put to any use in India, the place of supply would be determined as per the provisions contained in section 13(2) of the IGST Act.</p>
28	PLACE SUPPLY	<p>OF</p> <p>Circular No. 118/37/2019 GST dated 11.10.2019</p> <p>Clarification regarding determination of place of supply in case of software/ design services related to Electronics Semi-conductor and Design Manufacturing (ESDM) industry</p> <p>ISSUE 🤔</p> <p>How should the place of supply be determined in case of supply of software/design services by a supplier located in taxable territory to a service recipient located in non-taxable territory by using the sample hardware kits provided by the service recipient?</p> <p>CLARIFICATION</p> <p>it is clarified that the place of supply of software/design by supplier located in taxable territory to service recipient located in non-taxable territory by using sample prototype hardware / test kits in a composite supply, where such testing is an ancillary supply, is the location of the service recipient as per section 13(2) of the IGST Act. Provisions of section 13(3)(a) of IGST Act do not apply separately for</p>

			determining the place of supply for ancillary supply in such cases.
29	VALUE SUPPLY	OF	<p>Notification No. 8/2020 CT dated 02.03.2020</p> <p>with effect from 01.03.2020, sub-rule (2) of rule 31A has been amended to provide that the value of supply of lottery will be higher of -</p> <ul style="list-style-type: none"> ▪ 100/ 128 of the face value of ticket or ▪ 100/128 of the price as notified in the Official Gazette by the Organising State. <p>Note It means now there are common provisions provided for valuation of the lottery run by the SG and the lottery authorised by the SG.</p>
30	INPUT CREDIT	TAX	<p>Notification No. 75/2019 CT dated 26.12.2019 w.e.f. 01.01.2020</p> <p>Has amended the said rule 36 to reduce the percentage of ITC that can be availed on invoices not uploaded by the suppliers in their GSTR-1s from 20% to 10%.</p>
31	INPUT CREDIT	TAX	<p>Notification No. 75/ 2019 CT dated 26.12.2019</p> <p>A new rule 86A has been inserted in the CGST Rules to empower the Commissioner/ an officer (not below the rank of an Assistant Commissioner) authorised by him, to impose restrictions on utilization of ITC available in the electronic credit ledger if he has reasons to believe that such ITC has been fraudulently availed or is ineligible. The restrictions can be imposed in the following circumstances:</p> <p>(i) ITC has been availed on the basis of tax invoices/valid documents -</p> <ul style="list-style-type: none"> ▪ issued by a non-existent supplier or by a person not conducting any business from the registered place of business; or ▪ without receipt of goods or services or both; or ▪ the tax in relation to which has not been paid to the Government <p>(ii) Registered person availing ITC has been found non-existent or not to be conducting any business from the registered place of business; or</p> <p>(iii) Registered person availing ITC is not in possession of tax invoice/valid document.</p> <p>If the ITC is so availed, the restrictions can be imposed by not allowing such ITC to be used for discharging any liability under section 49 or not allowing refund of any unutilised</p>

		<p>amount of such ITC. Such restrictions can be imposed for a period up to 1 year from the date of imposing such restrictions. However, the Commissioner/officer authorised by him, can withdraw such restriction if he is satisfied that conditions for imposing the restrictions no longer exist.</p>
32	INPUT TAX CREDIT	<p>Notification No. 16/2020 CT dated 23.03.2020 w.e.f. 01.04.2020</p> <p>Rule 43 of the CGST Rules which prescribes the manner of determination of ITC in respect of capital goods and reversal thereof in certain cases has been amended as under:</p> <ul style="list-style-type: none"> ▪ Input tax on capital goods used/intended to be used commonly for making taxable and/or zero rated supplies as well as exempt supplies and/or non-business purposes shall be denoted as 'A'. Such amount (as reflected on the invoice) will be credited to electronic credit ledger. The useful life of such capital goods will be taken as 5 years from the date of invoice. Example 1: Azure Pvt. Ltd., a registered supplier, manufactures paints and other chemicals. While paints are taxable, other chemicals are exempt from GST. It has purchased a machinery on October 1, 20XX for making both paints and other chemicals. The invoice for the machinery shows the value of the machinery to be Rs. 1 crore and GST payable thereon to be Rs. 12 lakh [12%]. Input tax of Rs. 12 lakh will be denoted as 'A' and credited to electronic credit ledger. The useful life of the machinery will end on 30.09.20XX+5. ▪ When capital goods which were initially used only for non-business purpose/exempt supplies are subsequently used commonly for exempt supplies and/or non-business purposes as well as taxable and/or zero rated supplies, input tax in respect of the same should be denoted as 'A' and credited in the electronic credit ledger. The ineligible credit attributable to the period during which such capital goods were used for non-business purpose/making exempt supplies shall be computed @ 5% per quarter or part thereof and be denoted as 'Tie'. Such 'Tie' shall be added to the output tax liability of the tax period in which credit on such capital goods is claimed.

