



सत्यमेव जयते

# **MODEL GST LAW**

**Empowered Committee of State Finance Ministers**

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## **GOODS AND SERVICES TAX ACT, 2016**

### **CHAPTER – I**

#### **PRELIMINARY**

1. Short title, extent and commencement
2. Definitions
3. Meaning and scope of supply

### **CHAPTER– II**

#### **ADMINISTRATION**

4. Classes of officers under the Central Goods and Services Tax Act
4. Classes of officers under the State Goods and Services Tax Act
5. Appointment of officers under the Central Goods and Services Tax Act
6. Powers of officers under the Central Goods and Services Tax Act

### **CHAPTER– III**

#### **LEVY OF, AND EXEMPTION FROM, TAX**

7. Levy and Collection of Central/State Goods and Services Tax
8. Composition levy
9. Taxable person
10. Power to grant exemption from tax
11. Remission of tax on supplies found deficient in quantity

### **CHAPTER- IV**

#### **TIME AND VALUE OF SUPPLY**

12. Time of supply of goods
13. Time of supply of services
14. Change in rate of tax in respect of supply of services
15. Value of taxable supply

**CHAPTER- V**  
**INPUT TAX CREDIT**

- 16. Manner of taking input tax credit
- 16A. Taking input tax credit in respect of inputs sent for job work
- 17. Manner of distribution of credit by Input Service Distributor
- 18. Manner of recovery of credit distributed in excess

**CHAPTER- VI**  
**REGISTRATION**

- 19. Registration
- 19A. Special provisions relating to casual taxable person and non-resident taxable person
- 20. Amendment of registration
- 21. Cancellation of registration
- 22. Revocation of cancellation of registration

**CHAPTER - VII**  
**TAX INVOICE, CREDIT AND DEBIT NOTES**

- 23. Tax invoice
- 23 A. Amount of tax to be indicated in tax invoice and other documents
- 24. Credit and debit notes

**CHAPTER- VIII**  
**RETURNS**

- 25. Furnishing details of outward supplies
- 26. Furnishing details of inward supplies
- 27. Returns
- 27A. First Return
- 28. Claim of input tax credit and provisional acceptance thereof

- 29. Matching, reversal and re-claim of input tax credit
- 29A. Matching, reversal and re-claim of reduction in output tax liability
- 30. Annual return
- 31. Final return
- 32. Notice to return defaulters
- 33. Levy of late fee
- 34. Tax Return Preparers

#### **CHAPTER– IX**

#### **PAYMENT OF TAX**

- 35. Payment of tax, interest, penalty, and other amounts
- 36. Interest on delayed payment of tax
- 37. Tax deduction at source

#### **CHAPTER– IXA**

#### **TRANSFER OF INPUT TAX CREDIT**

- 37A. Transfer of input tax credit

#### **CHAPTER-X**

#### **REFUNDS**

- 38. Refund of tax
- 39. Interest on delayed refunds
- 40. Consumer Welfare Fund
- 41. Utilization of the Fund

#### **CHAPTER– XI**

#### **ACCOUNTS AND RECORDS**

- 42. Accounts and other records
- 43. Period of retention of accounts

**CHAPTER– XIA**

**JOB WORK**

43A. Special procedure for removal of goods for certain purposes

**CHAPTER– XIB**

**ELECTRONIC COMMERCE**

43B. Definitions

43C. Collection of tax at source

**CHAPTER– XII**

**ASSESSMENT**

44. Self-assessment

44A. Provisional assessment

45. Scrutiny of returns

46. Assessment of non-filers of returns

47. Assessment of unregistered persons

48. Summary assessment in certain special cases

**CHAPTER– XIII**

**AUDIT**

49. Audit by tax authorities

50. Special audit

**CHAPTER– XIV**

**DEMANDS AND RECOVERY**

51. Determination of tax not paid or short paid or erroneously refunded

52. Tax collected but not deposited with the Central or a State Government

53. Tax wrongfully collected and deposited with the Central or a State Government

54. Recovery of tax
55. Payment of tax and other amount in installments
56. Transfer of property to be void in certain cases
57. Tax to be first charge on property
58. Provisional attachment to protect revenue in certain cases
59. Continuation of certain recovery proceedings

#### **CHAPTER– XV**

#### **INSPECTION, SEARCH, SEIZURE AND ARREST**

60. Power of inspection, search and seizure
61. Inspection of goods in movement
62. Power to arrest
63. Power to summon persons to give evidence and produce documents
64. Access to business premises
65. Officers required assisting CGST/SGST Officers

#### **CHAPTER– XVI**

#### **OFFENCES AND PENALTIES**

66. Offences and penalties
67. General penalty
68. General disciplines related to penalty
69. Detention of goods and conveyances, and levy of penalty
70. Confiscation of goods and levy of penalty
71. Confiscation of conveyances
72. Confiscation or penalty not to interfere with other punishments

#### **CHAPTER– XVII**

#### **PROSECUTION AND COMPOUNDING OF OFFENCES**

73. Prosecution
74. Cognizance of offences

- 75. Presumption of culpable mental state
- 76. Relevancy of statements under certain circumstances
- 77. Offences by companies and certain other persons
- 78. Compounding of offences

#### **CHAPTER–XVIII**

##### **APPEALS**

- 79. Appeals to First Appellate Authority
- 80. Left Blank
- 81. Constitution of the National Appellate Tribunal
- 82. Appeals to the Appellate Tribunal
- 83. Orders of Appellate Tribunal

#### **CHAPTER– XVIII**

##### **APPEALS AND REVISION**

- 79. Appeals to First Appellate Authority
- 80. Revisional powers of Commissioner
- 81. Constitution of the National Appellate Tribunal
- 82. Appeals to the Appellate Tribunal
- 83. Orders of Appellate Tribunal
- 84. Procedure of Appellate Tribunal
- 85. Interest on delayed refund of pre-deposit
- 86. Appearance by authorised representative
- 87. Appeal to the High Court
- 88. Appeal to the Supreme Court
- 89. Hearing before Supreme Court
- 90. Sums due to be paid notwithstanding appeal etc
- 91. Exclusion of time taken for copy
- 92. Appeal not to be filed in certain cases
- 93. Non appealable decisions and orders

**CHAPTER– XIX**  
**ADVANCE RULING**

94. Definitions
95. Authority for Advance Ruling
96. Appellate Authority for Advance Ruling
97. Application for advance ruling
98. Procedure on receipt of application
99. Appeal to the Appellate Authority
100. Orders of Appellate Authority
101. Rectification of advance ruling
102. Applicability of advance ruling
103. Advance ruling to be void in certain circumstances
104. Powers of the Authority and Appellate Authority
105. Procedure of the Authority and Appellate Authority

**CHAPTER– XX**  
**SETTLEMENT OF CASES**

-

**CHAPTER– XXI**  
**PRESUMPTION AS TO DOCUMENTS**

106. Presumption as to documents in certain cases
107. Admissibility of micro films, facsimile copies of documents and computer printouts as documents and as evidence

**CHAPTER- XXII**  
**LIABILITY TO PAY IN CERTAIN CASES**

108. Liability in case of transfer of business
109. Liability in case of amalgamation/merger of companies



- 110. Liability in case of company in liquidation
- 111. Liability of partners of firm to pay tax
- 112. Liability of guardians, trustees etc
- 113. Liability of Court of Wards etc.
- 114. Special provision regarding liability to pay tax in certain cases
- 115. Liability in other cases

## **CHAPTER– XXIII**

### **MISCELLANEOUS PROVISIONS**

- 116. GST compliance rating
- 117. Obligation to furnish information return
- 118. Penalty for failure to furnish information return
- 119. Power to collect statistics
- 120. Disclosure of information required under section 119
- 121. Test purchase of goods and/or services
- 122. Drawal of samples
- 123. Burden of Proof
- 124. Persons discharging functions under the Act shall be deemed to be public servants
- 125. Indemnity
- 126. Disclosure of information by a public servant
- 127. Publication of information respecting persons in certain cases
- 128. Assessment proceedings, etc. not to be invalid on certain grounds
- 129. Rectification of mistakes or errors apparent from record
- 130. Bar of jurisdiction of civil courts
- 131. Levy of fees
- 132. Power of Central (or State) Government to make rules
- 132A. General power to make Regulations
- 133. Delegation of powers
- 134. Instructions to GST Officers

135. Removal of difficulties
136. Service of Notice in certain circumstances
137. Rounding off of tax etc
138. Effect of amendments, etc., of rules, notifications or orders
139. Publication of rules and notifications and laying of rules before Parliament / State Legislature

#### **CHAPTER– XXIV**

#### **REPEAL AND SAVING**

140. Repeal and saving

#### **CHAPTER– XXV**

#### **TRANSITIONAL PROVISIONS**

141. General provisions
142. Migration of existing taxpayers to GST
143. Amount of CENVAT credit carried forward in a return to be allowed as input tax credit
144. Unavailed cenvat credit on capital goods, not carried forward in a return, to be allowed in certain situations
145. Credit of eligible duties and taxes in respect of inputs held in stock to be allowed in certain situations
146. Credit of eligible duties and taxes on inputs held in stock to be allowed to a taxable person switching over from composition scheme
147. Amount payable in the event of a taxable person switching over to composition scheme
148. Exempted goods returned to the place of business on or after the appointed day
149. Duty paid goods returned to the place of business on or after the appointed day
150. Inputs removed for job work and returned on or after the appointed day
151. Semi-finished goods removed for job work and returned on or after the appointed day
152. Finished goods removed for carrying out certain processes and returned on or after the appointed day
153. Issue of supplementary invoices, debit or credit notes where price is revised in pursuance of a contract

