

INDIRECT TAX

CA-IPCC

(RELEVANT FOR MAY 2020 EXAMS)

Jain & Jain's

Study

Revise

Krack

VISHAL **J**AIN

PRAVEEN **J**AIN

ALL AMENDMENTS FROM 1ST MAY 2019 TO 31ST OCTOBER 2019

APPLICABLE FOR MAY 2020 EXAMS ARE GIVEN IN **BROWN**

COLOR



LEVY OF GST

SUPPLY – SECTION 7 OF CGST ACT, 2017

SUPPLY – ACTUAL SUPPLY

Clarification in respect of Levy of GST on the Service of Display of Name or Placing of Name Plates of the Donor in the premises of Charitable Organisations receiving Donation or Gifts by Individual Donors – CBIC Circular 116/35/2019 – CGST

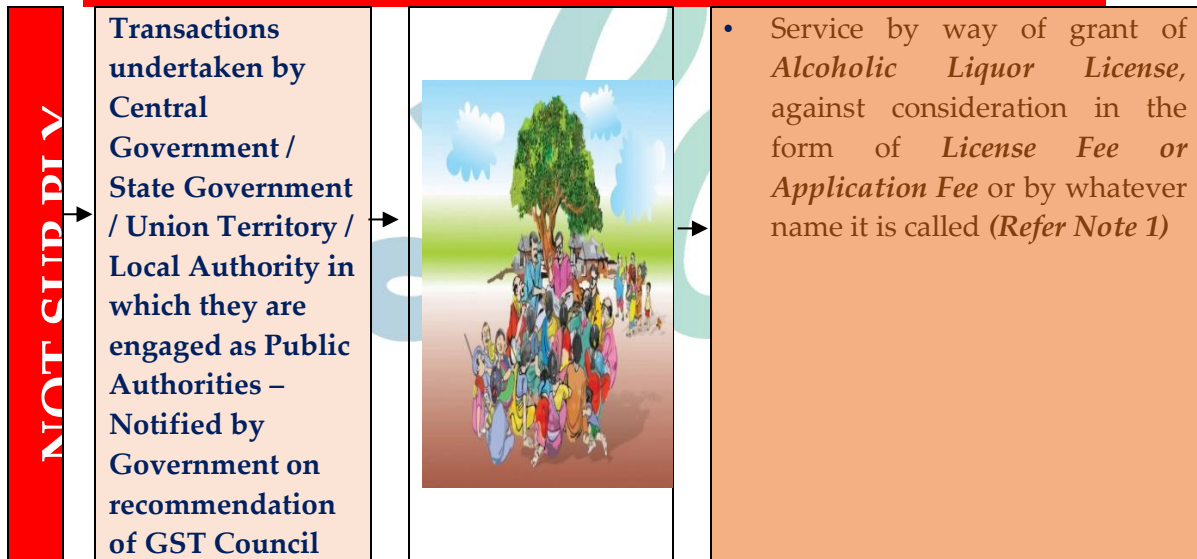
Issue	Whether GST is applicable on Donations or Gifts received from Individual Donors by Charitable Organizations involved in advancement of Religion, Spirituality or Yoga which is acknowledged by them by placing name plates in the name of the individual donor?
Clarification	<ul style="list-style-type: none"> ▪ When the <i>name</i> of the donor is <i>displayed</i> in recipient <i>institution premises</i>, in such a manner, which can be said to be an expression of <i>gratitude and public recognition</i> of donor's act of <i>philanthropy</i> and is NOT aimed at giving <i>publicity</i> to the donor in such manner that it would be an <i>advertising</i> or promotion of his <i>business</i>, it can be said that there is NO supply of service for a <i>consideration</i> (in the form of donation). There is <i>no obligation</i> (quid pro quo) on part of recipient of the donation or gift <i>to do anything</i> (supply a service). Therefore, there is <i>no GST liability</i> on such consideration. ▪ Thus, there will be no GST liability if all the three conditions are satisfied namely: <ul style="list-style-type: none"> (a) The gift or <i>donation</i> is made to a <i>charitable organization</i>, (b) The payment has the <i>character of gift</i> or donation and (c) the purpose is <i>philanthropic</i> (i.e. it leads to no commercial gain) and <i>not advertisement</i>. <p>Examples:</p> <p>(i) "Good wishes from Mr. Rajesh" printed underneath a digital blackboard donated by Mr. Rajesh to a charitable Yoga institution.</p> <p>(ii) "Donated by Smt. Malati Devi in the memory of her father" written on the door or floor of a room or any part of a temple complex which was constructed from such donation.</p> <p>In each of these examples, it may be noticed that there is no reference or mention of any business activity of the donor which otherwise would have got advertised.</p>

Clarification in respect of Goods sent / taken out of India for Exhibition or on Consignment basis for Export Promotion – CBIC Circular 108/27/2019 – CGST

Issue	Whether such activity of goods being sent / taken out of India for Exhibition or on Consignment basis for Export Promotion constitute as supply?
Clarification	<ul style="list-style-type: none"> As per <i>Section 7 of the CGST Act</i>, for any activity or transaction to be considered a <i>supply</i>, it must satisfy twin tests namely <ul style="list-style-type: none"> (i) it should be for a <i>consideration</i> by a person and (ii) it should be in the <i>course or furtherance of business</i>. It is, accordingly, clarified that the activity of sending / <i>taking the goods out of India for exhibition</i> or on consignment basis for export promotion, EXCEPT when such activity satisfy the tests laid down in <i>Schedule I</i> of the CGST Act (hereinafter referred to as the “specified goods”), do NOT constitute <i>supply</i> as the said activity does NOT fall within the scope of Section 7 of the CGST Act as there is <i>no consideration</i> at that point in time.

SUPPLY – NOT SUPPLY

NOTIFIED ACTIVITY OR NOTIFIED TRANSACTION OF GOVERNMENT



Clarification regarding applicability of GST on License Fee charged by States for grant of Liquor License to Vendors – CBIC Circular 121/40/2019 – CGST

Clarification	<p>In exercise of powers conferred under Section 7(2)(b) of CGST Act, 2017, NN 25/2019-CT (Rate) has been issued to notify service by way of <i>grant of alcoholic liquor licence</i>, against consideration in the form of <i>licence fee or application fee</i> or by whatever name it is called, by <i>State Government</i> as neither a supply of goods nor a supply of service.</p> <p>It is clarified that this <i>special dispensation</i> applies ONLY to <i>supply of service</i> by way of <i>grant of liquor licenses</i> by the <i>State Governments</i> as an <i>agreement between the Centre and States</i> and has <i>no applicability</i> or precedence value in relation to <i>grant of other licenses and privileges</i> for a fee in other situations, where GST is payable.</p>
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VALUATION

VALUATION OF SUPPLY – SECTION 15 OF CGST ACT, 2017

CLARIFICATIONS

Clarification on issue of GST on Airport levies – CBIC Circular 115/34/2019 – CGST

Levy of GST

- **Passenger Service Fee (PSF):** It is charged under Rule 88 of Aircraft Rules, 1937 according to which the *airport licensee* may collect *PSF* from *embarking passengers* at such rates as *specified* by the *Central Government*. According to the rule the airport license shall utilize the said fee for *infrastructure and facilitation of the passengers*.
- **User Development Fee (UDF):** It is levied under Rule 89 of the Aircraft Rules 1937 which provides that the *licensee* may levy and collect, at a major airport, the *User Development Fee* at rate as prescribed in the *Airports Economic Regulatory Authority of India Act, 2008*. Though the rule does not prescribe the specific purpose of levy and whether it is to be charged from the airlines or the passengers. However, it is seen from section 2(n) of Airports Economic Regulatory Authority of India Act 2008, that the *authority which manages the airport* is eligible to levy and charge *UDF* from the *embarking passengers* at any airport. The User Development Fees (UDF) shall be collected *from the passengers by the airlines* at the time of issue of air ticket and the same shall be *remitted to the operator* i.e. Airports Authority of India [AAI] in the line system / procedure in vogue. For this, *collection charges* of Rs.5/- shall be receivable *by the airlines from AAI*.
- **Supply of Service:** The above facts clearly indicate that *PSF and UDF are charged by airport operators* for providing the services *to passengers* and is liable to GST. However for convenience, the *airlines collect the same* from passengers and *remit it* to the airport operators for which the airlines *charge* the airport operator a *convenience fee* of say Rs.5/- (which is also liable for GST).