		<p>Example 2: Continuing the facts of Example 1, from October 1, 20XX, Azure Pvt. Ltd. started using one of its old machines, which was being used for the manufacture of other chemicals, for manufacture of paints as well. The said machine was purchased on October 1, 20XX-2 for Rs. 60 lakh (exclusive of GST @ 12%). Input tax of Rs. 7.2 lakh will be denoted as 'A' and credited in the electronic credit ledger in the month of October 20XX. Out of Rs. 7.2 lakh, ITC of Rs. 2,88,000 will be the ineligible credit, 'T_{ie}' [Rs. 7.2 lakh x 5% x 8 quarters], and will be added to the output tax liability of Azure Pvt. Ltd. for the month of October 20XX.</p> <ul style="list-style-type: none"> ▪ The amounts of 'A' credited to electronic credit ledger in respect of common capital goods whose useful life remains during the tax period shall be added together to arrive at common credit 'T_c'. <p>Example 3: Continuing the facts of Examples 1 & 2, common credit 'T_c' will be Rs. 12 lakh ['A' for first machinery] plus Rs. 7.2 lakh ['A' for second machine], i.e. Rs. 19.2 lakh.</p> <ul style="list-style-type: none"> ▪ When capital goods which were initially used only for taxable and/or zero rated supplies are subsequently used commonly for taxable and/or zero rated supplies as well as exempt supplies and/or non-business purposes, input tax claimed in respect of the same shall be added to the aggregate value of 'T_c'. <p>Example 4: Continuing the facts of Examples 1, 2 & 3, Azure Pvt. Ltd. started using one of its old machines, which was being used for the manufacture of paints, for manufacture of other chemicals as well. The said machine was purchased on October 1, 20XX-2 for Rs. 2 crore (exclusive of GST @ 12%). Input tax of Rs. 24 lakh will be added to the common credit 'T_c', i.e. to Rs. 19.2 lakh. Thus, total common credit will be Rs. 43.2 lakh.</p> <ul style="list-style-type: none"> ▪ 'T_m' which is the common credit for a tax period [T_c / 60] is to be computed during the useful life of capital goods which is five years from the date of invoice. <p>Example 5: Continuing the facts of Examples 1, 2, 3 & 4, 'T_m' will be Rs. 43.2 lakh/60, i.e. Rs. 72,000.</p>
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33	INPUT TAX CREDIT	<p>Circular No. 133/3/2020 GST dated 23.03.2020</p> <p>CBIC has clarified the following issues relating to apportionment of ITC in cases of business reorganization under section 18(3) read with rule 41(1) as under:</p> <ul style="list-style-type: none"> ▪ For the purpose of apportionment of ITC pursuant to a demerger under rule 41(1), the value of assets of the new units is to be taken at the State level (at the level of distinct person) and not at the all-India level. The transferor would be required to file FORM GST ITC-02 only in those States where both transferor and transferee are registered. Example A company XYZ is registered in two States of M.P. and U.P. Its total value of assets is worth Rs. 100 crore, while its assets in State of M.P. and U.P are Rs 60 crore and Rs 40 crore respectively. It demerges a part of its business to company ABC. As a part of such demerger, assets of XYZ amounting to Rs 30 Crore are transferred to company ABC in State of M.P, while assets amounting to Rs 10 crore only are transferred to ABC in State of U.P. (Total assets amounting to Rs 40 crore at all-India level are transferred from XYZ to ABC). The unutilized ITC of XYZ in State of M.P. shall be transferred to ABC on the basis of ratio of value of assets in State of M.P., i.e. $30/60 = 0.5$ and not on the basis of all-India ratio of value of assets, i.e. $40/100=0.4$. Similarly, unutilized ITC of XYZ in State of U.P. will be transferred to ABC in ratio of value of assets in State of U.P, i.e. $10/40 = 0.25$. ▪ The formula for apportionment of ITC, as prescribed under proviso to rule 41(1) of the CGST Rules, shall be applicable for all forms of business re-organization that results in partial transfer of business assets along with liabilities and not just demerger as mentioned in the proviso to rule 41(1). ▪ The ratio of value of assets, as prescribed under proviso to rule 41(1) shall be applied to the total amount of unutilized ITC of the transferor, i.e. sum of CGST, SGST/ UTGST and IGST credit. The said formula need not be applied separately in respect of
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each heads of ITC (CGST/ SGST/ IGST). Further, the said formula shall also be applicable for apportionment of cess between the transferor and transferee.

Example The ITC balances of transferor X in the State of Maharashtra under CGST, SGST and IGST heads are 5 lakh, 5 lakh and 10 lakh respectively. Pursuant to a scheme of demerger, X transfers 60% of its assets to transferee B. Accordingly, the amount of ITC to be transferred from A to B shall be 60% of 20 lakh (total sum of CGST, SGST and IGST credit) i.e. 12 lakh.

- The total amount of ITC to be transferred to the transferee (i.e. sum of CGST, SGST/ UTGST and IGST credit) should not exceed the amount of ITC to be transferred, as determined under rule 41(1). However, the transferor shall be at liberty to determine the amount to be transferred under each tax head (IGST, CGST, SGST/ UTGST) within this total amount, subject to the ITC balance available with the transferor under the concerned tax head. **(See Example at the end)**
- The apportionment formula shall be applied on the ITC balance of the transferor as available in electronic credit ledger on the date of filing of FORM GST ITC - 02 by the transferor.
- For the purpose of apportionment of ITC under rule 41(1), the ratio of the value of assets should be taken as on the "appointed date of demerger" as specified in the respective scheme for demerger. Thus, for the purpose of apportionment of ITC under rule 41(1), the ratio of the value of assets taken as on the "appointed date of demerger" should be applied on the ITC balance of the transferor on the date of filing FORM GST ITC - 02.