- 154. Pending refund claims to be disposed of under earlier law
- 155. Claim of cenvat credit to be disposed of under the earlier law
- 156. Finalization of proceedings relating to output duty liability
- 157. Treatment of the amount recovered or refunded in pursuance of assessment or adjudication proceedings
- 158. Treatment of the amount recovered or refunded pursuant to revision of returns
- 159. Treatment of long term construction / works contracts
- 160. Progressive or periodic supply of goods or services
- 161. Treatment of retention payments
- 162. Credit distribution of service tax by ISD
- 162A. Tax paid on goods lying with agents to be allowed as credit
- 162B. Tax paid on capital goods lying with agents to be allowed as credit
- 162C. Treatment of branch transfers
- 162D. Goods sent on approval basis returned on or after the appointed day
- 162 E. Deduction of tax source

## **SCHEDULES**

- I Matters to be treated as supply without consideration
- II Matters to be treated as supply of goods or services
- III Liability to be registered
- IV Activities or transactions in respect of which the Central Government, a State Government or any Local Authority shall not be regarded as a taxable person

## **RULES**

1. GST Valuation (Determination of the Value of supply of Goods and Services) Rules, 2016

## CHAPTER I

### PRELIMINARY

#### 1. Short title, extent and commencement

- (1) This Act may be called the Central / State Goods and Services Tax Act, 2016.
- (2) It extends to the whole of India / State's name.
- (3) It shall come into force on such date as the Central or a State Government may, by notification in the Official Gazette, appoint in this behalf:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

#### 2. Definitions

In this Act, unless the context otherwise requires,-

- (1) "**actionable claim**" shall have the meaning assigned to it in section 3 of the Transfer of Property Act, 1882;
- (2) "**address of delivery**" means the address of the recipient of goods and/or services indicated on the tax invoice issued by a taxable person for delivery of such goods and/or services;
- (3) "**address on record**" means the address of the recipient as available in the records of the supplier;
- (4) "**adjudicating authority**" means any authority competent to pass any order or decision under this Act, but does not include the Board, the First Appellate Authority and the Appellate Tribunal;
- (5) "**agent**" means a person who carries on the business of supply or receipt of goods and/or services on behalf of another, whether disclosed or not and includes a factor, broker, commission agent, *arhatia*, *del credere* agent, intermediary or an auctioneer or any other mercantile agent, by whatever name called, and whether of the same description as hereinbefore mentioned or not;
- (6) "**aggregate turnover**" means the aggregate value of all taxable and non-taxable supplies, exempt supplies and exports of goods and/or services of a person having the same PAN, to be computed on all India basis and excludes taxes, if any, charged under the CGST Act, SGST Act and the IGST Act, as the case may be;

Explanation.- Aggregate turnover does not include the value of supplies on which tax is levied on reverse charge basis and the value of inward supplies.

- (7) "**agriculture**" with all its grammatical variations and cognate expressions, includes floriculture, horticulture, sericulture, the raising of crops, grass or garden produce and also grazing, but does not include dairy farming, poultry farming, stock breeding, the mere cutting of wood or grass, gathering of fruit, raising of man-made forest or rearing of seedlings or plants;

Explanation.- For the purpose of this clause, the expression 'forest' means the forest to which the Indian Forest Act, 1927 applies.

- (8) "**agriculturist**" means a person who cultivates land personally, for the purpose of agriculture;
- (9) "**Appellate Tribunal**" means the National Goods and Services Tax Appellate Tribunal constituted under section 81;
- (10) "**appointed day**" means the date on which section 1 of this Act comes into effect;
- (11) "**appropriate Government**" means the Central Government in case of the IGST and the CGST, and the State Government in case of the SGST;
- (12) "**assessment**" means determination of tax liability under this Act and includes self-assessment, re-assessment, provisional assessment, summary assessment and best judgement assessment;
- (13) "**associated enterprise**" shall have the meaning assigned to it in section 92A of the Income Tax Act, 1961;
- (14) "**audit**" means detailed examination of records, returns and other documents maintained or furnished by the taxable person under this Act or rules made thereunder or under any other law for the time being in force to verify, inter alia, the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed, and to assess his compliance with the provisions of this Act or rules made thereunder;
- (15) "**authorized bank**" shall mean a bank or a branch of a bank authorised by the Government to collect the tax or any other amount payable to the appropriate government under this Act;
- (16) "**Board**" means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963;
- (17) "**business**" includes –
- (a) any trade, commerce, manufacture, profession, vocation or any other similar activity, whether or not it is for a pecuniary benefit;
  - (b) any transaction in connection with or incidental or ancillary to (a) above;
  - (c) any transaction in the nature of (a) above, whether or not there is volume, frequency, continuity or regularity of such transaction;
  - (d) supply or acquisition of goods including capital assets and services in connection with commencement or closure of business;
  - (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members, as the case may be;
  - (f) admission, for a consideration, of persons to any premises; and
  - (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
- (18) "**business vertical**" shall have the meaning assigned to a 'business segment' in Accounting Standard 17 issued by the Institute of Chartered Accountants of India;

(19) "**capital assets**" shall have the meaning as assigned to it in the Income Tax Act, 1961 (43 of 1961) but the said expression shall not include jewellery held for personal use or property not connected with the business;

(20) "**capital goods**" means: -

(A) the following goods, namely:-

(i) all goods falling within Chapter 82, Chapter 84, Chapter 85, Chapter 90, heading 6805, grinding wheels and the like, and parts thereof falling under heading 6804 of the Schedule to this Act;

(ii) pollution control equipment;

(iii) components, spares and accessories of the goods specified at (i) and (ii);

(iv) moulds and dies, jigs and fixtures;

(v) refractories and refractory materials;

(vi) tubes and pipes and fittings thereof;

(vii) storage tank; and

(viii) motor vehicles other than those falling under tariff headings 8702, 8703, 8704, 8711 and their chassis but including dumpers and tippers used-

(1) at the place of business for supply of goods; or

(2) outside the place of business for generation of electricity for captive use at the place of business; or

(3) for supply of services,

(B) motor vehicle designed for transportation of goods including their chassis registered in the name of the supplier of service, when used for

(i) supplying the service of renting of such motor vehicle; or

(ii) transportation of inputs and capital goods used for supply of service; or

(iii) supply of courier agency service;

(C) motor vehicle designed to carry passengers including their chassis, registered in the name of the supplier of service, when used for supplying the service of-

(i) transportation of passengers; or

(ii) renting of such motor vehicle; or

(iii) imparting motor driving skills;

(D) Components, spares and accessories of motor vehicles which are capital goods for the taxable person.

(21) "**casual taxable person**" means a person who occasionally undertakes transactions involving supply of goods and/or services in the course or furtherance of

business whether as principal, agent or in any other capacity, in a taxable territory where he has no fixed place of business;

(22) "**CGST**" means the tax levied under the Central Goods and Services Tax Act, 2016;

(23) "**chartered accountant**" means a chartered accountant within the meaning of the Chartered Accountants Act, 1949 (38 of 1949);

(24) "**commissioner**" means the Commissioner of Central Goods and Services Tax /Commissioner of State Goods and Services Tax appointed under section 4 of the Central/State Goods and Services Tax Act, 2016;

(25) "**common portal**" means the common GST electronic portal approved by the Central Government and State Governments, on the recommendation of the Council, for the specified purposes, as may be notified under this Act;

(26) "**company secretary**" means a company secretary within the meaning of the Company Secretaries Act, 1980 (56 of 1980);

(27) "**composite supply**" means a supply consisting of -

- (a) two or more goods;
- (b) two or more services; or
- (c) a combination of goods and services

provided in the course or furtherance of business, whether or not the same can be segregated;

(28) "**consideration**" in relation to the supply of goods and/or services to any person, includes

(a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods and/or services, whether by the said person or by any other person;

(b) the monetary value of any act or forbearance, whether or not voluntary, in respect of, in response to, or for the inducement of, the supply of goods and/or services, whether by the said person or by any other person:

Provided that a deposit, whether refundable or not, given in respect of the supply of goods and/or services shall not be considered as payment made for the supply unless the supplier applies the deposit as consideration for the supply;

(29) "**continuous journey**" means a journey for which a single or more than one ticket or invoice is issued at the same time, either by a single supplier of service or through an agent acting on behalf of more than one supplier of service, and which involves no stop over between any of the legs of the journey for which one or more separate tickets or invoices are issued;

Explanation.- For the purposes of this clause, 'stopover' means a place where a passenger can disembark either to transfer to another conveyance or break his journey for a certain period in order to resume it at a later point of time.

(30) "**continuous supply of goods**" means a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, whether or



not by means of a wire, cable, pipeline or other conduit, and for which the supplier invoices the recipient on a regular or periodic basis;

(31) “**continuous supply of services**” means a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding three months with periodic payment obligations and includes supply of such service as the Central or a State Government may, whether or not subject to any condition, by notification, specify;

(32) “**conveyance**” includes a vessel, aircraft and a vehicle;

(33) “**cost accountant**” means a cost accountant within the meaning of the Cost and Works Accountants Act, 1959 (23 of 1959);

(34) “**Council**” means the Goods and Services Tax Council established under Article 279A of the Constitution;

(35) “**credit note**” means a document issued by a taxable person as referred to in sub-section (1) of section 24;

(36) “**debit note**” means a document issued by a taxable person as referred to in sub-section (2) of section 24;

(37) “**deemed exports**”, as notified by the Central Government/State Government on the recommendation of the Council, refer to those transactions in which the goods supplied do not leave India, and payment for such supplies is received either in Indian Rupees or in convertible foreign exchange;

(38) “**document**” includes written or printed record of any sort and electronic record as defined in the Information Technology Act, 2000 [21 of 2000];

(39) “**earlier law**” means any of the following laws, that is to say,

(a) . . .