Issue 1	PSF & UDF are collected from the passengers by the airlines & the remitted to the operator. Is the airlines also liable to pay GST on PSF & UDF i.e. will it be included in the valuation for supply of services by the airlines to the passengers?
Clarification	<ul style="list-style-type: none"> ▪ <i>PSF and UDF</i> being charges levied <i>by airport operator</i> for services provided <i>to passengers</i> are <i>collected by the airlines</i> as an <i>agent</i> and is NOT a consideration for any service provided by the <i>airlines</i>. Thus, airline is <i>not responsible</i> for payment of <i>GST on UDF or PSF</i> provided the airline satisfies the conditions prescribed for a Pure Agent under Rule 33 of the CGST Rules. It is the licensee that is the <i>airport operator</i> (AAI, DIAL, MIAL etc) which is liable to pay <i>GST on UDF and PSF</i>. ▪ Accordingly, the airline acting as pure agent of the passenger should <ol style="list-style-type: none"> (a) <i>Separately indicate</i> actual amount of <i>PSF, UDF and GST payable</i> on such PSF and UDF by the airport licensee, in the <i>invoice</i> issued by airlines to its passengers. (b) <i>Not take ITC of GST</i> payable or paid on <i>PSF and UDF</i>. (c) Recover ONLY the <i>actual PSF and UDF and GST payable</i> on such PSF and UDF by the airline operator. <p>The amount so recovered will be <i>excluded</i> from the value of supplies made <i>by the airline to its passengers</i>.</p>

Issue 2	Can ITC of GST charged on PSF and UDF be availed?
Clarification	<ul style="list-style-type: none"> ▪ The airlines CANNOT avail <i>ITC of GST charged</i> on PSF/UDF as it is <i>not the recipient of service</i>, its acting only as an agent i.e. pure agent. ▪ The <i>registered passengers</i>, who are the <i>ultimate recipient</i> of the airport services, may take <i>ITC of GST paid on PSF and UDF</i> on the basis of <i>pure agent's invoice</i> issued by the <i>airline</i> to them.

Issue 3	Is GST payable on collection charges collected by the airlines from the operator?
Clarification	<ul style="list-style-type: none"> ▪ The <i>collection charges</i> paid by airport operator to <i>airlines</i> are a <i>consideration</i> for the services provided by the airlines to the airport operator (AAI, DAIL, MAIL etc.) and <i>airlines shall be liable to pay GST</i> on the same under <i>forward charge</i>. <i>ITC</i> of the same will be available with the <i>airport operator</i>.

Clarification regarding applicability of GST on Additional / Penal Interest – CBIC Circular 102/21/2019 – CGST

<p>Issue</p>	<p>Whether the additional / penal interest on the overdue loan would be:</p> <ul style="list-style-type: none"> ▪ exempt from GST in terms of Sl. No. 27 of NN 12/2017-CT(R) or ▪ such penal interest would be treated as consideration for liquidated damages amounting to a separate taxable supply of services under GST covered under Entry 5(e) of Schedule II of the CGST Act, 2017 i.e. “agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act” 											
<p>Clarification</p>	<table border="1"> <thead> <tr> <th data-bbox="400 607 791 689">Example</th> <th data-bbox="791 607 1129 689">Valuation OR Exemption</th> <th data-bbox="1129 607 1399 689">Entry 5(e) of Schedule II</th> </tr> </thead> <tbody> <tr> <td data-bbox="400 689 791 1912"> <p>Example 1: 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 instalments, Rs.11,000 every month before 10th day of the following month, over next four months (Rs.11,000 *4 = Rs.44,000). Further, 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. 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.</p> </td> <td data-bbox="791 689 1129 1912"> <p>As per Section 15(2)(d) the amount of penal interest is to be included in the value of supply. 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> </td> <td data-bbox="1129 689 1399 1912"> <p>Additional / penal interest satisfies the definition of “interest” as contained in EN 12/2017-CT (Rate). Thus, the same does not constitutes a separate services as per Entry 5(e) of Schedule II “agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act”.</p> </td> </tr> <tr> <td data-bbox="400 1912 791 1993"> <p>Example 2: X sells a mobile phone to Y. The cost of</p> </td> <td data-bbox="791 1912 1129 1993"> <p>The additional / penal interest is charged for a</p> </td> <td data-bbox="1129 1912 1399 1993"> <p>Additional / penal interest</p> </td> </tr> </tbody> </table>	Example	Valuation OR Exemption	Entry 5(e) of Schedule II	<p>Example 1: 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 instalments, Rs.11,000 every month before 10th day of the following month, over next four months (Rs.11,000 *4 = Rs.44,000). Further, 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. 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.</p>	<p>As per Section 15(2)(d) the amount of penal interest is to be included in the value of supply. 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>Additional / penal interest satisfies the definition of “interest” as contained in EN 12/2017-CT (Rate). Thus, the same does not constitutes a separate services as per Entry 5(e) of Schedule II “agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act”.</p>	<p>Example 2: X sells a mobile phone to Y. The cost of</p>	<p>The additional / penal interest is charged for a</p>	<p>Additional / penal interest</p>		
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	<p>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>transaction between Y and M/s ABC Ltd., and the same is covered EN 12/2017-CT (Rate). Accordingly, in this case the 'penal interest charged thereon on a transaction between Y and M/s ABC Ltd. would not be subject to GST. However, any service fee / charge that are levied by M/s ABC Ltd. in respect of the transaction related to extending deposits, loans or advances does not qualify to be interest and the same will not be exempt. The value of supply of mobile by X to Y would be Rs.40,000 for the purpose of levy of GST.</p>	<p>satisfies the definition of "interest" as contained in EN 12/2017-CT (Rate). Thus, the same does not constitute a separate services as per Entry 5(e) of Schedule II "agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act".</p>
<p>Note: As per EN 12/2017-CT (Rate), "'interest' means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) but does not include any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilized.</p>			

CLASSIFICATION (INCLUDING EXEMPTIONS)

EXEMPTION FROM GST – SECTION 11 OF CGST ACT, 2017

CLARIFICATIONS

Clarifications on Effective Date of Insertion of Explanation in Notification – CBIC Circular 120/39/2019 – CGST

Issue	Section 11(3) of CGST Act provides that the Government may insert an explanation in any notification issued under Section 11 for the purpose of clarifying its scope or applicability, at any time within 1 year of issue of notification and every such explanation shall have effect from the date as if it had always been the part of first such notification.
Clarification	<ul style="list-style-type: none"> It is hereby clarified that the <i>explanation</i> having been inserted under Section 11(3) of CGST Act is <i>effective</i> from the <i>inception of the entry in notification</i> and NOT from the <i>date from which notification</i> (that inserted said explanation) becomes effective. For example, principal <i>Notification No. 11/2017-CT</i> (Rate) came into force with effect from <i>01-07-2017</i>. Thereafter, <i>a new entry</i> – Entry No. 3(vi) is inserted w.e.f. <i>21-09-2017</i>. Subsequently, an <i>explanation</i> is also inserted with respect to Entry No. 3(vi) on <i>26-07-2018</i>. Although the <i>effective date</i> mentioned in notification which inserted <i>said explanation</i> is <i>27-07-2018</i>, said explanation will be effective from the inception of entry in notification i.e. <i>21-09-2017</i> and not <i>27-07-2018</i>.