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Example					
(1)	(2)	(3)	(4)	(5)	(6)
State	Asset Ratio of Transferee	Tax Heads	ITC balance of Transferor (pre-apportionment) as on the date of filing FORM GST ITC-02)	Total amount of ITC transferred to the Transferee under FORM GST ITC02	ITC balance of Transferor (post-apportionment) after filing of FORM GST ITC-02) [Col (4) – Col (5)]
Delhi	70%	CGST	10,00,000	10,00,000	0
		SGST	10,00,000	10,00,000	0
		IGST	30,00,000	15,00,000	15,00,000
		Total	50,00,000	35,00,000	15,00,000
Haryana	40%	CGST	25,00,000	3,00,000	22,00,000
		SGST	25,00,000	5,00,000	22,00,000
		IGST	20,00,000	20,00,000	0
		Total	70,00,000	28,00,000	42,00,000
34	REGISTRATION	Notification No. 31/2019 CT dated 28.06.2019 A registered person has an option to give his bank account details after obtaining registration, earlier of <ul style="list-style-type: none"> ▪ Within 45 days from the date of grant of registration ▪ The due date of furnishing return 			
35	REGISTRATION	Notification No. 33/2019 CT dated 18.07.2019 When a person is applying for registration to deduct TDS in a State/UT where he does not have a physical presence, he shall mention name of said State/UT in Part A of prescribed application form for registration. Further, the name of the State/UT in which his principal place of business is located is to be mentioned in Part B of the application form. States/UTs mentioned in Part A and Part B of the application form may be different.			
36	REGISTRATION	Notification No. 49/2019 CT dated 09.10.2019 Rule 21A provides that once a registered person has applied for cancellation of registration or the proper officer seeks to cancel his registration, his registration shall remain suspended during pendency of the proceedings relating to cancellation of registration filed. Such person shall not make			

		<p>any taxable supply during the period of suspension and shall not be required to file any return [Rule 21A(3)].</p> <p>An explanation has been inserted to this rule 21A(3) clarifying that the expression "shall not make any taxable supply" shall mean that the registered person shall not issue a tax invoice and, accordingly, not charge tax on supplies made by him during the period of suspension.</p> <p>Further, a new Rule 21A(5) has been inserted to provide that where any order having the effect of revocation of suspension of registration has been passed, the provisions of section 31(3)(a) [revised tax invoices] and section 40 [first return] in respect of the supplies made during the period of suspension and the procedure specified therein shall apply.</p>
37	REGISTRATION	<p>Notification Nos. 16, 17, 18 and 19/2020 CT all dated 23.03.2020</p> <ul style="list-style-type: none"> ▪ Section 25(6A) requires every registered person to undergo authentication/furnish proof of possession of aadhaar number, in prescribed form and manner and within prescribed time. ▪ Section 25(6B) and (6C) require every individual and Karta, Managing Director, Whole Time Director, partners of firm etc. respectively, to undergo authentication/furnish proof of possession of aadhaar number in prescribed manner. Such authentication is mandatory to be eligible for grant of registration. It shall be from a date to be notified. ▪ Section 25(6D) provides that the provisions of section 25(6A)/(6B)/(6C) shall not apply to notified person/class of persons/any notified State/UT/part thereof. ▪ With effect from 01.04.2020, the applicant shall, while submitting an application under rule 8(4), undergo authentication of Aadhaar number for grant of registration. In exercise of powers conferred by section 25(6B) & (6C), an individual, authorised signatory of all types, Managing and Authorised partners of a partnership firm, Karta of Hindu undivided family, shall undergo authentication, of Aadhaar number, as specified in this rule, in order to be eligible for registration, with effect from 01.04.2020. However, if Aadhaar number is not assigned to the said persons, they shall be offered alternate and viable means of identification in

		<p>the manner specified in rule 9 of the said rules.</p> <ul style="list-style-type: none">▪ Proviso inserted to rule 9(1) provides that where a person, other than those notified under section 25(6D), fails to undergo authentication of Aadhaar number as specified in rule 8(4A) above, then the registration shall be granted only after physical verification of the principal place of business in the presence of the said person, not later than 60 days from the date of application. A site survey (Physical verification) will be done and identification documents will be verified. In such cases, deemed approval of registration application [as provided in rule 9(5)] will not be applicable.▪ Rule 25 providing for physical verification of business premises has also been suitably amended to provide that where the proper officer is satisfied that the physical verification of the place of business of a person is required due to failure of aadhaar authentication before the grant of registration, or due to any other reason after the grant of registration, he may get such verification of the place of business, in the presence of the said person, done. The verification report along with the other documents, including photographs, shall be uploaded in prescribed form on the common portal within a period of 15 working days following the date of such verification.▪ In exercise of the powers conferred by section 25(6D), with effect from 01.04.2020, the provisions of section 25(6B) and (6C) shall not apply to a person who is not citizen of India or to a class of person other than the following class of persons, namely:<ul style="list-style-type: none">(a) Individual;(b) Authorised signatory of all types;(c) Managing and Authorised partners and(d) Karta of HUF
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38	TAX INVOICE, CREDIT AND DEBIT NOTES	<p>Notification No. 33/2019 CT dated 18.07.2019</p> <ul style="list-style-type: none"> ▪ A registered person has an option to issue consolidated tax invoice for supplies at the close of each day where the value of goods or services supplies is less than Rs. 200; recipient is unregistered and does not require tax invoice [in terms of section 31(3)(b) of the CGST Act read with fourth proviso to rule 46 of the CGST Rules]. With effect from 01.09.2019, fourth proviso to rule 46 has been amended to disallow this option to a supplier engaged in making supply of services by way of admission to exhibition of cinematograph films in multiplex screens. ▪ Further, with effect from 01.09.2019, a new sub-rule (4A) has been inserted in rule 548. Accordingly, a registered person who is supplying services by way of admission to exhibition of cinematograph films in multiplex screens shall be required to issue an electronic ticket. The said electronic ticket is deemed to be a tax invoice, even if such ticket does not contain the details of the recipient of service but contains the other information as mentioned under rule 46. ▪ Moreover, supplier of such services in a screen other than multiplex screens also has been given an option to follow above procedure.
39	TAX INVOICE, CREDIT AND DEBIT NOTES	<p>Notification No. 31/2019 CT dated 28.06.2019 read with Notification No. 68, 69 and 71/2019 CT all dated 13.12.2019</p> <ul style="list-style-type: none"> ▪ Sub-rule (4) has been inserted to rule 48 to provide that the E-INVOICE shall be prepared by notified class of registered persons, on the recommendations of the Council, by including such particulars contained in Form GST INV-01 after obtaining an IRN (Invoice Reference Number) by uploading information contained therein on the Common GST Electronic Portal* in prescribed manner and subject to prescribed conditions and restrictions. Every invoice, issued by said persons, in any manner other than the manner specified in the rule 48(4) shall not be treated as an invoice. The requirement of preparing the invoices in duplicate and triplicate in case of supply of services and goods respectively does not apply to such e-invoices. ▪ Rules 46 and 49 of the CGST Rules, 2017 have been