(b) . . .

(c) . . .

as amended from time to time and includes enactments which have validated anything done or omitted to be done under any of the above mentioned laws and also any law repealed by the earlier laws but continued in force under any provisions of the above enumerated laws;

(40) “**electronic cash ledger**” means the cash ledger in electronic form maintained at the common portal for each registered taxable person in the manner as may be prescribed in this behalf;

(41) “**electronic credit ledger**” means the input tax credit ledger in electronic form maintained at the common portal for each registered taxable person in the manner as may be prescribed in this behalf;

(42) “**exempt supply**” means supply of any goods and/or services which are not taxable under this Act and includes such supply of goods and/or services which are specified in Schedule . . . of the Act or which may be exempt from tax under section 10;

(43) "**export of goods**" with its grammatical variations and cognate expressions, means taking out of India to a place outside India;

(44) the supply of any service shall be treated as "**export of service**" when

(a) the supplier of service is located in India,

(b) the recipient of service is located outside India,

(c) the place of supply of service is outside India,

(d) the payment for such service has been received by the supplier of service in convertible foreign exchange, and

(e) the supplier of service and recipient of service are not merely establishments of a distinct person;

Explanation.- For the purposes of clause (e), an establishment of a person in India and any of his other establishment outside India shall be treated as establishments of distinct persons.

(45) "**First Appellate Authority**" means an authority referred to in section 79;

(46) "**fixed establishment**" means a place (other than the place of business) which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs;

(47) "**fund**" means the Consumer Welfare Fund established under section 40;

(48) "**goods**" means every kind of movable property other than actionable claim and money but includes securities, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under the contract of supply;

Explanation.- For the purpose of this clause, the term 'moveable property' shall not include any intangible property.

(49) "**government**" means Central Government and its departments, a State Government and its departments and a Union territory and its departments, but shall not include any entity, whether created by a statute or otherwise, the accounts of which are not required to be kept in accordance with Article 150 of the Constitution or the rules made thereunder;

(50) "**IGST**" means the tax levied under the Integrated Goods and Services Tax Act, 2016;

(51) "**import of goods**" with its grammatical variations and cognate expressions, means bringing into India from a place outside India;

(52) the supply of any service shall be treated as an "**import of service**" if,

(a) the supplier of service is located outside India,

(b) the recipient of service is located in India,

(c) the place of supply of service is in India, and

(d) the supplier of service and the recipient of service are not merely establishments of a distinct person;

Explanation 1.- An establishment of a person in India and any of his other establishment outside India shall be treated as establishments of distinct persons.

Explanation 2.- A person carrying on a business through a branch or agency or representational office in any territory shall be treated as having an establishment in that territory.

(53) "**India**" means,-

(a) the territory of the Union as referred to in clauses (2) and (3) of Article 1 of the Constitution;

(b) its territorial waters, continental shelf, exclusive economic zone or any other maritime zone as defined in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976);

(c) the seabed and the subsoil underlying the territorial waters;

(d) the air space above its territory and territorial waters; and

(e) the installations, structures and vessels located in the continental shelf of India and the exclusive economic zone of India, for the purposes of prospecting or extraction or production of mineral oil and natural gas and supply thereof;

(54) "**input**" means any goods other than capital goods, subject to exceptions as may be provided under this Act or the rules made thereunder, used or intended to be used by a supplier for making an outward supply in the course or furtherance of business;

(55) "**input service**" means any service, subject to exceptions as may be provided under this Act or the rules made thereunder, used or intended to be used by a supplier for making an outward supply in the course or furtherance of business;

(56) "**Input Service Distributor**" means an office of the supplier of goods and / or services which receives tax invoices issued under section 23 towards receipt of input services and issues tax invoice or such other document as prescribed for the purposes of distributing the credit of CGST (SGST in State Acts) and / or IGST paid on the said services to a supplier of taxable goods and / or services having same PAN as that of the office referred to above;

Explanation.- For the purposes of distributing the credit of CGST (SGST in State Acts) and / or IGST, Input Service Distributor shall be deemed to be a supplier of services.

(57) "**input tax**" in relation to a taxable person, means the {IGST and CGST}/{IGST and SGST} charged on any supply of goods and/or services to him which are used, or are intended to be used, in the course or furtherance of his business and includes the tax payable under sub-section (3) of section 7;

(58) "**input tax credit**" means credit of 'input tax' as defined in section 2(56);

(59) "**intangible property**" means any property other than tangible property;

(60) "**invoice**" shall have the meaning as assigned to it under section 23;

(61) "**inward supply**" in relation to a person, shall mean receipt of goods and/or services whether by purchase, acquisition or any other means and whether or not for any consideration;

(62) **“job work”** means undertaking any treatment or process by a person on goods belonging to another registered taxable person and the expression “job worker” shall be construed accordingly;

(63) **“local authority”** means

- (a) a “Panchayat” as defined in clause (d) of Article 243 of the Constitution;
- (b) a “Municipality” as defined in clause (e) of Article 243P of the Constitution;
- (c) a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central or any State Government with the control or management of a municipal or local fund;
- (d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006;
- (e) a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution;
- (f) a Development Board constituted under Article 371 of the Constitution; or
- (g) a Regional Council constituted under Article 371A of the Constitution;

(64) **“location of recipient of service”** means:

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

(65) **“location of supplier of service”** means:

- (i) where a supply is made from a place of business for which registration has been obtained, the location of such place of business ;
- (ii) where a supply is made from a place other than the place of business for which registration has been obtained, that is to say, a fixed establishment elsewhere, the location of such fixed establishment;
- (iii) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provision of the supply; and
- (iv) in absence of such places, the location of the usual place of residence of the supplier;

(66) **“manufacturer”** shall have the meaning assigned to it by the Central Excise Act, 1944 (1 of 1944);

(67) **“market value”** shall mean the full amount which a recipient of a supply is required to pay in order to obtain the goods and/or services of like kind and quality at or

about the same time and at the same commercial level where the recipient and the supplier are not related;

(68) "**money**" means Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any such similar instrument when used as consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value;

(69) "**non-resident taxable person**" means a taxable person who occasionally undertakes transactions involving supply of goods and/or services whether as principal or agent or in any other capacity but who has no fixed place of business in India;

(70) "**non-taxable territory**" means the territory which is outside the taxable territory;

(71) "**notification**" means notification published in the Official Gazette and the expressions 'notify' and 'notified' shall be construed accordingly;

(72) "**output tax**" in relation to a taxable person, means the CGST/SGST chargeable under this Act on taxable supply of goods and/or services made by him or by his agent and excludes tax payable by him on reverse charge basis;

(73) "**outward supply**" in relation to a person, shall mean supply of goods and/or services, whether by sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made by such person in the course or furtherance of business except in case of such supplies where the tax is payable on reverse charge basis;

(74) "**person**" includes—

- (a) an individual;
- (b) a Hindu undivided family;
- (c) a company;
- (d) a firm;
- (e) a Limited Liability Partnership;
- (f) an association of persons or a body of individuals, whether incorporated or not, in India or outside India;
- (g) any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 2(45) of the Companies Act, 2013 (18 of 2013);
- (h) any body corporate incorporated by or under the laws of a country outside India;
- (i) a co-operative society registered under any law relating to cooperative societies;
- (j) a local authority;
- (k) government;
- (l) society as defined under the Societies Registration Act, 1860 (21 of 1860);
- (m) trust; and
- (n) every artificial juridical person, not falling within any of the preceding sub-clauses;

(75) "**place of business**" includes

- (a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, provides or receives goods and/or services; or
- (b) a place where a taxable person maintains his books of account; or

(c) a place where a taxable person is engaged in business through an agent, by whatever name called;

(76) "**prescribed**" means prescribed by the rules, regulations or by any notification issued under this Act;

(77) "**principal**" means a person on whose behalf an agent carries on the business of supply or receipt of goods and/or services;

(78) "**principal place of business**" means the place of business specified as the principal place of business in the certificate of registration where the taxable person keeps and maintains the accounts and records as specified under section 42 ;

(79) "**proper officer**" in relation to any function to be performed under this Act, means the officer of goods and services tax who is assigned that function by the Board/Commissioner of SGST;

(80) "**recipient**" of supply of goods and/or services means-

(a) where a consideration is payable for the supply of goods and/or services, the person who is liable to pay that consideration,

(b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available, and

(c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,

and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply;

Explanation.- The expression "recipient" shall also include an agent acting as such on behalf of the recipient in relation to the goods and/or services supplied.

(81) "**regulations**" means the regulations made by the Board/Commissioner under any provision of the Act on the recommendation of the Council;

(82) persons shall be deemed to be "**related persons**" if only -

(a) they are officers or directors of one another's businesses;

(b) they are legally recognized partners in business;

(c) they are employer and employee;

(d) any person directly or indirectly owns, controls or holds five per cent or more of the outstanding voting stock or shares of both of them;

(e) one of them directly or indirectly controls the other;

(f) both of them are directly or indirectly controlled by a third person;

(g) together they directly or indirectly control a third person; or

(h) they are members of the same family;

Explanation I. - The term "person" also includes legal persons.

Explanation II. - Persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.