Example 1: Exemption – Effective Date of Explanation to Entry in EN

Particulars	Dates
Date of Issue of EN	01-07-2017
Date of adding Entry to EN	01-04-2019
Date of adding Explanation to Entry	01-02-2020
Effective Date of Explanation to Entry	01-04-2019

Example 2: Exemption – Effective Date of Explanation to Entry in EN

Particulars	Dates
Date of Issue of EN	01-07-2017
Date of adding Entry to EN	01-04-2019
Date of adding Explanation to Entry	01-06-2020
Effective Date of Explanation to Entry	01-06-2020

EXEMPTION ON SERVICES – EN 12/2017-CT (RATE) READ WITH EN 9/2017-IT (RATE)
NEW EXEMPTIONS

Insurance Services	→ Services of Life Insurance Business BY the <i>Central Armed Police Forces</i> (under Ministry of Home Affairs) Group Insurance Funds TO their <i>members</i> under the <i>Group Insurance Schemes</i> of CAPF	
Sports Services	→ Services provided BY and TO Fédération Internationale de Football Association (<i>FIFA</i>) and <i>its subsidiaries</i> directly or indirectly related to any of the <i>events under FIFA U-17 Women's World Cup 2020</i> to be hosted in India. Provided that Director (Sports), <i>Ministry of Youth Affairs and Sports</i> certifies that services are directly or indirectly related to any of the events under <i>FIFA U-17 Women's World Cup 2020</i> . → Services by way of <i>right to admission</i> to the events organised under <i>FIFA U-17 Women's World Cup 2020</i> .	
Export Akin Services	→ Services provided by an <i>Intermediary</i> where both Location of Supplier of Goods AND Location of Recipient of Goods are in Non-Taxable Territory Note: Following documents shall be maintained for a minimum duration of 5 years for claiming such exemption: (i) Copy of Bill of Lading (ii) Copy of executed contract between Supplier / Seller and Receiver / Buyer of goods (iii) Copy of Commission Debit Note raised by an Intermediary Service Provider in Taxable Territory from Service Recipient located in Non-Taxable Territory (iv) Copy of Certificate of Origin issued by Service Recipient located in Non-Taxable Territory (v) Declaration Letter from an Intermediary Service Provider in Taxable Territory on company letter head confirming that Commission Debit Note raised relates to contract when both supplier and receiver of goods are outside the taxable territory.	
Hiring Services and Services to Local Authority	Means	→ Services by way of giving on hire of an <i>Electrically Operated Vehicle</i> meant to carry more than 12 passengers TO a <i>Local Authority</i> Electrically Operated Vehicle Vehicle → falling under <i>Chapter 87</i> in the First Schedule to the Customs Tariff Act, 1975 → which is run solely on <i>electrical energy</i> derived <ul style="list-style-type: none"> ▪ from an external source or ▪ from one or more electrical batteries fitted to such road vehicle.
Agricultural Services	→ Services by way of <i>Storage or Warehousing</i> 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.	

AMENDMENT TO EXEMPTIONS

Renting Services	→ Services by <i>Hotel, Inn, Guest House, etc.</i> for <i>residential or lodging purposes</i> with <i>Value below or equal to Rs.1,000 / day</i> or equivalent for a unit of accommodation
Legal Services	<ul style="list-style-type: none"> → Services BY Arbitral Tribunal TO Business Entity in Taxable Territory with an Aggregate Turnover in the <i>Preceding FY</i> upto such amount as makes it eligible for exemption from registration under the CGST Act → Services BY Advocate including Firm of Advocates TO Business Entity in Taxable Territory with an Aggregate Turnover in the <i>Preceding FY</i> upto such amount as makes it eligible for exemption from registration under the CGST Act → Services BY Senior Advocate TO Business Entity in Taxable Territory with an Aggregate Turnover in the <i>Preceding FY</i> upto such amount as makes it eligible for exemption from registration under the CGST Act
Services by Government	→ Services provided BY Government or a Local Authority TO a Business Entity with an <i>Aggregate Turnover</i> in the <i>Preceding FY</i> upto such amount as makes it eligible for exemption from registration under the CGST Act
Transportation of Goods	<ul style="list-style-type: none"> → Transportation of Goods by Vessel at the time of <i>Export</i> from Customs Station of clearance in India to a place outside India upto <i>30/09/2020</i> → Transportation of Goods by Aircraft at the time of <i>Export</i> from Customs Station of clearance in India to a place outside India upto <i>30/09/2020</i>

CLARIFICATIONS

Clarifications related to GST on Monthly Subscription / Contribution charged by RWA from its Members – CBIC Circular 109/28/2019 – CGST

Issue 1	Are the maintenance charges paid by residents to the Resident Welfare Association (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?
Clarification	<ul style="list-style-type: none"> ▪ Supply of service by RWA (unincorporated body or a non- profit entity registered under any law) to its own members by way of <i>reimbursement of charges</i> or <i>share of contribution</i> upto an amount of <i>Rs.7,500 per month per member</i> for providing services and goods for the common use of its members in a housing society or a residential complex are exempt from GST.

Issue 2	A RWA has aggregate turnover of Rs.20 lakh or less in a financial year. Is it required to take registration and pay GST on maintenance charges if the amount of such charges is more than Rs.7,500 per month per member?																	
Clarification	<ul style="list-style-type: none"> If <i>aggregate turnover</i> of an RWA does not exceed <i>Rs.20 lakhs</i> in a financial year, it shall <i>not</i> be required to take <i>registration</i> and pay GST EVEN if the amount of maintenance charges <i>exceeds Rs.7,500 per month per member</i>. <table border="1"> <thead> <tr> <th>Aggregate Turnover of RWA</th> <th>Maintenance Charges by RWA</th> <th>Exempt</th> </tr> </thead> <tbody> <tr> <td>More than Rs.20 lakhs</td> <td>More than Rs7,500</td> <td>No</td> </tr> <tr> <td>More than Rs.20 lakhs</td> <td>Upto Rs.7,500</td> <td>Yes</td> </tr> <tr> <td>Upto Rs.20 lakhs</td> <td>Upto Rs.7,500</td> <td>Yes</td> </tr> <tr> <td>Upto Rs.20 lakhs</td> <td>More than Rs7,500</td> <td>Yes</td> </tr> </tbody> </table>			Aggregate Turnover of RWA	Maintenance Charges by RWA	Exempt	More than Rs.20 lakhs	More than Rs7,500	No	More than Rs.20 lakhs	Upto Rs.7,500	Yes	Upto Rs.20 lakhs	Upto Rs.7,500	Yes	Upto Rs.20 lakhs	More than Rs7,500	Yes
Aggregate Turnover of RWA	Maintenance Charges by RWA	Exempt																
More than Rs.20 lakhs	More than Rs7,500	No																
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Upto Rs.20 lakhs	More than Rs7,500	Yes																

Issue 3	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	<ul style="list-style-type: none"> RWAs are <i>entitled to take ITC</i> of GST paid by them on <i>Capital Goods</i> (generators, water pumps, lawn furniture etc.), <i>Inputs</i> (taps, pipes, other sanitary / hardware fillings etc.) and <i>Input Services</i> (repair and maintenance services, etc.).