		amended to provide that Government may, by notification, on the recommendations of the Council, and subject to such conditions and restrictions as mentioned therein, specify that the tax invoice/bill of supply shall have Quick Response (QR) code.															
40	TAX INVOICE, CREDIT AND DEBIT NOTES	<p>Circular No. 108/27/2019 GST dated 18.07.2019</p> <p>Clarification in respect of goods sent/ taken out of India for exhibition or on consignment basis for export promotion Goods sent/taken out of India are required to be either sold or brought back within the stipulated period of 6 months from the date of removal as per the provisions contained in section 31(7) of the CGST Act. The supply would be deemed to have taken place, on the expiry of 6 months from the date of removal, if the specified goods are neither sold abroad nor brought back within the said period.</p>															
41	ACCOUNTS AND RECORDS; E-WAY BILL	<p>Notification No. 31/2019 CT dated 28.06.2019</p> <p>Validity of e-way bill in case of multimodal shipment in which at least one leg involves transport by ship [Rule 138(10) of the CGST Rules]</p> <table border="1"> <thead> <tr> <th>Sl. No.</th> <th>Distance within country</th> <th>Validity period from relevant date</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>Upto 100 km</td> <td>One day in cases other than Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship</td> </tr> <tr> <td>2.</td> <td>For every 100 km or part thereof thereafter</td> <td>One additional day in cases other than Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship</td> </tr> <tr> <td>3.</td> <td>Upto 20 km</td> <td>One day in case of Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship</td> </tr> <tr> <td>4.</td> <td>For every 20 km. or part thereof thereafter</td> <td>One additional day in case of Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship</td> </tr> </tbody> </table>	Sl. No.	Distance within country	Validity period from relevant date	1.	Upto 100 km	One day in cases other than Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship	2.	For every 100 km or part thereof thereafter	One additional day in cases other than Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship	3.	Upto 20 km	One day in case of Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship	4.	For every 20 km. or part thereof thereafter	One additional day in case of Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship
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		The sub-rule (10) has been further amended to lay down that the validity of the e-way bill can be extended within eight hours from the time of its expiry.
42	ACCOUNTS AND RECORDS; E-WAY BILL	<p>Notification No. 74/2018 CT dated 31.12.2018 read with Notification No. 36/2019 CT dated 20.08.2019 and Notification No. 75/ 2019 CT dated 26.12.2019</p> <p>No person (including a consignor, consignee, transporter, an e-commerce operator or a courier agency) shall not be allowed to furnish the information in Part A of Form GST EWB-01 in respect of following registered persons, whether as a supplier or a recipient:</p> <ul style="list-style-type: none"> ▪ A person paying tax under composition scheme or under Notification No. 2/2019 CT (R) dated 07.03.2019 has not furnished the statement for payment of self-assessed tax for 2 consecutive quarters, or ▪ A person paying tax under regular scheme has not furnished the returns for 2 consecutive months, or ▪ A person paying tax under regular scheme has not furnished GSTR-1 (Statement of outward supplies) for any 2 months or quarters, as the case may be. <p>However, Commissioner (jurisdictional commissioner) may, on receipt of an application from a registered person in prescribed form, on sufficient cause being shown and for reasons to be recorded in writing, by order, in prescribed form allow furnishing of the said information in Part A of Form GST EWB-01, subject to prescribed conditions and restrictions. An order rejecting said request shall not be passed without giving the said person a reasonable opportunity of being heard. The permission granted or rejected by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be granted or, as the case may be, rejected by the Commissioner.</p>