(83) "**removal**", in relation to goods, means -

(a) dispatch of the goods for delivery by the supplier thereof or by any other person acting on behalf of such supplier, or

(b) collection of the goods by the recipient thereof or by any other person acting on behalf of such recipient;

(84) "**return**" means any return prescribed or otherwise required to be furnished by or under this Act or rules made thereunder;

(85) "**reverse charge**", means the liability to pay tax by the person receiving goods and / or services instead of the person supplying the goods and / or services in respect of such categories of supplies as the Central or a State Government may, on the recommendation of the Council, by notification, specify;

(86) "**rules**" means the rules made by the Central/State Government under any provision of the Act on the recommendation of the Council;

(87) "**schedule**" means a schedule appended to this Act;

(88) "**services**" means anything other than goods;

Explanation: Services include intangible property and actionable claim but does not include money.

(89) "**SGST**" means the tax levied under the State Goods and Services Tax Act;

(90) "**Special Economic Zone**" shall have the meaning assigned to it in clause (za) of section 2 of the Special Economic Zones Act, 2005 [28 of 2005];

(91) "**supplier**" in relation to any goods and/or services shall mean the person supplying the said goods and/or services and shall include an agent acting as such on behalf of such supplier in relation to the goods and/or services supplied;

(92) "**supply**" shall have the meaning as assigned to it in section 3;

(93) "**tangible property**" means any property that can be touched or felt;

(94) "**tax**" means goods and services tax levied on the supply of goods and/or services under this Act and includes any amount payable under section 8;

(95) "**tax period**" means the period for which the tax return is required to be filed;

(96) "**taxable person**" shall have the meaning as assigned to it in section 9 of this Act;

(97) "**taxable supply**" means a supply of goods and/or services which is chargeable to tax under this Act;

(98) "**taxable territory**" means the territory to which the provisions of this Act apply;

(99) "**Tax Return Preparer**" means any person who has been approved to act as a Tax Return Preparer under the scheme framed under section 34;

(100) "**telecommunication service**" means service of any description (including electronic mail, voice mail, data services, audio text services, video text services, radio paging and cellular mobile telephone services) which is made available to users by means of any transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature, by wire, radio, visual or other electro-magnetic means;

(101) "**time of supply of goods**" shall have the meaning as assigned to it in section 12;

(102) **“time of supply of services”** shall have the meaning as assigned to it in section 13;

(103) **“to cultivate personally”** means to carry on any agricultural operation on one’s own account-

- (a) by one’s own labour, or
- (b) by the labour of one’s family, or
- (c) by servants on wages payable in cash or kind (but not in crop share) or by hired labour under one’s personal supervision or the personal supervision of any member of one’s family;

Explanation 1. - A widow or a minor or a person who is subject to any physical or mental disability or is a serving member of the armed forces of the Union, shall be deemed to cultivate land personally if it is cultivated by her or his servants or by hired labour.

Explanation 2. - In the case of a Hindu Undivided Family, land shall be deemed to be cultivated personally, if it is cultivated by any member of such family.

(104) **“turnover in a State”** means the aggregate value of all taxable and non-taxable supplies, including exempt supplies and exports of goods and / or services made within a State by a taxable person and inter-state supplies of goods and / or services made from the State by the said taxable person excluding taxes, if any charged under the CGST Act, SGST Act and the IGST Act, as the case may be;

(105) **“usual place of residence”** means

- (a) in case of an individual, the place where he ordinarily resides;
- (b) in other cases, the place where the person, as defined in sub-section (74), is incorporated or otherwise legally constituted;

(106) **“valid return”** shall have the meaning assigned to it under sub-section (3) of section 27.

(107) **“works contract”** means an agreement for carrying out for cash, deferred payment or other valuable consideration, building, construction, fabrication, erection, installation, fitting out, improvement, modification, repair, renovation or commissioning of any moveable or immovable property;

(108) **“year”** means the financial year; and

(109) **“zero-rated supply”** means a supply of any goods and/or services on which no tax is payable but credit of the input tax related to that supply is admissible;

Explanation.- Exports shall be treated as zero-rated supply.

### **3. Meaning and scope of supply**

(1) Supply includes

(a) all forms of supply of goods and/or services such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business,

(b) importation of service, whether or not for a consideration and whether or not in the course or furtherance of business, and



(c) a supply specified in Schedule I, made or agreed to be made without a consideration.

(2) Schedule II, in respect of matters mentioned therein, shall apply for determining what is, or is to be treated as a supply of goods or a supply of services.

(2A) Where a person acting as an agent who, for an agreed commission or brokerage, either supplies or receives any goods and/or services on behalf of any principal, the transaction between such principal and agent shall be deemed to be a supply.

(3) Subject to sub-section (2), the Central or a State Government may, upon recommendation of the Council, specify, by notification, the transactions that are to be treated as—

- (i) a supply of goods and not as a supply of services; or
- (ii) a supply of services and not as a supply of goods; or
- (iii) neither a supply of goods nor a supply of services.

(4) Notwithstanding anything contained in sub-section (1), the supply of any branded service by an aggregator, as defined in section 43B, under a brand name or trade name owned by him shall be deemed to be a supply of the said service by the said aggregator.

**CHAPTER II**  
**ADMINISTRATION**

**4. Classes of officers under the Central Goods and Services Tax Act**

(1) There shall be the following classes of officers under the Central Goods and Services Tax Act, namely;

- (a) Principal Chief Commissioners of CGST or Principal Directors General of CGST,
- (b) Chief Commissioners of CGST or Directors General of CGST,
- (c) Principal Commissioners of CGST or Principal Additional Directors General of CGST,
- (d) Commissioners of CGST or Additional Directors General of CGST,
- (e) First Appellate Authority,
- (f) Additional Commissioners of CGST or Additional Directors of CGST,
- (g) Joint Commissioners of CGST or Joint Directors of CGST,
- (h) Deputy Commissioners of CGST or Deputy Directors of CGST,
- (i) Assistant Commissioners of CGST or Assistant Directors of CGST, and
- (j) such other class of officers as may be appointed for the purposes of this Act.

**4. Classes of officers under the State Goods and Services Tax Act**

(1) There shall be the following classes of officers and persons under the State Goods and Services Tax Act namely.

- a) Commissioner of SGST,
- b) Special Commissioners of SGST,
- c) Additional Commissioners of SGST,
- d) Joint Commissioners of SGST,
- e) Deputy Commissioners of SGST,
- f) Assistant Commissioners of SGST, and
- g) such other class of officers and persons as may be appointed for the purposes of this Act. [List is indicative]

(2) The Commissioner shall have jurisdiction over the whole of the State of (...). All other officers shall have jurisdiction over the whole of the State or over such areas as the Commissioner may, by notification, specify.

**5. Appointment of officers under the Central Goods and Services Tax Act**

(1) The Board may appoint such persons as it may think fit to be officers under the Central Goods and Services Tax Act.

(2) Without prejudice to the provisions of sub-section (1), the Board may authorize a Principal Chief Commissioner/Chief Commissioner of Central Goods and Services Tax or a Principal Commissioner/Commissioner of Central Goods and Services Tax or an Additional/Joint or Deputy/Assistant Commissioner of Central Goods and Service Tax to appoint officers of Central Goods and Services Tax below the rank of Assistant Commissioner of Central Goods and Services Tax.

**(Note: State laws may have similar provision)**

**6. Powers of officers under the Central Goods and Services Tax Act**

(1) Subject to such conditions and limitations as the Board may impose, an officer of the Central Goods and Services Tax may exercise the powers and discharge the duties conferred or imposed on him under this Act.

(2) An officer of Central Goods and Services Tax may exercise the powers and discharge the duties conferred or imposed under this Act on any other officer of Central Goods and Services Tax who is subordinate to him.

(3) The Board/Commissioner may, subject to such conditions and limitations as may be specified in this behalf by him, delegate its powers to any other officer subordinate to him.

(4) Notwithstanding anything contained in this section, a First Appellate Authority shall not exercise the powers and discharge the duties conferred or imposed on an officer of Central Goods and Services Tax other than those specified in section 79 of this Act.

**(Note: State laws may have similar provision)**

## CHAPTER III

### LEVY OF, AND EXEMPTION FROM, TAX

#### 7. Levy and Collection of Central/State Goods and Services Tax

(1) There shall be levied a tax called the Central/State Goods and Services Tax (CGST/SGST) on all intra-State supplies of goods and/or services at the rate specified in the Schedule . . . to this Act and collected in such manner as may be prescribed.

(2) The CGST/SGST shall be paid by every taxable person in accordance with the provisions of this Act.

(3) Notwithstanding anything contained in sub-section (2), the Central or a State Government may, on the recommendation of the Council, by notification, specify categories of supply of goods and/or services the tax on which is payable on reverse charge basis and the tax thereon shall be paid by the person receiving such goods and/or services and all the provisions of this Act shall apply to such person as if he is the person liable for paying the tax in relation to such goods and/or services.

#### 8. Composition Levy

(1) Notwithstanding anything to the contrary contained in the Act but subject to sub-section (3) of section 7, on the recommendation of the Council, the proper officer of the Central or a State Government may, subject to such conditions and restrictions as may be prescribed, permit a registered taxable person, whose aggregate turnover in a financial year does not exceed [fifty lakh of rupees], to pay, in lieu of the tax payable by him, an amount calculated at such rate as may be prescribed, but not less than one percent of the turnover during the year:

Provided that no such permission shall be granted to a taxable person who effects any inter-State supplies of goods and/or services.

Provided further that no such permission shall be granted to a taxable person unless all the registered taxable persons, having the same PAN as held by the said taxable person, also opt to pay tax under the provisions of this sub-section.

(2) A taxable person to whom the provisions of sub-section (1) apply shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.