Issue 4	Where a person owns 2 or more flats in the housing society or 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	<ul style="list-style-type: none"> As per general business sense, a person who owns <i>2 or more residential apartments</i> in a housing society or a residential complex shall normally be a <i>member</i> of the RWA for <i>each residential apartment owned</i> by him separately. The ceiling of <i>Rs.7,500 per month per member</i> shall be applied separately for <i>each residential apartment owned</i> by him. For example, if a person owns 2 residential apartments in a residential complex and pays Rs.15,000 per month as maintenance charges towards maintenance of both apartments to the RWA, the exemption from GST (Rs.7,500 per month in respect of each residential apartment) shall be available to each apartment.

Issue 5	How should the RWA calculate GST payable where the maintenance charges exceed Rs.7,500 per month per member? Is the GST payable only on the amount exceeding Rs.7,500 or on the entire amount of maintenance charges?
Clarification	<ul style="list-style-type: none"> The <i>exemption</i> from GST on maintenance charges charged by a RWA from residents is available ONLY if such charges are <i>upto Rs.7,500</i> per month per member. In case the charges exceed Rs.7,500 per month per member, the entire amount is taxable. For example, if the maintenance charges are <i>Rs.9,000</i> per month per member, <i>GST @ 18%</i> shall be payable on the <i>entire amount of Rs.9,000</i> and NOT on Rs.1,500 (Rs.9,000 - Rs.7,500).

Example 1: GST by RWA – Various Scenarios

Aggregate Turnover of RWA	Maintenance Charges by RWA	GST
1. Upto Rs.20 lakhs (Assuming NOT Registered)	Upto Rs.7,500	✗
2. Upto Rs.20 lakhs (Assuming NOT Registered)	More than Rs7,500	✗
3. More than Rs.20 lakhs	Upto Rs.7,500	✗
4. More than Rs.20 lakhs	More than Rs7,500	✓
5. More than Rs.20 lakhs	Upto Rs.7,500 from Few Members & More than Rs7,500 from Few Members	✗ ✓

Example 2: Charges by RWA from Single Member having 2 Flats

Particulars	GST
Case 1: Charges for Flat 1 – Rs.6,000 / Month / Member	✗
Case 2: Charges for Flat 2 – Rs.7,500 / Month / Member	✗

Example 3: Charges by RWA from Single Member having 2 Flats

Particulars	GST
Case 1: Charges for Flat 1 – Rs.7,500 / Month / Member	✗
Case 2: Charges for Flat 2 – Rs.10,000 / Month / Member	✓ *

* **Note:** GST is payable on ENTIRE Rs.10,000 and NOT on Rs.2,500



Clarification on Applicability of GST Exemption to the DG Shipping Approved Maritime Courses conducted by Maritime Training Institutes of India – CBIC Circular 117/36/2019 – CGST

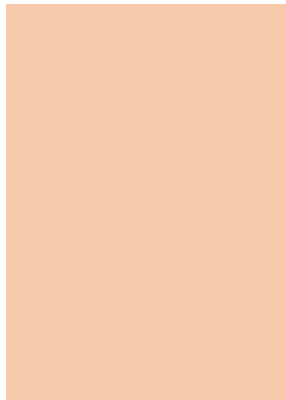
Issue	<p>Section 76 of the Merchant Shipping Act, 1958 provides for the certificates of competency to be held by the officers of ships. It states that every Indian ship, when going to sea from any port or place, shall be provided with officers duly certificated under this Act in accordance with such manning scales as may be prescribed.</p> <p>Further, Section 79 provides that the Central Government or a person duly authorised by it shall appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificate of competency under section 78 of the Act.</p> <p>The Director General of Shipping under the Merchant Shipping (standards of training, certification and watch-keeping for Seafarers) Rules, 2014 is empowered to designate assessment centres and to approve</p> <ul style="list-style-type: none"> (i) the training course, (ii) training, examination and assessment programme, and (iii) approved training institute etc.
Clarification	<ul style="list-style-type: none"> ▪ From the above discussion, it is seen that the <i>Maritime Training Institutes</i> and their <i>training courses</i> are <i>approved</i> by the <i>Director General of Shipping</i> which are duly recognised under the provisions of the <i>Merchant Shipping Act, 1958</i> read with the Merchant Shipping (standards of training, certification and watch-keeping for Seafarers) Rules, 2014. ▪ Therefore, the <i>Maritime Institutes</i> are <i>educational institutions</i> under GST Law and the courses conducted by them are exempt from levy of GST. The exemption is subject to meeting the conditions specified in EN 12/ 2017-CT (Rate).

REVERSE CHARGE MECHANISM

REVERSE CHARGE MECHANISM FOR NOTIFIED SERVICES SECTION 9(3) OF CGST ACT, 2017 OR SECTION 5(3) OF IGST ACT, 2017

RCM FOR INTRA-STATE SUPPLY [NN 13/2017 – CT(RATE)] AND RCM FOR INTER-STATE SUPPLY [NN 10/2017 – IT(RATE)]

CATEGORY OF SUPPLY OF SERVICE	SUPPLIER OF SERVICE (BY)	RECIPIENT OF SERVICE (TO)
<p>Transfer or permitting the use of enjoyment of copyright covered under Section 13(1)(a) of Copyright Act, 1957 relating to Original Literary, Dramatic, Musical or Artistic Works</p>	<p>Author or Music Composer, Photographer, Artist or the like</p> <div style="text-align: center; border: 1px solid black; padding: 5px; width: fit-content; margin: 10px auto;">  Copyright </div>	<ul style="list-style-type: none"> ▪ Publisher, Music Company, Producer or the like located in <i>Taxable Territory</i>
<p>Transfer or permitting the use of enjoyment of copyright covered under Section 13(1)(a) of Copyright Act, 1957 relating to Original Literary Works</p>	<p>Author</p> <div style="text-align: center; border: 1px solid black; padding: 5px; width: fit-content; margin: 10px auto;">  Copyright </div>	<ul style="list-style-type: none"> ▪ Publisher located in <i>Taxable Territory</i> <p>Note: RCM shall not apply if</p> <ul style="list-style-type: none"> (i) the author has taken <i>registration</i> under the CGST, 2017 and filed a <i>declaration</i>, in the form at <i>Annexure I</i>, within the time prescribed (before commencement of FY), with the Jurisdictional Officer that he exercises the option to: <ul style="list-style-type: none"> a. pay <i>tax under FCM</i> in accordance with Section 9(1) and b. comply with <i>all the provisions of Act</i> as they apply to a person liable for paying the tax in relation to the supply of any goods or services or both and c. <i>not withdraw</i> the said option <i>within a period of 1 year</i> from



the date of exercising such option
 (ii) the author makes a *declaration*, as prescribed in *Annexure II* (stating that he is paying taxes under FCM) on the *invoice issued by him* in Form *GST INV-I* to the publisher.
 (i.e. Above cases shall be taxable under FCM)

Renting of Motor Vehicle (Service provided by way of Renting of Motor Vehicle)

Any person *other than a Body Corporate* paying tax @ 5% on Renting of Motor Vehicle with *ITC only on Input Services* in the *same line of business*

- Any *Body Corporate* located in the *Taxable Territory*

Securities Lending Services (Services of Lending of Securities under Securities Lending Scheme, 1997 of SEBI) (Refer Note 5)

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

- Borrower i.e. a person who borrows the securities under the Scheme through an approved intermediary of SEBI.