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43	PAYMENT OF TAX	<p>Notification No. 31/2019 CT dated 28.06.2019</p> <ul style="list-style-type: none"> ▪ The second proviso to sub-rule 87(2) which gave an option to a person supplying OIDAR services from a place outside India to a non-taxable online recipient, to generate challan through the Board's payment system namely, Electronic Accounting System in Excise and Service Tax has been omitted. ▪ Sub-rule 87(9) provided that any amount deducted under section 51 or collected under section 52 and claimed in Form GSTR-02 by the registered taxable person from whom the said amount was deducted or, as the case may be, collected shall be credited to his electronic cash ledger in accordance with the provisions of rule 87.
44	PAYMENT OF TAX	<p>Notification No. 16/2020 CT dated 23.03.2020</p> <p>A new sub rule (4A) has been inserted in rule 86 of the CGST Rules to provide that where a registered person has claimed refund of any tax that has been paid wrongly or in excess through electronic credit ledger, the said refund, if found admissible, will be credited to the electronic credit ledger.</p>
45	RETURNS	<p>Notification No. 30/2019 CT dated 28.06.2019</p> <p>Person supplying online information technology and database access retrieval [OIDAR] services not required to furnish annual return and reconciliation statement</p>
46	RETURNS	<p>Notification No. 31/2019 CT dated 28.06.2019</p> <p>Details of tax deducted and tax collected to be made available to the deductee and collectee respectively on the common portal after filing of GSTR-7 and GSTR-8 respectively [Rule 66(2) of the CGST Rules]</p>
47	RETURNS	<p>Notification No. 49/2019 CT dated 09.10.2019</p> <p>Form GSTR-3B to be treated as a return furnished under section 39 of the CGST Act [Rule 61(5) of the CGST Rules]</p>
48	IMPORT AND EXPORT UNDER GST	<p>Circular No. 108/27/2019 GST dated 18.07.2019</p> <p>The activity of sending/ taking specified goods out of India is not a zero-rated supply. That being the case, execution of a bond or LUT, as required under section 16 of the IGST Act, is not required.</p>
49	REFUNDS	<p>Notification No. 31/2019 CT dated 28.06.2019 and Notification No. 49/2019 CT dated 9.10.2019</p> <p>Proper officer will now issue payment order instead of payment advice for refunds under GST with effect from 24.09.2019.</p>

50	REFUNDS	<p>Notification No. 31/2019 CT dated 28.06.2019, Notification No. 11/2019 CT (R) dated 29.06.2019 and Notification No. 10/2019 IT (R) dated 29.06.2019 read with Circular No. 106/25/2019-GST dated 29.06.2019</p> <ul style="list-style-type: none"> ▪ With effect from 01.07.2019, supply of goods by a retail outlet established in the departure area of an international airport, beyond the immigration counters, to an outgoing international tourist, is exempted from IGST. ▪ These retail outlets making tax free supply of indigenous goods to an outgoing international tourist [also referred as eligible passenger] are entitled to claim refund of applicable CGST+SGST/UTGST or IGST paid on inward supply of such goods. Therefore, retail outlets will supply such indigenous goods without collecting any taxes from the eligible passenger and may apply for refund. <p>The refund shall be subject to the following conditions, as specified in newly inserted rule 95A of the CGST Rules:</p> <ul style="list-style-type: none"> ○ Retail outlet, registered under GST and holding a valid GSTIN is eligible for refund ○ Retail outlet shall furnish the application for refund claim in prescribed form on a monthly/quarterly basis along with self-certified compiled information of invoices issued for the supply made during the month or the quarter, as the case may be, along with concerned purchase invoice. ○ The refund of tax paid by the said retail outlet shall be available if- <ul style="list-style-type: none"> ❖ The inward supplies of goods were received by the said retail outlet from a registered person against a tax invoice; ❖ The said goods were supplied by the said retail outlet to an outgoing international tourist against foreign exchange without charging any tax; ❖ Name and GSTIN of the retail outlet is mentioned in the tax invoice for the inward supply; and ❖ Such other restrictions or conditions, as may be specified, are satisfied.
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51	REFUNDS	<p>Notification No.16/2020 CT dated 23.03.2020</p> <p>Rule 89(4) provides the formula for determining the refund of ITC in the case of zero-rated supply of goods or services or both without payment of tax under bond/LUT in accordance with the provisions of section 16(3) of the IGST Act, 2017.</p> <p>The term 'Turnover of zero-rated supply of goods' used in the above formula u/r 89(4) has been redefined to restrict the same to 1.5 times the value of like goods domestically supplied by the same/similarly placed supplier/as declared by the supplier.</p>
52	REFUNDS	<p>Notification No.16/2020 CT dated 23.03.2020</p> <p>Refund to be granted both in cash and credit, based on original mode of payment [Rule 92(1A)]</p>
53	REFUNDS	<p>Notification No.16/2020 CT dated 23.03.2020</p> <p>Rule 96(10)(b) lays down an embargo on the refund claim by a person seeking refund of IGST paid on export of goods/ services. The restriction is that such person should not have availed the benefit of exemption from IGST and Compensation Cess, for goods imported by EOU under Notification No. 78/2017 Cus dated 13.10.2017 or for goods imported under Advance Authorisation (AA)/ EPCG under Notification No. 79/2017 Cus dated 13.10.2017.</p> <p>An explanation has been inserted to this clause which clarifies that the benefit of the notifications mentioned therein shall not be considered to have been availed only where the registered person has paid IGST and Compensation Cess on inputs and has availed exemption of only Basic Customs Duty (BCD) under the said notifications.</p>
54	REFUNDS	<p>Notification No.16/2020 CT dated 23.03.2020</p> <p>Newly inserted rule 96B has made it mandatory to realize proceeds of export of goods within the period allowed under FEMA. In case of non-realisation/ partial realisation of such proceeds, any refund paid would be subject to be recovered from the taxpayer with interest, except in those cases wherein RBI writes off the requirement of such realization on merits. In case any refund is recovered on account of non-realisation of proceeds and the realization was made later on within the extended period.</p>