(3) If the proper officer has reasons to believe that a taxable person was not eligible to pay tax under sub-section (1), such person shall, in addition to any tax that may be payable by him under other provisions of this Act, be liable to a penalty equivalent to the amount of tax payable as aforesaid:

Provided that no penalty shall be imposed without giving a notice to show cause and without affording a reasonable opportunity of being heard to the person proceeded against.

#### 9. Taxable person

(1) Taxable Person means a person who carries on any business at any place in India /State of \_\_\_\_ and who is registered or required to be registered under Schedule III of this Act:

Provided that an agriculturist shall not be considered as a taxable person.

Provided further that a person who is required to be registered under paragraph 1 of Schedule III of this Act shall not be considered as a taxable person until his aggregate turnover in a financial year exceeds [Rs ten lakh]

Provided further that a person who is required to be registered under paragraph 1 of Schedule III of this Act shall not be considered as a taxable person until his aggregate turnover in a financial year exceeds [Rs five lakh]

[This threshold of 5 lacs will apply only if a taxable person conducts his business in any of the NE States including Sikkim.]

(2) The Central Government, a State Government or any local authority shall be regarded as a taxable person in respect of activities or transactions in which they are engaged as public authorities other than the activities or transactions as specified in Schedule IV to this Act.

(3) The following persons shall not be considered as taxable persons for the purposes of this Act –

(a) any person who provides services as an employee to his employer in the course of, or in relation to his employment, or by any other legal ties creating the relationship of employer and employee as regards working conditions, remunerations and employer's liability;

(b) any person engaged in the business of exclusively supplying goods and/or services that are not liable to tax under this Act;

(c) any person, liable to pay tax under sub-section (3) of section 7, receiving services of value not exceeding \_\_\_\_\_ rupees in a year for personal use, other than for use in the course or furtherance of his business.

## **10. Power to grant exemption from tax**

(1) If the Central or a State Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendation of the Council, by notification, exempt generally either absolutely or subject to such conditions as may be specified in the notification, goods and/or services of any specified description from the whole or any part of the tax leviable thereon.

Explanation.- Where an exemption under sub-section (1) in respect of any goods and/or services from the whole of the tax leviable thereon has been granted absolutely, the taxable person providing such goods and/or services shall not pay the tax on such goods and/or services.

(2) If the Central or a State Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendation of the Council, by special order in each case, exempt from payment of tax, under circumstances of an exceptional nature to be stated in such order, any goods and/or services on which tax is leviable.

(3) The Central or a State Government may, if it considers necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued

under sub-section (1) or order issued under sub-section (2), insert an explanation in such notification or order, as the case may be, by notification at any time within one year of issue of the notification under sub-section (1) or order under sub-section (2), and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.

(4) Every notification issued under sub-section (1) or sub-section (3) and every order issued under sub-section (2) shall

(a) unless otherwise provided, come into force on the date of its issue by the Central or a State Government for publication in the Official Gazette; and

(b) be made available on the official website of the department of the Central or a State Government.

#### **11. Remission of tax on supplies found deficient in quantity**

(1) The Central or a State Government may, by rules made under this sub-section, provide for remission of tax on such supplies which are found to be deficient in quantity due to any natural causes.

(2) Any rules made under sub-section (1) may, having regard to the nature of the supply, fix the limit or limits of percentage beyond which no such remission shall be allowed.

## CHAPTER IV

### TIME AND VALUE OF SUPPLY

#### 12. Time of supply of goods

(1) The liability to pay CGST / SGST on the goods shall arise at the time of supply as determined in terms of the provisions of this section.

(2) The time of supply of goods shall be the earliest of the following dates, namely,-

(a) (i) the date on which the goods are removed by the supplier for supply to the recipient, in a case where the goods are required to be removed or

(ii) the date on which the goods are made available to the recipient, in a case where the goods are not required to be removed; or

(b) the date on which the supplier issues the invoice with respect to the supply; or

(c) the date on which the supplier receives the payment with respect to the supply; or

(d) the date on which the recipient shows the receipt of the goods in his books of account.

Explanation 1.- The provisions of sub-clause (ii) of clause (a) shall apply in cases where the goods

(a) are physically not capable of being moved; or

(b) are supplied in assembled or installed form; or

(c) are supplied by the supplier to his agent or his principal.

Explanation 2.- For the purposes of sub-clause (ii) of clause (a), the expression 'made available to the recipient' shall mean when the goods are placed at the disposal of the recipient.

Explanation 3.- For the purposes of clauses (b) and (c) of sub-section (2), the supply shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.

Explanation 4.- For the purpose of clause (c) of sub-section (2), "the date on which the supplier receives the payment" shall be the date on which the payment is entered in his books of accounts or the date on which the payment is credited to his bank account, whichever is earlier.

(3) In case of continuous supply of goods, where successive statements of accounts or successive payments are involved, the time of supply shall be the date of expiry of the period to which such successive statements of accounts or successive payments relate. If there are no successive statements of account, the date of issue of the invoice (or any other document) or the date of receipt of payment, whichever is earlier, shall be the time of supply.

(4) For the purposes of sub section (3) above, the Central or a State Government may, on the recommendation of the Council, specify, by notification, the supply of goods that shall be treated as continuous supply of goods;

(5) In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely—

(a) the date of the receipt of goods, or

- (b) the date on which the payment is made, or
- (c) the date of receipt of invoice, or
- (d) the date of debit in the books of accounts.

Explanation.- For the purpose of clause (b) of sub-section (5), "the date on which the payment is made" shall be the date on which the payment is entered in the books of accounts of the recipient or the date on which the payment is debited in his bank account, whichever is earlier.

(6) If the goods (being sent or taken on approval or sale or return or similar terms) are removed before it is known whether a supply will take place, the time of supply shall be at the time when it becomes known that the supply has taken place or six months from the date of removal, whichever is earlier.

(7) In case it is not possible to determine the time of supply under the provisions of sub-section (2), (3), (5) or (6), the time of supply shall

(a) in a case where a periodical return has to be filed, be the date on which such return is to be filed, or

(b) in any other case, be the date on which the CGST/SGST is paid.

### **13. Time of supply of services**

(1) The liability to pay CGST/SGST on services shall arise at the time of supply, as determined in terms of the provisions of this section.

(2) The time of supply of services shall be:-

(a) the date of issue of invoice or the date of receipt of payment, whichever is earlier, if the invoice is issued within the prescribed period; or

(b) the date of completion of the provision of service or the date of receipt of payment, whichever is earlier, if the invoice is not issued within the prescribed period; or

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

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

Explanation 2.- For the purpose of clause (a) and (b) of sub-section (2), "the date of receipt of payment" shall be the date on which the payment is entered in the books of accounts of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.

(3) In case of continuous supply of services, the time of supply shall be -

(a) where the due date of payment is ascertainable from the contract, the date on which the payment is liable to be made by the recipient of service, whether or not any invoice has been issued or any payment has been received by the supplier of service;

(b) where the due date of payment is not ascertainable from the contract, each such time when the supplier of service receives the payment, or issues an invoice, whichever is earlier;



(c) where the payment is linked to the completion of an event, the time of completion of that event;

(4) For the purposes of sub section (3) above, the Central or a State Government may on the recommendation of the Council, specify, by notification, the supply of services that shall be treated as continuous supply of services;

(5) In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely-

- (a) the date of receipt of services, or
- (b) the date on which the payment is made, or
- (c) the date of receipt of invoice, or
- (d) the date of debit in the books of accounts.

Explanation.- For the purpose of clause (b) of sub-section (5), "the date on which the payment is made" shall be the date on which the payment is entered in the books of accounts of the recipient or the date on which the payment is debited in his bank account, whichever is earlier.

(6) In a case where the supply of services ceases under a contract before the completion of the supply, such services shall be deemed to have been provided at the time when the supply ceases.

(7) Where it is not possible to determine the time of supply of services in the manner specified in sub-sections (2), (3), (5) and (6), the time of supply shall

(a) in a case where a periodical return has to be filed, be the date on which such return is to be filed; or

(b) in any other case, be the date on which the CGST/SGST is paid.

#### **14. Change in rate of tax in respect of supply of services**

(1) Notwithstanding anything contained in section 13, the time of supply, in cases where there is a change in the effective rate of tax in respect of services, shall be determined in the following manner, namely:-

(a) in case the taxable service has been provided before the change in effective rate of tax –

(i) where the invoice for the same has been issued and the payment is also received after the change in effective rate of tax, the time of supply shall be the date of receipt of payment or the date of issue of invoice, whichever is earlier; or

(ii) where the invoice has been issued prior to change in effective rate of tax but the payment is received after the change in effective rate of tax, the time of supply shall be the date of issue of invoice; or

(iii) where the payment is received before the change in effective rate of tax, but the invoice for the same has been issued after the change in effective rate of tax, the time of supply shall be the date of receipt of payment;

(b) in case the taxable service has been provided after the change in effective rate of tax –

(i) where the payment is received after the change in effective rate of tax but the invoice has been issued prior to the change in effective rate of tax, the time of supply shall be the date of receipt of payment; or

(ii) where the invoice has been issued and the payment is received before the change in effective rate of tax, the time of supply shall be the date of receipt of payment or date of issue of invoice, whichever is earlier; or

(iii) where the invoice has been issued after the change in effective rate of tax but the payment is received before the change in effective rate of tax, the time of supply shall be the date of issue of invoice.

Explanation.- For the purpose of this section, "the date of receipt of payment" shall be the date on which the payment is entered in the books of accounts of the supplier or the date on which the payment is credited to his bank account, whichever is earlier:

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

## **15. Value of taxable supply**

(1) The value of a supply of goods and/or services shall be the transaction value, that is the price actually paid or payable for the said supply of goods and/or services where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.