Example 1: Temporary Transfer of Patent, Trademark, etc.

Particulars	GST
Temporary Transfer of Patent, Trademark, etc.	✓ (FCM)

Example 2: Temporary Transfer of Copyright

Particulars	GST
Temporary Transfer of Copyright	✓ (Refer Below)

Example 3: Temporary Transfer of Copyright – Author

Particulars	GST
Temporary Transfer of Copyright by Author to Publisher (opting for FCM and satisfying conditions for the same)	✓ (FCM)

Example 4: Temporary Transfer of Copyright – Author

Particulars	GST
Temporary Transfer of Copyright by Author to Publisher (NOT opting for FCM)	✓ (RCM)

Example 5: Temporary Transfer of Copyright – Others

Particulars	GST
Temporary Transfer of Copyright by AR Rehman to Sony Music	✓ (RCM)

Example 6: Temporary Transfer of Copyright – Others

Particulars	GST
Temporary Transfer of Copyright by Sony Music to Jio Sawan Music	✓ (FCM)

Example 7: Renting of Motor Vehicle BY Super Star & Co. (Proprietorship Concern) NOT opting to pay GST @ 5% with ITC only on Input Services in the same line of business

Particulars	GST
TO Little Super Star Ltd.	✓ (FCM)
TO Little Super Star & Co.	✓ (FCM)

Example 8: Renting of Motor Vehicle BY Super Star & Co. (Firm) opting to pay GST @ 5% with ITC only on Input Services in the same line of business

Particulars	GST
TO Little Super Star Ltd.	✓ (RCM)
TO Little Super Star & Co.	✓ (FCM)

Example 9: Renting of Motor Vehicle BY Super Star Ltd.

Particulars	GST
TO Little Super Star Ltd.	✓ (FCM)
TO Little Super Star & Co.	✓ (FCM)

Clarification regarding Taxability of Supply of Securities under Securities Lending Scheme, 1997 – CBIC Circular 119/38/2019 – CGST

Background	<ul style="list-style-type: none"> ▪ SEBI has prescribed the Securities Lending Scheme, 1997 for the purpose of facilitating lending and borrowing of securities. The lender <i>temporarily lends the securities</i> held by him to a borrower and <i>charges lending fee</i> for the same from the borrower. The <i>borrower</i> of securities can further <i>sell or buy these securities</i> and is required to <i>return the lended securities</i> after <i>stipulated period</i> of time. ▪ The transaction takes place through an <i>electronic screen-based order matching mechanism</i> provided by the <i>recognized stock exchange</i> in India, which charges a fee for the same. There is <i>anonymity</i> between the lender and borrower since there is <i>no direct agreement</i> between them.
Levy of GST	<ul style="list-style-type: none"> ▪ <i>Securities</i> as defined in Section 2(h) of the Securities Contracts (Regulation) Act, 1956 are NOT covered in the definition of <i>goods</i> under Section 2(52) and <i>services</i> under Section 2(102) of the CGST Act. Therefore, a <i>transaction in securities</i> which involves disposal of securities is NOT a <i>supply</i> in GST and hence not taxable. ▪ The activity of <i>lending of securities</i> is NOT a <i>transaction in securities</i> as it does <i>not involve disposal of securities</i>. The <i>lending fee</i> charged from the borrowers of securities has the character of <i>consideration</i> and this activity is taxable in GST. The activities of the <i>intermediaries facilitating lending and borrowing</i> of securities for commission or fee are <i>also taxable</i> separately.
Nature of Supply & Person liable to pay GST	<ul style="list-style-type: none"> ▪ With effect from 1st October, 2019, the <i>borrower</i> of securities shall be liable to <i>discharge GST</i> under Reverse Charge Mechanism (<i>RCM</i>). ▪ The nature of GST to be paid shall be <i>IGST</i> under RCM.

**REVERSE CHARGE MECHANISM FOR NOTIFIED GOODS / SERVICES FOR NOTIFIED RECIPIENT
SECTION 9(4) OF CGST ACT, 2017 OR SECTION 5(4) OF IGST ACT, 2017**

RCM FOR INTRA-STATE SUPPLY [NN 7/2019 – CT(RATE)] AND RCM FOR INTER-STATE SUPPLY [NN 7/2019 – IT(RATE)]

PROJECT & CATEGORY OF SUPPLY OF GOODS / SERVICES	SUPPLIER (BY) & RECIPIENT (TO)	ITEMS & GST RATE
<p>RREP – Residential Real Estate Project (Inputs & Input Services)</p> <ul style="list-style-type: none"> ▪ Supply of goods and services or both <i>other than</i> <ul style="list-style-type: none"> ➢ Grant of <i>Development Rights, Long Term Lease</i> of land (against upfront payment in the form of premium, salami, development charges etc.), <i>FSI</i> (including additional FSI) or ➢ Electricity, High Speed Diesel, Motor Spirit, Natural Gas, ▪ which constitute the <i>shortfall from the minimum value</i> (i.e. 80%) of goods or services or both required to be purchased by a promoter for construction of project, in a Fin. Yr. or part thereof 	<p>BY Unregistered Supplier TO Promoter</p>	<ul style="list-style-type: none"> ▪ Cement: Applicable Rate of Cement i.e. 28% Note: 100% of Cement shall be mandatorily purchased from Registered Supplier only. Else, RCM shall be applicable. Criteria of 80% is NOT applicable for Cement. However, the cement purchased from Registered Supplier will be considered while calculating the criteria of 80% purchases from Registered Suppliers. ▪ Other Goods & Services: Flat Rate @ 18%
<p>RREP – Residential Real Estate Project (Capital Goods)</p> <ul style="list-style-type: none"> ▪ Capital Goods 	<p>BY Unregistered Supplier TO Promoter</p>	<ul style="list-style-type: none"> ▪ Capital Goods: Applicable Rate of such Capital Goods Note: 100% of Capital Goods shall be mandatorily purchased from Registered Supplier only. Else, RCM shall be applicable. Criteria of 80% is NOT applicable for Capital Goods.

<p>REP other than RREP – Real Estate Project (Cement ONLY)</p> <ul style="list-style-type: none"> Cement 	<p>BY Unregistered Supplier TO Promoter</p>	<ul style="list-style-type: none"> Cement: Applicable Rate of Cement i.e. 28% Note: Even for REP other than RREP, 100% of Cement shall be mandatorily purchased from Registered Supplier only. Else, RCM shall be applicable. For REP other than RREP, any amount of <i>other inputs, input services and capital goods</i> may be purchased from unregistered supplier also and no RCM shall be applicable.
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Notes:

→ Meaning of “REP – Real Estate Project”

REP – Real Estate Project	
<i>Means</i>	Any Real Estate Project (i.e. Commercial Construction or Residential Construction)

→ Meaning of “RREP – Residential Real Estate Project”

RREP – Residential Real Estate Project	
<i>Means</i>	A REP in which <ul style="list-style-type: none"> Carpet Area of the <i>Commercial Apartments</i> is <i>not more than 15%</i> of Total Carpet Area



TIME OF SUPPLY

LIABILITY TO PAY TAX IN SPECIAL CASES

~~Seeks to provide special procedure with respect to payment of tax by registered person supplying service by way of construction against transfer of development right and vice versa—NN 4/2018-CT (Rate)~~

~~The liability to pay tax on supply of~~

- ~~(a) development rights TO a developer, builder, construction company or any other registered person against consideration, wholly or partly, in the form of construction service of complex, building or civil structure~~
- ~~(b) construction service of complex, building or civil structure TO supplier of development rights against consideration, wholly or partly, in the form of transfer of development rights~~

~~shall arise at the time when the said developer, builder, construction company or any other registered person, as the case may be, transfers possession or the right in the constructed complex, building or civil structure, to the person supplying the development rights by entering into a conveyance deed or similar instrument (for example allotment letter).~~

Note: The above notification is no more required because of recent amendments in real estate sector.