55	REFUNDS	<p>Circular No. 23/2019 Cus. dated 01.08.2019</p> <p>Section 55 of the CGST Act provides refund of taxes paid on the notified supplies of goods and/or services by notified specialized agencies like United Nations or a specified international organisation. Section 3(7) of Customs Tariff Act, 1975 provides for a parity between the integrated tax rate attracted on imported goods and the integrated tax applicable on the domestic supplies of goods. Therefore, on this principle of parity, specialised agencies ought to get the refund of the IGST paid on imported goods.</p>
56	REFUNDS	<p>Master Circular on Refunds - Circular No. 125/44/2019 GST dated 18.11.2019</p> <p>In case of refund of unutilized input tax credit (ITC) on account of (i) exports without payment of tax, (ii) supplies made to SEZ Unit/SEZ Developer without payment of tax or (iii) accumulation due to inverted tax structure, the common portal calculates the refundable amount as the least of the following amounts:</p> <ul style="list-style-type: none"> (a) The maximum refund amount as per the formula in rule 89(4) or rule 89(5) of the CGST Rules, 2017 [formula is applied on the consolidated amount of ITC, i.e. Central tax + State tax/Union Territory tax + Integrated tax]; (b) The balance in the electronic credit ledger of the applicant at the end of the tax period for which the refund claim is being filed after the return in Form GSTR-3B for the said period has been filed; and (c) The balance in the electronic credit ledger of the applicant at the time of filing the refund application. <p>After calculating the least of the above 3 amounts, as detailed above, the equivalent amount is to be debited from the electronic credit ledger of the applicant in the following order:</p> <ul style="list-style-type: none"> (a) Integrated tax, to the extent of balance available; (b) Central tax and State tax/Union Territory tax, equally to the extent of balance available and in the event of a shortfall in the balance available in a particular electronic credit ledger (say, Central tax), the differential amount is to be debited from the other electronic credit ledger (i.e., State tax/Union Territory tax, in this case).

57	REFUNDS	<p>Circular No.135/05/2020 GST dated 31.03.2020</p> <p>It has been clarified that while filing the refund claim, an applicant may, at his option, file a refund claim for a tax period or by clubbing successive tax periods. Earlier, there was a restriction on bunching of refund claims across financial years; now said restriction has also been relaxed. For instance, a registered person opting to file Form GSTR-1 on quarterly basis can apply for refund on a quarterly basis or clubbing successive quarters and these quarters may spread across different financial years. Thus, he can file refund claim for quarters: Jan-Mar, Apr-Jun and July-Sep, while filing the refund claim.</p>
58	REFUNDS	<p>Circular No.135/05/2020 GST dated 31.03.2020</p> <p>The issue which arose for consideration is whether an applicant can seek refund of unutilized ITC on account of inverted duty structure, under section 54(3)(ii) of the CGST Act, 2017, in a case where the inversion is due to change in the GST rate on the same goods. For example, an applicant trading in goods has purchased, say goods "X" attracting 18% GST. However, subsequently, the rate of GST on "X" has been reduced to, say 12%.</p> <p>It is clarified that, in such cases, the input and output being the same, though attracting different tax rates at different points in time, do not get covered under section 54(3)(ii) of the CGST Act, 2017. Thus, refund of accumulated ITC under said clause would not be applicable in cases where the input and the output supplies are the same.</p>

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59	REFUNDS	<p>Circular No.135/05/2020 GST dated 31.03.2020</p> <p>It has been decided that the refund of accumulated ITC shall be restricted to the ITC as per those invoices, the details of which are uploaded by the supplier in Form GSTR-1 and are reflected in the Form GSTR-2A of the applicant.</p>
60	REFUNDS	<p>Circular No. 137/07/2020 GST dated 13.04.2020</p> <p>ISSUE 🤔</p> <p>An advance is received by a supplier for a service contract which subsequently got cancelled. The supplier has issued the invoice before supply of service and paid the GST thereon. Whether he can claim refund of tax paid or is he required to adjust his tax liability in his returns?</p> <p>CLARIFICATION</p> <p>In case GST is paid by the supplier on advances received for a future event which got cancelled subsequently and for which invoice is issued before supply of service, the supplier is required to issue a "credit note" in terms of section 34 of the CGST Act. He shall declare the details of such credit notes in the return for the month during which such credit note has been issued. The tax liability shall be adjusted in the return subject to conditions of section 34 of the CGST Act. There is no need to file a separate refund claim. However, in cases where there is no output liability against which a credit note can be adjusted, registered persons may proceed to file a claim under "Excess payment of tax, if any" through Form GST RFD-01.</p> <p>ISSUE 🤔</p> <p>An advance is received by a supplier for a Service contract which got cancelled subsequently. The supplier has issued receipt voucher and paid the GST on such advance received. Whether he can claim refund of tax paid on advance or he is required to adjust his tax liability in his returns?</p> <p>CLARIFICATION</p> <p>In case GST is paid by the supplier on advances received for an event which got cancelled subsequently and for which no invoice has been issued in terms of section 31(2) of the CGST Act, he is required to issue a "refund voucher" in terms of section 31(3)(e) of the CGST Act read with rule 51 of the CGST Rules.</p> <p>The taxpayer can apply for refund of GST paid on such advances by filing Form GST RFD-01 under the category "Refund of excess payment of tax".</p>