(2) The transaction value under sub-section(1) shall include:

(a) any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods and/or services;

(b) the value, apportioned as appropriate, of such goods and/or services as are supplied directly or indirectly by the recipient of the supply free of charge or at reduced cost for use in connection with the supply of goods and/or services being valued, to the extent that such value has not been included in the price actually paid or payable;

(c) royalties and licence fees related to the supply of goods and/or services being valued that the recipient of supply must pay, either directly or indirectly, as a condition of the said supply, to the extent that such royalties and fees are not included in the price actually paid or payable;

(d) any taxes, duties, fees and charges levied under any statute other than the SGST Act or the CGST Act or the IGST Act;

(e) incidental expenses, such as, commission and packing, charged by the supplier to the recipient of a supply, including any amount charged for anything done by the supplier in respect of the supply of goods and/or services at the time of, or before delivery of the goods or, as the case may be, supply of the services;

(f) subsidies provided in any form or manner, linked to the supply;

(g) any reimbursable expenditure or cost incurred by or on behalf of the supplier and charged in relation to the supply of goods and/or services;

(h) any discount or incentive that may be allowed after the supply has been effected:

Provided that such post-supply discount which is established as per the agreement and is known at or before the time of supply and specifically linked to relevant invoices shall not be included in the transaction value.

(3) The transaction value under sub-section (1) shall not include any discount allowed before or at the time of supply provided such discount is allowed in the course of normal trade practice and has been duly recorded in the invoice issued in respect of the supply.

(4) The value of the supply of goods and/or services in the following situations which cannot be valued under sub-section (1), shall be determined in such manner as may be prescribed in the rules.

- (i) the consideration, whether paid or payable, is not money, wholly or partly;
- (ii) the supplier and the recipient of the supply are related;
- (iii) there is reason to doubt the truth or accuracy of the transaction value declared by the supplier;
- (iv) business transactions undertaken by a pure agent, money changer, insurer, air travel agent and distributor or selling agent of lottery;
- (v) such other supplies as may be notified by the Central or a State Government in this behalf on the recommendation of the Council.

**CHAPTER V**  
**INPUT TAX CREDIT**

**16. Manner of taking input tax credit**

(1) Every registered taxable person shall, subject to such conditions and restrictions as may be prescribed and within the time and manner specified in section 35, be entitled to take credit of input tax admissible to him and the said amount shall be credited to the electronic credit ledger of such person.

(2) A person who has applied for registration under the Act within thirty days from the date on which he becomes liable to registration and has been granted such registration shall, subject to such conditions and restrictions as may be prescribed, be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act.

(2A) A person, who takes registration under sub-section (3) of section 19, shall, subject to such conditions and restrictions as may be prescribed, be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of registration.

(3) Where any registered taxable person ceases to pay tax under section 8, he shall, subject to such conditions and restrictions as may be prescribed, be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under section 7.

(3A) A taxable person shall not be entitled to take input tax credit under sub-section (2), (2A) or sub-section (3) in respect of any supply of goods and / or services to him after the expiry of one year from the date of issue of tax invoice relating to such supply.

(4) The amount of credit under sub-section (2), (2A) or sub-section (3) shall be calculated in accordance with generally accepted accounting principles in such manner as may be prescribed.

(5) Where the goods and/or services are used by the registered taxable person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.

(6) Where the goods and / or services are used by the registered taxable person partly for effecting taxable supplies and partly for effecting non-taxable supplies, including exempt supplies but excluding zero-rated supplies, the amount of credit shall be restricted to so much of the input tax as is attributable to the taxable supplies including zero-rated supplies.

(7) The Central or a State Government may, by notification issued in this behalf, prescribe the manner in which the credit referred to in sub-sections (5) and (6) above may be attributed.

(8) Where there is a change in the constitution of a registered taxable person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provision for transfer of liabilities, the said registered taxable person shall be

allowed to transfer the input tax credit that remains unutilized in its books of accounts to such sold, merged, demerged, amalgamated, leased or transferred business in the manner prescribed.

(9) Notwithstanding anything contained in sub-section (1), (2), (2A) or (3) input tax credit shall not be available in respect of the following:

(a) motor vehicles, except when they are supplied in the usual course of business or are used for providing the following taxable services—

- (i) transportation of passengers, or
- (ii) transportation of goods, or
- (iii) imparting training on motor driving skills;

(b) goods and / or services provided in relation to food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, membership of a club, health and fitness centre, life insurance, health insurance and travel benefits extended to employees on vacation such as leave or home travel concession, when such goods and/or services are used primarily for personal use or consumption of any employee;

(c) goods and/or services acquired by the principal in the execution of works contract when such contract results in construction of immovable property, other than plant and machinery;

(d) goods acquired by a principal, the property in which is not transferred (whether as goods or in some other form) to any other person, which are used in the construction of immovable property, other than plant and machinery;

(e) goods and/or services on which tax has been paid under section 8; and

(f) goods and/or services used for private or personal consumption, to the extent they are so consumed.

(10) Where the registered taxable person has claimed depreciation on the tax component of the cost of capital goods under the provisions of the Income Tax Act, 1961, the input tax credit shall not be allowed on the said tax component.

(11) Notwithstanding anything contained in this section, but subject to the provisions of section 28, no registered taxable person shall be entitled to the credit of any input tax in respect of any supply of goods and/or services to him unless

(a) he is in possession of a tax invoice, debit note, supplementary invoice or such other taxpaying document as may be prescribed, issued by a supplier registered under this Act or the IGST Act;

(b) he has received the goods and/or services;

(c) the tax charged in respect of such supply has been actually paid to the credit of the appropriate Government, either in cash or through utilization of input tax credit admissible in respect of the said supply; and

(d) he has furnished the return under section 27:

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

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

(12) Where any registered taxable person who has availed of input tax credit switches over as a taxable person for paying tax under section 8 or, where the goods and / or services supplied by him become exempt absolutely under section 10, he shall pay an amount, by way of debit in the electronic credit or cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of such switch over or, as the case may be, the date of such exemption:

Provided that after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.

(13) The amount payable under sub-section (12) shall be calculated in accordance with generally accepted accounting principles in such manner as may be prescribed.

(14) In case of supply of capital goods on which input tax credit has been taken, the registered taxable person shall pay an amount equal to the input tax credit taken on the said capital goods reduced by the percentage points as may be specified in this behalf or the tax on the transaction value of such capital goods under sub-section (1) of section 15, whichever is higher.

(15) A taxable person shall not be entitled to take input tax credit in respect of any invoice for supply of goods and/or services, after the filing of the return under section 27 for the month of September following the end of financial year to which such invoice pertains or filing of the relevant annual return, whichever is earlier.

(16) Where credit has been taken wrongly, the same shall be recovered from the registered taxable person in the manner as may be prescribed in this behalf.

#### **16A. Taking input tax credit in respect of inputs sent for job work**

(1) The "principal" referred to in section 43 A shall, subject to such conditions and restrictions as may be prescribed, be entitled to take credit of input tax on inputs sent to a job-worker for job-work if the said inputs, after completion of job-work, are received back by him within one hundred and eighty days of their being sent out:

Provided that the "principal" shall be entitled to take credit of input tax on inputs even if the inputs are directly sent to a job worker for job-work without their being first brought to his place of business, and in such a case, the period of one hundred and eighty days shall be counted from the date of receipt of the inputs by the job worker.

(2) The "principal" shall, subject to such conditions and restrictions as may be prescribed, be entitled to take credit of input tax on capital goods sent to a job-worker

for job-work if the said capital goods, after completion of job-work, are received back by him within two years of their being sent out:

Provided that the "principal" shall be entitled to take credit of input tax on capital goods even if the capital goods are directly sent to a job worker for job-work without their being first brought to his place of business, and in such a case, the period of two years shall be counted from the date of receipt of the capital goods by the job worker.

(3) Where the inputs or capital goods, as the case may be, are not received back by the "principal" within the time specified under sub-section (1) or under sub-section (2), as the case may be, he shall pay an amount equivalent to the input tax credit availed of on the said inputs or capital goods, as the case may be, along with interest specified under sub-section (1) of section 36:

Provided that the said "principal" may reclaim the input tax credit and interest paid earlier when the inputs or capital goods, as the case may be, are received back by him at his place of business.

### **17. Manner of distribution of credit by Input Service Distributor**

(1) The Input Service Distributor may distribute, in such manner as may be prescribed, the credit of CGST as IGST and IGST as IGST, by way of issue of a prescribed document containing, inter alia, the amount of input tax credit being distributed or being reduced thereafter, where the Distributor and the recipient of credit are located in different States.

**(CGST ACT)**

(1) The Input Service Distributor may distribute, in such manner as may be prescribed, the credit of SGST as IGST, by way of issue of a prescribed document containing, inter alia, the amount of input tax credit being distributed or being reduced thereafter, where the Distributor and the recipient of credit are located in different States.

**(SGST Act)**

(2) The Input Service Distributor may distribute, in such manner as may be prescribed, the credit of CGST and IGST as CGST, by way of issue of a prescribed document containing, inter alia, the amount of input tax credit being distributed or being reduced thereafter, where the Distributor and the recipient of credit, being a business vertical, are located in the same State.

**(CGST Act)**

(2) The Input Service Distributor may distribute, in such manner as may be prescribed, the credit of SGST and IGST as SGST, by way of issue of a prescribed document containing, inter alia, the amount of input tax credit being distributed or being reduced thereafter, where the Distributor and the recipient of credit, being a business vertical, are located in the same State.