SMALL DEALERS (EXEMPTION SCHEME & COMPOSITION SCHEME)

COMPOSITION SCHEME – SECTION 10 OF CGST ACT, 2017 READ WITH NN 2/2019-CT (RATE)

Normal Composition Scheme – Section 10	→ Manufacturers of <i>Aerated Water</i> is NOT eligible for Composition Scheme
Normal Composition Scheme – NN 2/2019-CT (Rate)	→ Manufacturers or Traders of <i>Aerated Water</i> is NOT eligible for Composition Scheme



INPUT TAX CREDIT

CONDITIONS FOR AVAILMENT OF ITC – SECTION 16 OF CGST ACT, 2017 READ WITH RULE 36 OF CGST RULES, 2017

ITC to be Availed as per Rule 36(4) = Eligible ITC in GSTR-2A + 20%

- ITC to be availed by a registered person
- in respect of *invoices or debit notes*, the details of which have NOT been *uploaded by the suppliers* under Section 37(1) [GSTR-1],
 - shall NOT exceed 20% of the *eligible credit* available in respect of *invoices or debit notes* the details of which have been *uploaded by the suppliers* under Section 37(1) [GSTR-1].

Clarification on restrictions in availment of ITC in terms of Rule 36(4) of CGST Rules, 2017 – CBIC Circular 123/42/2019 – CGST

Restriction on ITC – Self-Assessment	<p>The conditions and eligibility for the ITC that may be availed by the recipient shall continue to be governed as per the provisions of Chapter V of the CGST Act and the rules made thereunder.</p> <p>Rule 36(4) being a new provision, the restriction is <i>not imposed through the common portal</i> and it is the responsibility of the taxpayer that credit is availed in terms of the said rule and therefore, the <i>availment of restricted credit in terms Rule 36(4)</i> of CGST Rules shall be done on <i>self-assessment basis</i> by the tax payers</p>
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Issue 1	What are the invoices / debit notes on which the restriction under Rule 36(4) of the CGST Rules shall apply?
Clarification	<ul style="list-style-type: none"> ▪ The restriction of availment of ITC is imposed ONLY in respect of those <i>invoices / debit notes</i>, details of which are <i>required to be uploaded by the suppliers</i> under Section 37(1) and which have <i>not been uploaded</i>. Therefore, taxpayers may avail <i>full ITC</i> in respect of <ul style="list-style-type: none"> ✓ IGST paid on <i>import of goods</i>, ✓ documents issued under <i>RCM</i>, ✓ credit received from <i>ISD</i> etc. which are outside the ambit Section 37(1), provided that <i>eligibility conditions</i> for availment of ITC are <i>met</i> in respect of the same. ▪ The restriction of Rule 36(4) will be applicable only on the <i>invoices / debit notes</i> on which <i>credit</i> is availed <i>after 09.10.2019</i>.

Issue 2	Whether the said restriction is to be calculated supplier wise or on consolidated basis?
Clarification	<ul style="list-style-type: none"> The restriction imposed is NOT supplier wise. The credit available Rule 36(4) is linked to Total Eligible ITC from ALL suppliers against all supplies whose details have been uploaded by the suppliers. Further, the calculation would be based on ONLY those invoices which are otherwise eligible for ITC. Accordingly, those invoices on which ITC is not available under any of the provision [say Section 17(5)] would not be considered for calculating 20% of the eligible credit available.
Issue 3	FORM GSTR-2A being a dynamic document, what would be the amount of ITC that is admissible to the taxpayers for a particular tax period in respect of invoices / debit notes whose details have not been uploaded by the suppliers?
Clarification	<ul style="list-style-type: none"> The amount of ITC in respect of the invoices / debit notes whose details have not been uploaded by the suppliers shall not exceed 20% of the eligible ITC available to the recipient in respect of invoices or debit notes the details of which have been uploaded by the suppliers under Section 37(1) as on the due date of filing of the returns in FORM GSTR-1 of the suppliers for the said tax period. The taxpayer may have to ascertain the same from his auto populated FORM GSTR 2A as available on the due date of filing of FORM GSTR-1 under Section 37(1).
Issue 4	How much ITC a registered tax payer can avail in his FORM GSTR-3B in a month in case the details of some of the invoices have not been uploaded by the suppliers under Section 37(1)
Clarification	<ul style="list-style-type: none"> Rule 36(4) prescribes that the ITC to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers u/s 37(1), shall not exceed 20% of the eligible ITC available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under Section 37(1). The eligible ITC that can be availed is explained by way of illustrations, in a tabulated form in Table 1 below
Issue 5	When can balance ITC be claimed in case availment of ITC is restricted as per the provisions of Rule 36(4) ?
Clarification	<ul style="list-style-type: none"> The balance ITC may be claimed by the taxpayer in any of the succeeding months provided details of requisite invoices are uploaded by the suppliers. He can claim proportionate ITC as and when details of some invoices are uploaded by the suppliers provided that credit on invoices, the details of which are not uploaded under of Section 37(1) remains under 20% of the eligible input tax credit, the details of which are uploaded by the suppliers.

	<ul style="list-style-type: none"> Full ITC of balance amount may be availed, in present illustration by “R”, in case <i>total ITC</i> pertaining to <i>invoices</i> the details of which have been <i>uploaded</i> reaches Rs.8.3 lakhs (Rs.10 lakhs / 1.20). In other words, taxpayer may avail <i>full ITC</i> in respect of a tax period, <i>as and when the invoices</i> are uploaded by the suppliers <i>to the extent Eligible ITC / 1.2</i>. The same is explained for Case No. 1 and 2 of the illustrations provided at <i>Sl. No. 4 in Table 1</i> in the last column
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Table 1 (ITC in Books – Rs.10,00,000)

Case	Details of suppliers invoices for which recipient is eligible to take ITC	20% of eligible ITC where invoices are uploaded	Eligible ITC to be taken in GSTR-3B to be filed by 20 th of Next Month	Subsequent Eligibility
Case 1	Suppliers have furnished in GSTR-1 - 80 invoices involving ITC of Rs.6 lakhs as on the due date of furnishing of the details of outward supplies by the suppliers	Rs.1,20,000	Rs.6,00,000 Rs.1,20,000 = Rs.7,20,000	+ “R” may avail balance ITC of Rs.2.8 lakhs in case suppliers upload details of some of the invoices for the tax period involving ITC of Rs.2.3 lakhs out of invoices involving ITC of Rs.4 lakhs details of which had not been uploaded by the suppliers. [Rs.6 lakhs + Rs.2.3 lakhs = Rs.8.3 lakhs]
Case 2	Suppliers have furnished in FORM GSTR-1 – 60 invoices involving ITC of Rs.7 lakhs as on the due date of furnishing of the details of outward supplies by the suppliers	Rs.1,40,000	Rs.7,00,000 Rs.1,40,000 = Rs.8,40,000	+ “R” may avail balance ITC of Rs.1.6 lakhs in case suppliers upload details of some of the invoices involving ITC of Rs.1.3 lakhs out of outstanding invoices involving Rs.3 lakhs. [Rs.7 lakhs + Rs.1.3 lakhs = Rs.8.3 lakhs]