		<p>ISSUE 🙄</p> <p>Goods supplied by a supplier under cover of a tax invoice are returned by the recipient. Whether he can claim refund of tax paid or is he required to adjust his tax liability in his returns?</p> <p>CLARIFICATION</p> <p>In such a case where the goods supplied by a supplier are returned by the recipient and where tax invoice had been issued, the supplier is required to issue a "credit note" in terms of section 34 of the CGST Act. He shall declare the details of such credit notes in the return for the month during which such credit note has been issued. The tax liability shall be adjusted in the return subject to conditions of section 34 of the CGST Act.</p> <p>There is no need to file a separate refund claim in such a case.</p> <p>However, in cases where there is no output liability against which a credit note can be adjusted, registered persons may proceed to file a claim under "Excess payment of tax, if any" through Form GST RFD-01.</p>
61	ASSESSMENT & AUDIT	<p>Circular No. 129/48/2019 GST dated 24.12.2019</p> <p>Standard operating procedure to be followed in case of non-filers of returns</p> <p>Section 46 of the CGST Act read with rule 68 of the CGST Rules requires issuance of a notice to a registered person who fails to furnish return under section 39 or section 44 or section 45 of the CGST Act requiring him to furnish such return within 15 days. Further, section 62 of the CGST Act provides for assessment of non-filers who fail to file return under section 39 or section 45 even after service of notice under section 46. No separate notice is required to be issued for best judgment assessment under section 62 if the return is not filed within 15 days of issuance of notice under section 46.</p> <p>CBIC has issued the following guidelines to ensure uniformity in the implementation of the provisions of law in relation to non-filers of returns:</p> <ul style="list-style-type: none"> (i) System generated message would be sent to all the registered persons 3 days before the due date to nudge them about the filing of return by the due date. (ii) Once the due date for furnishing return under section 39 is over, a system generated mail/ message would be

		<p>sent to all the defaulters immediately after the due date to the effect that the said registered person has not furnished his return for the said tax period; the said mail/ message is to be sent to the authorized signatory as well as the proprietor/ partner/ director/ karta, etc.</p> <p>(iii) After 5 days of due date of furnishing the return, notice under section 46 shall be issued electronically to the defaulters requiring them to furnish return within 15 days.</p> <p>(iv) If the return is not filed within 15 days of the said notice, the proper officer may proceed to assess the tax liability of the said defaulter under section 62, to the best of his judgment taking into account all the relevant material which is available or which he has gathered and would issue assessment order. The proper officer would upload the summary of such order in the prescribed form.</p> <p>(v) For the purpose of assessment of tax liability under section 62, the proper officer may take into account the following:</p> <ul style="list-style-type: none">• Details of outward supplies available in GSTR-1• Details of inward supplies auto-populated in GSTR-2A• Information available from e-way bills• Any other information available from any other source including inspection under section 71 of the CGST Act <p>(vi) If the defaulter furnishes a valid return within 30 days of the service of assessment order under section 62, the said assessment will be deemed to have been withdrawn.</p> <p>(vii) If the said return remains unfurnished within the statutory period of 30 days from the service of assessment order under section 62, the proper officer may initiate proceedings under section 78 and recovery under section 79 of the CGST Act.</p> <p>Based on facts available, in some cases, the Commissioner may resort to provisional attachment to protect revenue under section 83 of the CGST Act before issuance of assessment order under section 62. Further, proper officer would initiate action under section 29(2) of the CGST Act</p>
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		for cancellation of registration in cases where the return has not been furnished for the period specified in section 29.
62	DEMANDS & RECOVERY	<p>Notification No. 49/2019 CT dated 09.10.2019</p> <p>Tax, interest and penalty payable to be intimated by the proper officer before issuance of show cause notice</p> <p>With effect from 09.10.2019, the proper officer shall, before serving of such a notice, communicate the details of any tax, interest and penalty as ascertained by him, in the prescribed form, to the person chargeable with tax, interest and penalty under section 73 or section 74. Further, where such person has made partial payment of amount communicated to him or desires to file any submission against the proposed liability, he may make such submission in the prescribed form. Taxpayer will be able to take advantage of nil or reduced penalty under sections 73(5) and 74(5) of the CGST Act.</p> <p>Where any person makes payment of tax, interest, penalty or any other amount due in accordance with the provisions of the Act whether on his own ascertainment or, as communicated by the proper officer as mentioned above, he shall inform the proper officer of such payment and the proper officer shall issue an acknowledgement, accepting the payment made by the said person.</p>
63	APPEALS AND REVISION	<p>Notification No. 05/2020 CT dated 13.01.2020</p> <p>The following officers have been authorised as the Revisional Authority under section 108 of the CGST Act:</p> <p>(a) Principal Commissioner or Commissioner for decisions or orders passed by the Additional or Joint Commissioner; and</p> <p>(b) Additional or Joint Commissioner for decisions or orders passed by the Deputy Commissioner or Assistant Commissioner or Superintendent.</p>
64	MISCELLANEOUS PROVISIONS	<p>Notification 31/2019 CT dated 28.06.2019 Point No. (i) to (viii)</p> <p>Notification No. 33/2019 CT dated 18.07.2019 Pint No. (ix)</p> <p>Amendments in anti-profiteering provisions</p> <p>(i) Time period of 2 months available with the Standing Committee for examination of an application under rule 128 can be extended up to a further period of 1 month</p> <p>(ii) Rule 128 has been amended to provide that all</p>