**(SGST Act)**

(3) The Input Service Distributor may distribute the credit subject to the following conditions, namely:

(a) the credit can be distributed against a prescribed document issued to each of the recipients of the credit so distributed, and such invoice or other document shall contain such details as may be prescribed;

(b) the amount of the credit distributed shall not exceed the amount of credit available for distribution;

(c) the credit of tax paid on input services attributable to a supplier shall be distributed only to that supplier;

(d) the credit of tax paid on input services attributable to more than one supplier shall be distributed only amongst such supplier(s) to whom the input service is attributable and such distribution shall be *pro rata* on the basis of the turnover in a State of such supplier, during the relevant period, to the aggregate of the turnover of all such suppliers to whom such input service is attributable and which are operational in the current year, during the said relevant period.

**18. Manner of recovery of credit distributed in excess**

(1) Where the credit distributed by the Input Service Distributor is in excess of the credit available for distribution by him, the excess credit so distributed shall be recovered from such distributor along with interest, and the provisions of section 51 shall apply *mutatis mutandis* for effecting such recovery.

(2) Where the Input Service Distributor distributes the credit in contravention of the provisions contained in section 17 resulting in excess distribution of credit to one or more suppliers, the excess credit so distributed shall be recovered from such supplier(s) along with interest, and the provisions of section 51 shall apply *mutatis mutandis* for effecting such recovery.

Explanation. –For the purposes of section 17 and this section, the relevant period shall be-

(a) if the recipients of the credit have turnover in their States in the financial year preceding the year during which credit is to be distributed, the said financial year; or

(b) if some or all recipients of the credit do not have any turnover in their States in the financial year preceding the year during which the credit is to be distributed, the last quarter for which details of such turnover of all the recipients are available, previous to the month during which credit is to be distributed.



## **CHAPTER - VI**

### **REGISTRATION**

#### **19. Registration**

(1) Every person who is liable to be registered under Schedule III of this Act shall apply for registration in every such State in which he is so liable within thirty days from the date on which he becomes liable to registration, in such manner and subject to such conditions as may be prescribed:

Provided that if the person, other than an Input Service Distributor, is registered under an earlier law, it shall not be necessary for him to apply for fresh registration under this section and he shall follow the procedure as may be prescribed in this behalf.

(2) Notwithstanding anything contained in sub-section (1), a person having multiple business verticals in a State may obtain a separate registration for each business vertical, subject to such conditions as may be prescribed.

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

(4) Every person shall have a Permanent Account Number issued under the Income Tax Act, 1961 (43 of 1961) in order to be eligible for grant of registration under sub-section (1), (2) or (3).

(4A) Notwithstanding anything contained in sub-section (4), a non-resident taxable person may be granted registration under sub-section (1) on the basis of any other document as may be prescribed.

(5) Where a person who is liable to be registered under this Act fails to obtain registration, the proper officer may, without prejudice to any action that is, or may be taken under this Act, or under any other law for the time being in force, proceed to register such person in the manner as may be prescribed.

(6) Notwithstanding anything contained in sub-section (1), any specialized agency of the United Nations Organization or any Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), Consulate or Embassy of foreign countries and any other person or class of persons as may be notified by the Board / Commissioner, shall obtain a Unique Identity Number, in the manner prescribed, for the purpose(s) notified, including refund of taxes on the notified supplies of goods and/or services received by them.

(7) The registration or the Unique Identity Number, shall be granted or, as the case may be, rejected after due verification in the manner and within such period as may be prescribed.

(8) The proper officer shall not reject the application for registration or the Unique Identity Number without giving a notice to show cause and without giving the person a reasonable opportunity of being heard.

(8A) A certificate of registration shall be issued in the prescribed form, with effective date as may be prescribed.

(9) A registration or an Unique Identity Number shall be deemed to have been granted after the period prescribed under sub-section (7), if no deficiency has been communicated to the applicant by the proper officer within that period.

(10) Notwithstanding anything contained in sub-section (7), any rejection of application for registration or the Unique Identity Number under the CGST Act / SGST Act shall be deemed to be a rejection of application for registration under the SGST Act / CGST Act.

(11) The grant of registration or the Unique Identity Number under the CGST Act / SGST Act shall be deemed to be a grant of registration or the Unique Identity Number under the SGST/CGST Act provided that the application for registration or the Unique Identity Number has not been rejected under SGST/CGST Act within the time specified in sub-section (7).

(12) The Central or a State Government may, on the recommendation of the Council, by notification, specify the category of persons who may be exempted from obtaining registration under this Act.

### **19A. Special provisions relating to casual taxable person and non-resident taxable person**

(1) The certificate of registration issued to a casual taxable person or a non-resident taxable person shall be valid for a period of ninety days from the effective date of registration.

Provided that the proper officer may, at the request of the said taxable person, extend the aforesaid period of ninety days by a further period not exceeding ninety days.

(2) Notwithstanding anything to the contrary contained in this Act, a casual taxable person or a non-resident taxable person shall, at the time of submission of application for registration under sub-section (1) of section 19, make an advance deposit of tax in an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought:

Provided that where any extension of time is sought under sub-section (1), such taxable person shall deposit an additional amount of tax equivalent to the estimated tax liability of such person for the period for which the extension is sought.

(3) The amount deposited under sub-section (2) shall be credited to the electronic cash ledger of such person and shall be utilized in the manner provided under section 35.

### **20. Amendment of registration**

(1) Every registered taxable person shall inform the proper officer of any changes in the information furnished at the time of registration, or that furnished subsequently, in the manner and within such period as may be prescribed.

(2) The proper officer may, on the basis of information furnished under sub-section (1) or as ascertained by him, approve or reject amendments in the registration particulars in the manner and within such period as may be prescribed:

Provided that approval of the proper officer shall not be required in respect of amendment of such particulars as may be prescribed.

(3) The proper officer shall not reject the request for amendment in the registration particulars without giving a notice to show cause and without giving the person a reasonable opportunity of being heard.

(4) Any rejection or, as the case may be, approval of amendments under the CGST Act/SGST Act shall be deemed to be a rejection or approval of amendments under the SGST Act/CGST Act.

## **21. Cancellation of registration**

(1) The proper officer may, either on his own motion or on an application filed, in the prescribed manner, by the registered taxable person or by his legal heirs, in case of death of such person, cancel the registration, in such manner and within such period as may be prescribed, having regard to the circumstances where, -

(a) the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of; or

(b) there is any change in the constitution of the business; or

(c) the taxable person, other than the person registered under sub-section (3) of section 19, is no longer liable to be registered under Schedule III.

(2) The proper officer may, in the manner as may be prescribed, cancel the registration of taxable person from such date, including any anterior date, as he may deem fit, where, -

(a) the registered taxable person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or

(b) a person paying tax under section 8 has not furnished returns for three consecutive tax periods; or

(c) any taxable person, other than a person specified in clause (b), has not furnished returns for a continuous period of six months; or

(d) any person who has taken voluntary registration under sub-section (3) of section 19 has not commenced business within six months from the date of registration.

(3) Where any registration has been obtained by means of fraud, wilful misstatement or suppression of facts, the proper officer may cancel the registration with retrospective effect, subject to the provisions of section 29.

(4) The proper officer shall not cancel the registration without giving a notice to show cause and without giving the person a reasonable opportunity of being heard.

(5) The cancellation of registration under this section shall not affect the liability of the taxable person to pay tax and other dues under the Act for any period prior to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation.

(6) The cancellation of registration under the CGST Act/SGST Act shall be deemed to be a cancellation of registration under the SGST Act/CGST Act.

(7) Every registered taxable person whose registration is cancelled shall pay an amount, by way of debit in the electronic credit or cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher, calculated in such manner as may be prescribed:

Provided that in case of capital goods, the taxable person shall pay an amount equal to the input tax credit taken on the said capital goods reduced by the percentage points as may be prescribed in this behalf or the tax on the transaction value of such capital goods under sub-section (1) of section 15, whichever is higher.

(8) The amount payable under sub-section (7) shall be calculated in accordance with generally accepted accounting principles in such manner as may be prescribed.

## **22. Revocation of cancellation of registration**

(1) Subject to such conditions and in such circumstances as may be prescribed, any registered taxable person, whose registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within thirty days from the date of service of the cancellation order.

(2) The proper officer may, in the manner and within such period as may be prescribed in this behalf, by way of an order, either revoke cancellation of the registration or reject the application for revocation for good and sufficient reasons.

(3) The proper officer shall not reject the application for revocation of cancellation of registration without giving a notice to show cause and without giving the person a reasonable opportunity of being heard.

(4) Revocation of cancellation of registration under the CGST Act / SGST Act shall be deemed to be a revocation of cancellation of registration under the SGST Act / CGST Act.

## CHAPTER- VII

### TAX INVOICE, CREDIT AND DEBIT NOTES

#### 23. Tax invoice

A registered taxable person supplying,-

- (i) taxable goods shall issue, at the time of supply, a tax invoice showing the description, quantity and value of goods, the tax charged thereon and such other particulars as may be prescribed;
- (ii) taxable services shall issue a tax invoice, within the prescribed time, showing the description, the tax charged thereon and such other particulars as may be prescribed:

Provided that a registered taxable person may issue a revised invoice against the invoice already issued during the period starting from the effective date of registration till the date of issuance of certificate of registration to him:

Provided further that a registered taxable person supplying non-taxable goods and/or services or paying tax under the provisions of section 8 shall issue, instead of a tax invoice, a bill of supply containing such particulars as may be prescribed.

Explanation.- The expression "tax invoice" shall be deemed to include a document issued by an Input Service Distributor under section 17, and shall also include any supplementary or revised invoice issued by the supplier in respect of a supply made earlier.