Case 3	Suppliers have furnished in FORM GSTR-1 – 75 invoices involving ITC of Rs.8.50 lakhs as on the due date of furnishing of the details of outward supplies by the suppliers	Rs.1,70,000	Rs.8,50,000 + Rs.1,50,000 = Rs.10,00,000 Additional amount of ITC availed shall be limited to Rs.1,50,000 (NOT Rs.1,70,000) to ensure that the Total ITC availed does not exceed the Total Eligible ITC.	Not Applicable
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DOCUMENTS

TAX INVOICE – SECTION 31 OF CGST ACT, 2017

CONSOLIDATED TAX INVOICE – RULE 46 OF CGST RULES, 2017

Consolidated Tax Invoice: Tax Invoice is NOT required to be issued if the following conditions are satisfied:

- (a) Recipient is Unregistered Dealer,
- (b) Value of Goods or Services \leq Rs.200 AND
- (c) Recipient does NOT demand for Tax Invoice

However, a Single Consolidated Tax Invoice shall be issued at the close of each day for all such supplies.

However, supplier engaged in making supply of services by way of *admission to exhibition of cinematograph films in multiplex screens* SHALL necessarily issue a *Separate Tax Invoice* even for value of supply being less than Rs.200, although the recipient may be unregistered person who doesn't demands for Tax Invoice. (i.e. *No option for Consolidated Tax Invoice*)

RELAXATION IN CONTENTS OF TAX INVOICE FOR NOTIFIED PERSONS – RULE 54 OF CGST RULES, 2017

Admission to Exhibition of Cinematograph Films in Multiplex Screens	Admission to Exhibition of Cinematograph Films in Screen other than Multiplex Screens
<p style="text-align: center;">↓</p> <p>Such registered supplier SHALL be required to issue an <i>Electronic Ticket</i> and the said <i>Electronic Ticket</i> shall be deemed to be a <i>Tax Invoice</i></p> <p>Such Electronic Ticket MAY NOT contain:</p> <ul style="list-style-type: none"> ▪ Details of the Recipient (i.e. Name and Address) 	<p style="text-align: center;">↓</p> <p>Such registered supplier MAY at his option do the following:</p> <ul style="list-style-type: none"> ▪ Issue Tax Invoice containing Details of Recipient OR ▪ Issue Electronic Ticket without containing Details of Recipient

CLARIFICATIONS

Clarification in respect of Goods sent / taken out of India for Exhibition or on Consignment basis for Export Promotion – CBIC Circular 108/27/2019 – CGST

Issue 1	Whether such activity of goods being sent / taken out of India for Exhibition or on Consignment basis for Export Promotion constitute as supply and whether the same is zero-rated supply?
Clarification	<ul style="list-style-type: none"> It is, accordingly, clarified that the activity of sending / <i>taking the goods out of India for exhibition</i> or on consignment basis for export promotion, EXCEPT when such activity satisfy the tests laid down in <i>Schedule I</i> of the CGST Act (hereinafter referred to as the “specified goods”), do NOT constitute <i>supply</i> as the said activity does NOT fall within the scope of Section 7 of the CGST Act as there is <i>no consideration</i> at that point in time. Since such activity is NOT a <i>supply</i>, the same <i>cannot</i> be considered as <i>Zero rated supply</i> as per the provisions contained in section 16 of the IGST Act.

Issue 2	What is the documentation required for sending / taking the specified goods out of India?
Clarification	<ul style="list-style-type: none"> As clarified above, the activity of <i>sending / taking specified goods</i> out of India is NOT a <i>supply</i>. The said activity is in the nature of “<i>sale on approval basis</i>” wherein the goods are sent / taken outside India for the approval of the person located abroad and it is ONLY when the said <i>goods are approved</i> that the <i>actual supply</i> from the exporter located in India to the importer located abroad takes place. The specified goods shall be accompanied with a <i>Delivery Challan</i> issued in accordance with the provisions contained in <i>Rule 55</i> of the CGST Rules. The activity of sending / taking specified goods out of India is <i>not a zero-rated supply</i>. That being the case, <i>execution of a bond or LUT</i>, as required under Section 16 of the IGST Act, is <i>not required</i>.

Issue 3	When is the supply of specified goods sent / taken out of India said to take place?
Clarification	<ul style="list-style-type: none"> The specified goods sent / taken out of India are required to be either <i>sold or brought back</i> within the stipulated period of <i>6 months</i> from the <i>date of removal</i> as per Section 31(7) of the CGST Act, 2017 The supply would be <i>deemed</i> to have taken place, on the expiry of <i>6 months from the date of removal</i>, if the specified goods are <i>neither sold abroad nor brought back</i> within the said period. If the <i>specified goods are sold abroad</i>, fully or partially, within the specified period of <i>6 months</i>, the <i>supply</i> is effected, in respect of quantity so sold, on the date of such sale.

Issue 4	Whether invoice is required to be issued when the specified goods sent / taken out of India are not brought back, either fully or partially, within the stipulated period?
Clarification	<ul style="list-style-type: none"> ▪ When the <i>specified goods sent / taken out</i> of India have been <i>sold</i> fully or partially, within the stipulated period of <i>6 months</i>, as laid down Section 31(7) of the CGST Act, the <i>sender</i> shall issue a <i>tax invoice</i> in respect of such quantity of specified goods which has been sold abroad, in accordance with the provisions contained in Section 12 and Section 31 of the CGST Act read with Rule 46 of the CGST Rules. ▪ When the <i>specified goods sent / taken out</i> of India have <i>neither been sold nor brought back</i>, either fully or partially, within the stipulated period of <i>6 months</i>, as laid down Section 31(7) of the CGST Act, the sender shall issue a <i>tax invoice</i> on the date of <i>expiry of 6 months</i> from the date of removal, in respect of such quantity of specified goods which have neither been sold nor brought back, in accordance with the provisions contained in Section 12 and Section 31 of the CGST Act read with Rule 46 of the CGST Rules. <p>Illustration: M/s ABC sends 100 units of specified goods out of India. The activity of merely sending / taking such specified goods out of India is not a supply. No tax invoice is required to be issued in this case but the specified goods shall be accompanied with a Delivery Challan issued in accordance with the provisions contained in Rule 55 of the CGST Rules.</p> <ul style="list-style-type: none"> ▪ In case the entire quantity of specified goods is brought back within the stipulated period of 6 months from the date of removal, no tax invoice is required to be issued as no supply has taken place in such a case. ▪ In case, however, the entire quantity of specified goods is neither sold nor brought back within 6 months from the date of removal, a tax invoice would be required to be issued for entire 100 units of specified goods in accordance with the provisions contained in Section 12 and Section 31 of the CGST Act read with Rule 46 of the CGST Rules within the time period stipulated under Section 31(7) of the CGST Act.