		<p>applications from interested parties on issue of local nature as well as those forwarded by Standing Committee shall first be examined by the State level Screening Committee and the Screening Committee shall, within 2 months from the date of receipt of a written application (further extendable up to 1 month), upon being satisfied that the supplier has contravened the provisions of section 171, forward the application with its recommendations to the Standing Committee for further action.</p> <p>(iii) Time limit for completing investigation by DGAP increased from 3 months to 6 months</p> <p>(iv) Authority empowered to summon persons</p> <p>(v) Time limit for passing the order by the Authority increased from 3 months to 6 months</p> <p>(vi) Authority may seek clarification from DGAP on his report</p> <p>(vii) Profiteered amount to be deposited in Consumer Welfare Fund along with interest @ 18% p.a.</p> <p>(viii) A new sub-rule (5) has been inserted in rule 133 to provide that where upon receipt of the report of the DGAP, the Authority has reasons to believe that there has been contravention of the provisions of section 171 in respect of goods and/or services other than those covered in the said report, it may, for reasons to be recorded in writing, within a period of six months, direct the DGAP to cause investigation or inquiry with regard to such other goods and/or services.</p> <p>(ix) As per rule 137, the Authority ceases to exist after the expiry of 2 years from the date on which the Chairman enters upon his office unless the GST Council recommends otherwise. Rule 137 has been amended to increase the said period of 2 years to 4 years</p>
65	MISCELLANEOUS PROVISIONS	<p>Notification No. 11/2020 CT dated 21.03.2020</p> <p>As per Insolvency Bankruptcy Code (IBC), 2016 once an entity defaults certain threshold amount, Corporate Insolvency Resolution Process (CIRP) gets triggered and the management of such entity (Corporate Debtor) and its assets vest with an interim resolution professional (IRP) or resolution professional (RP). The IRP/RP continues to run the business and operations of the said entity as a going concern and is responsible for compliance with all the laws till the</p>

		<p>insolvency proceeding is over and an order is passed by the National Company Law Tribunal (NCLT). The definitions of the terms, corporate debtor, CIRP, IRP and RP can be referred from IBC, 2016.</p> <p>The Government has prescribed special procedure under section 148 of the CGST Act for the corporate debtors who are undergoing CIRP under the provisions of IBC and the management of whose affairs is being undertaken by IRP/RP.</p> <p>The corporate debtor who is undergoing CIRP is to be treated as a distinct person of the corporate debtor and shall be liable to take a new registration in each State or Union territory where the corporate debtor was registered earlier, within thirty days of the appointment of the IRP/RP. The IRP/RP will be liable to furnish returns, make payment of tax and comply with all the provisions of the GST law during CIRP period.</p>
66	MISCELLANEOUS PROVISIONS	<p>New Section 168A Power of Government to extend time limit in special circumstances</p> <p>The Central Government has issued Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 on 31.03.2020 which empowers it to extend the due dates for compliances under various tax laws.</p> <p>The Ordinance has inserted a new section 168A in the CGST Act which enables the Government to extend the time limits provided under the said Act in respect of actions which cannot be completed or complied with due to force majeure. Here, force majeure means war, epidemic, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature affecting the implementations of provisions of the CGST Act. This power can also be exercised retrospectively. The new section has become effective from 31.03.2020.</p>

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CUSTOM & FTP

67	CUSTOM	<p>Circular No. 21/2019 Cus dated 24.07.2019</p> <p>Clarification regarding applicability of Notification No. 45/2017 Cus dated 30.06.2017 on goods which were exported earlier for exhibition purpose/consignment basis (Notification No. 45/2017 Customs dated 30-06-2017 provides exemption from so much of the duty of customs leviable thereon which is specified in the First Schedule to the CTA, 1975, and the whole of the integrated tax, compensation cess leviable thereon respectively under 3(7) and 3(9) of CTA on certain goods, i.e. goods exported under claim for drawback, under claim for refund of IGST paid on export, under duty exemption schemes etc.)</p> <p>CBIC has clarified the applicability of exemptions mentioned in Notification No. 45/2017-Customs dated 30.06.2017, specifically the situation where goods are exported under bond without payment of integrated tax, to re-import of goods which had been earlier exported either for participation in exhibition or on consignment basis.</p> <p>Therefore, no integrated tax is required to be paid for specified goods at the time of taking these out of India, the activity being not a supply, hence the situation of Notification No. 45/2017-Customs dated 30.06.2017 (goods exported under bond without payment of integrated tax) requiring payment of integrated tax at the time of re-import of specified goods in such cases is not applicable.</p>
68	CUSTOM	<p>Notification No. 28/2015-2020 dated 31.10.2019</p> <p>Refund of drawback of basic customs duty paid on inputs for deemed exports also allowed on "All Industry Rate" basis</p>
69	FTP	<p>Notification No. 35/2015-2020 dated 12.12.2019</p> <p>Import of goods as gifts prohibited except for life saving drugs/medicines and rakhi (but not gifts related to rakhi)</p>
70	FTP	<p>Notification No. 57/2015-2020 dated 31.03.2020</p> <p>Duration of applicability of FTP 2015-2020 extended till 31.03.2021</p>
71	FTP	<p>Notification No. 57/2015-2020 dated 31.03.2020</p> <p>Exemption from IGST and GST compensation cess extended upto 31.03.2021 in case of imports under Advance Authorization, EPCG, EOU/EHTP/STP/BTP units</p>