REGISTRATION

APPLICATION FOR REGISTRATION – SECTION 25 READ WITH RULE 8 OF CGST RULES, 2017

INFORMATION REQUIRED WHILE FILING GST REGISTRATION

Submission of Bank Account Details – Rule 10A:

<ul style="list-style-type: none"> For Registration other than below mentioned case 	<ul style="list-style-type: none"> Bank Account Details has to be provided within <i>due date of filing returns</i> under Section 39 or 45 days from the date of <i>grant of registration</i>, whichever is <i>earlier</i> **
<ul style="list-style-type: none"> For Registration under Rule 12 (TDS & TCS Registration) and For Registration under Rule 16 (Suo-moto Temporary Registration) 	<ul style="list-style-type: none"> Above provision is NOT applicable (i.e. Bank Account Details has to be provided at the time of applying for TDS / TCS Registration. Bank Account Details is NOT at all required for Suo-Moto Registration)

**** Note:** If Bank Account Details are NOT given within the said time limit, the registration may be cancelled by Department as per Rule 21.

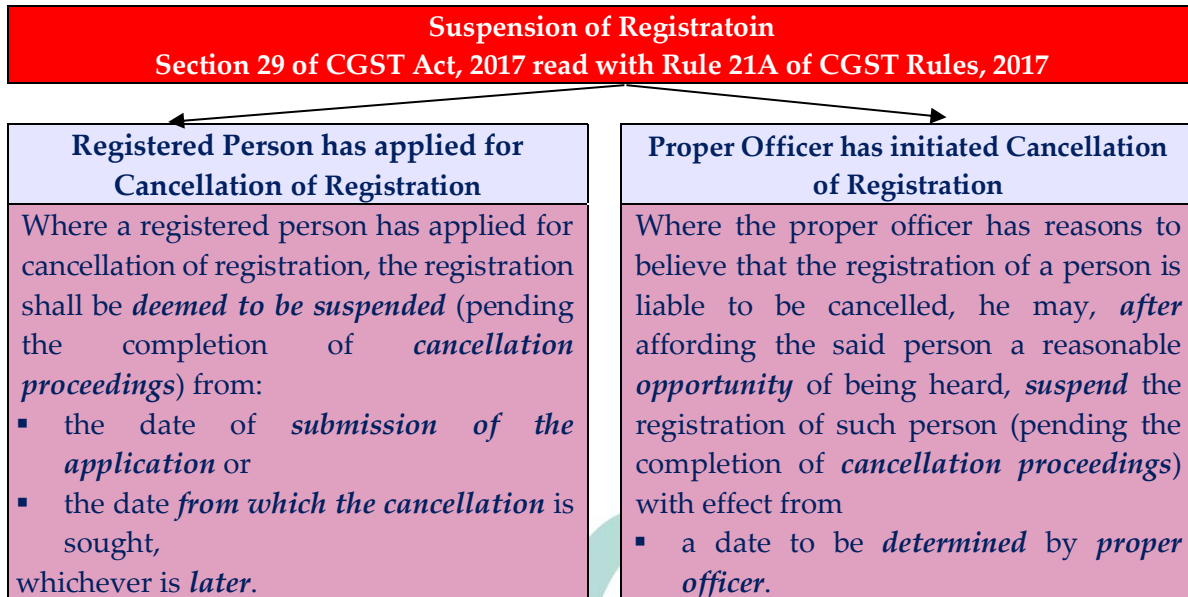
CANCELLATION OF REGISTRATION – SECTION 29 OF CGST ACT, 2017 READ WITH RULE 21 CGST RULES, 2017

SUO-MOTO CANCELLATION BY DEPARTMENT

REASONS FOR CANCELLATION

<p>→ A registered person:</p> <ul style="list-style-type: none"> does <i>not</i> conduct any business from the declared place of business; OR issues invoice or bill without supply of goods or services OR violates the provisions of Section 171 (Anti-Profiteering Clause) 	<p>→ Registration has been obtained by means of</p> <ul style="list-style-type: none"> Fraud OR Willful Misstatement OR Suppression of Facts 	<p>→ Any person who has taken voluntary registration has not commenced business within 6 months from the date of registration</p>	<p>→ Any registered person has not furnished returns for a continuous period of</p> <ul style="list-style-type: none"> 6 months for regular dealer 3 quarters for composition scheme dealer 	<p>→ Newly registered person has not provided Bank Account Details within time limits of Rule 10A i.e. earlier of due date of filing returns under Section 39 OR 45 days from grant or registration</p>
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SUSPENSION OF REGISTRATION – SECTION 29 OF CGST ACT, 2017 READ WITH RULE 21A OF CGST RULES, 2017



Notes: Common Points for Suspension of Registration

(i) A registered person, whose registration has been suspended as above:

- (a) shall **NOT** make *any taxable supply* during the period of suspension and
- (b) shall **NOT** be required to furnish *any return* under Section 39.

Explanation: For the purposes of this sub-rule, 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*. In simple, he can make supplies during suspension but without charging tax and without giving tax invoice.

(ii) Suspension of registration shall be *deemed to be revoked* upon *completion* of the *cancellation proceedings* by the proper officer. Such revocation shall be *effective* from the *date on which the suspension had come* into effect.

Once suspension is revoked and registration becomes effective again, the concept of Revised Tax Invoice (discussed in Chapter "*Documents*") and First Return (discussed in Chapter "*Return*") shall be applicable for such registered person.

PAYMENT**ELECTRONIC CASH LEDGER
RULE 87 OF CGST RULES, 2017**

Supplier of OIDAR providing services from outside India to Non-Taxable Online Recipient can now make payment ONLY through GST Portal; now facility of making payment through EASIEST – Service Tax Portal is withdrawn.



RETURN

SUMMARY RETURN – FORM GSTR-3B

SECTION 39 OF CGST ACT, 2017 READ WITH RULE 61 OF CGST RULES, 2017

GSTR-3B is in addition to GSTR-1 and GSTR-2. Now, officially, *GSTR-3B is replacement of GSTR-3* under Section 39 till filing in GSTR-3B continues. However, officially filing of GSTR-2 has not been done away with by the Government.

ANNUAL RETURN – FORM GSTR-9 / FORM GSTR-9A / FORM GSTR-9B

SECTION 44 OF CGST ACT, 2017 READ WITH RULE 80 OF CGST RULES, 2017

Exemption from Annual Return (GSTR-9) and Reconciliation Statement (GSTR-9C)

(i) Exemption from BOTH GSTR-9 and GSTR-9C

Person providing OIDAR services from a place outside India to Non-Taxable Online Recipient (Unregistered Persons) are **NOT** required to furnish *Annual Return* (GSTR-9) and furnish *Reconciliation Statement* (GSTR-9C)

(ii) Exemption from ONLY GSTR-9

Filing of *Annual Return* (GSTR-9) for *FY 2017-18 and FY 2018-19* is *optional* for taxpayers whose *Aggregate Turnover* is less than *Rs.2 crores* and who have *not filed* the said return *before the due date*.

However, the *Annual Return* shall be *deemed to be furnished* on the *due date* if it has **NOT** been furnished before the due date.

E-WAY BILL

E-WAY BILL – SECTION 68 OF CGST ACT, 2017 READ WITH RULE 138 OF CGST RULES, 2017

Validity of E-Way Bill	Other than Over-Dimensional Cargo & Multimodal Shipment in which at least one leg involves Transport by Ship		Over-Dimensional Cargo OR Multimodal Shipment in which at least one leg involves Transport by Ship	
	Distance	Validity (Period)	Distance	Validity (Period)
	(i) Upto 100 kms	→ One day from 'relevant date'	(i) Upto 20 kms	→ One day from 'relevant date'
(ii) For every 100 kms or part thereof thereafter	→ One additional day	(ii) For every 20 kms or part thereof thereafter	→ One additional day	