#### 23 A. Amount of tax to be indicated in tax invoice and other documents

Notwithstanding anything contained in this Act or any other law for the time being in force, where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which will form part of the price at which such supply is made.

#### 24. Credit and debit notes

(1) Where a tax invoice has been issued for supply of any goods and/or services and the taxable value and/or tax charged in that tax invoice is found to exceed the taxable value and/or tax payable in respect of such supply, the taxable person, who has supplied such goods and/or services, may issue to the recipient a credit note containing such particulars as may be prescribed on or before the thirtieth day of September following the end of the financial year in which such supply was made, or the date of filing of the relevant annual return, whichever is earlier:

Provided that no credit note shall be issued by the said person if the incidence of tax and interest on such supply has been passed by him to any other person.

(2) Where a tax invoice has been issued for supply of any goods and/or services and the taxable value and/or tax charged in that tax invoice is found to be less than the taxable value and/or tax payable in respect of such supply, the taxable person, who has supplied such goods and/or services, shall issue to the recipient a debit note containing such

particulars as may be prescribed on or before the thirtieth day of September following the end of the financial year in which such supply was made, or the date of filing of the relevant annual return, whichever is earlier.

(3) Any registered taxable person who issues or receives a credit or debit note in relation to a supply of goods and/or services shall declare the details of such credit or debit note, as the case may be, in the return for the month during which such credit or debit note has been issued or received or in the return for any subsequent month but not later than September following the end of financial year in which such supply was made, or the date of filing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in the manner specified in this Act.

## CHAPTER- VIII

### RETURNS

#### **25. Furnishing details of outward supplies**

(1) Every registered taxable person, other than an input service distributor and a person paying tax under the provisions of section 8 or section 37, shall furnish, electronically, in such form and manner as may be prescribed, the details of outward supplies of goods and/or services effected, during a tax period on or before the tenth day of the month succeeding the said tax period and such details shall be communicated to the recipient of the said supplies within the time and in the manner as may be prescribed:

Provided that the Board / Commissioner may, for valid and sufficient reasons, by notification, extend the time limit for furnishing such details:

Provided further that any extension of time limit by the Board/Commissioner of State Goods and Services Tax shall be deemed to be approved by the Commissioner of State Goods and Services Tax/Board:

Explanation.- For the purposes of this section, the expression "details of outward supplies" shall include details relating to zero-rated supplies, inter-state supplies, return of goods received in relation to/ in pursuance of an inward supply, exports, debit notes, credit notes and supplementary invoices issued during the said tax period.

(2) Any registered taxable person, who has furnished the details under sub-section (1) for any tax period and which have remained unmatched under section 29, shall, upon discovery of any error or omission therein, rectify such error or omission in the tax period during which such error or omission is noticed in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period:

Provided that no rectification of error or omission in respect of the details furnished under sub-section (1) shall be allowed after filing of the return under section 27 for the month of September following the end of the financial year to which such details pertain, or filing of the relevant annual return, whichever is earlier.

#### **26. Furnishing details of inward supplies**

(1) Every registered taxable person, other than an input service distributor and a person paying tax under the provisions of section 8 or section 37, shall verify, validate, modify or, if required, delete the details relating to outward supplies and credit or debit notes communicated under sub-section (1) of section 25 to prepare the details of his inward supplies and credit or debit notes and may include therein, the details of inward supplies and credit or debit notes received by him in respect of such supplies that have not been declared by the supplier under sub-section (1) of section 25.

(2) Every registered taxable person shall furnish, electronically, the details of inward supplies of taxable goods and/or services, including inward supplies of services on which the tax is payable on reverse charge basis under this Act and inward supplies of goods and/or services taxable under the IGST Act, and credit or debit notes received in respect

of such supplies during a tax period on or before the fifteenth day of the month succeeding the tax period in such form and manner as may be prescribed:

Provided that the Board/Commissioner may, for valid and sufficient reasons, by notification, extend the time limit for furnishing such details:

Provided further that any extension of time limit by the Board/Commissioner of State Goods and Services Tax shall be deemed to be approved by the Commissioner of State Goods and Services Tax/Board.

(3) Any registered taxable person, who has furnished the details under sub-section (2) for any tax period and which have remained unmatched under section 29, shall, upon discovery of any error or omission therein, rectify such error or omission in the tax period during which such error or omission is noticed in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period:

Provided that no rectification of error or omission in respect of the details furnished under sub-section (2) shall be allowed after filing of the return under section 27 for the month of September following the end of the financial year to which such details pertain, or filing of the relevant annual return, whichever is earlier.

## **27. Returns**

(1) Every registered taxable person shall, for every calendar month or part thereof, furnish, in such form and in such manner as may be prescribed, a return, electronically, of inward and outward supplies of goods and/or services, input tax credit availed, tax payable, tax paid and other particulars as may be prescribed within twenty days after the end of such month:

Provided that a registered taxable person paying tax under the provisions of section 8 of this Act shall furnish a return for each quarter or part thereof, electronically, in such form and in such manner as may be prescribed, within eighteen days after the end of such quarter:

Provided further that a registered taxable person shall not be allowed to furnish return for a tax period if valid return for any previous tax period has not been furnished by him.

(2) Every registered taxable person, who is required to furnish a return under sub-section (1), shall pay to the credit of the appropriate Government the tax due as per such return not later than the last date on which he is required to furnish such return.

(3) A return furnished under sub-section (1) by a registered taxable person without payment of full tax due as per such return shall not be treated as a valid return for allowing input tax credit in respect of supplies made by such person.

(4) Every registered taxable person shall furnish a return for every tax period under sub-section (1), whether or not any supplies of goods and/or services have been effected during such tax period.

(5) Every registered taxable person required to deduct tax at source shall furnish a return, electronically, in such form and in such manner as may be prescribed, for the



month in which such deductions have been made along with the payment of tax so deducted, within ten days after the end of such month.

(6) Every Input Service Distributor shall, for every calendar month or part thereof, furnish a return, electronically, in such form and in such manner as may be prescribed, within thirteen days after the end of such month.

(7) Subject to the provisions of sections 25 and 26, if any taxable person after furnishing a return under sub-section (1) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the return to be filed for the month or quarter, as the case may be, during which such omission or incorrect particulars are noticed, subject to payment of interest, where applicable and as specified in the Act:

Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for filing of return for the month of September or second quarter, as the case may be, following the end of the financial year, or the actual date of filing of relevant annual return, whichever is earlier.

#### **27A. First Return**

(1) Every registered taxable person paying tax under the provisions of section 7 shall furnish the first return containing the details of:

(a) outward supplies under section 25 from the date on which he became liable to registration till the end of the month in which the registration has been granted;

(b) inward supplies under section 26 from the effective date of registration till the end of the month in which the registration has been granted:

Provided that a registered taxable person paying tax under the provisions of section 8 shall furnish the first return for the period starting from the date on which he becomes a registered taxable person till the end of the quarter in which the registration has been granted.

(2) Provisions of section 25, 26 and 27, other than the provision pertaining to tax period, shall apply mutatis mutandis to the said person furnishing return under sub-section (1).

#### **28. Claim of input tax credit and provisional acceptance thereof**

Every taxable person shall, subject to such conditions and restrictions as may be prescribed in this behalf, be entitled to take credit of input tax, as self-assessed, in his return and such amount shall be credited, on a provisional basis, to his electronic credit ledger to be maintained in the manner as may be prescribed:

Provided that a taxable person who has not furnished a valid return under section 27 of the Act shall not be allowed to utilize such credit till he discharges his self-assessed tax liability.

#### **29. Matching, reversal and reclaim of input tax credit**

(1) The details of every inward supply furnished by a taxable person (hereinafter referred to in this section as the 'recipient') for a tax period shall, in the manner and within the time prescribed, be matched-

- (a) with the corresponding details of outward supply furnished by the corresponding taxable person (hereinafter referred to in this section as the 'supplier') in his valid return for the same tax period or any preceding tax period,
- (b) with the additional duty of customs paid under section 3 of the Customs Tariff Act, 1975 (51 of 1975) in respect of goods imported by him, and
- (c) for duplication of claims of input tax credit.

(2) The claim of input tax credit in respect of invoices and/or debit notes relating to inward supply that match with the details of corresponding outward supply or with the additional duty of customs paid shall, subject to the provisions of section 16, be finally accepted and such acceptance shall be communicated, in the manner as may be prescribed, to the recipient.

(3) Where the input tax credit claimed by a recipient in respect of an inward supply is in excess of the tax declared by the supplier for the same supply or the outward supply is not declared by the supplier in his valid returns, the discrepancy shall be communicated to both such persons in the manner as may be prescribed.

(4) The duplication of claims of input tax credit shall be communicated to the recipient in the manner as may be prescribed.

(5) The amount in respect of which any discrepancy is communicated under sub-section (3) and which is not rectified by the supplier in his valid return for the month in which discrepancy is communicated shall be added to the output tax liability of the recipient, in the manner as may be prescribed, in his return for the month succeeding the month in which the discrepancy is communicated.

(6) The amount claimed as input tax credit that is found to be in excess on account of duplication of claims shall be added to the output tax liability of the recipient in his return for the month in which the duplication is communicated.

(7) The recipient shall be eligible to reduce, from his output tax liability, the amount added under sub-section (5) if the supplier declares the details of the invoice and/or debit note in his valid return within the time specified in sub-section (7) of section 27.

(8) A recipient in whose output tax liability any amount has been added under sub-section (5) or, as the case may be, under sub-section (6), shall be liable to pay interest at the rate specified under sub-section (1) of section 36 on the amount so added from the date of availing of credit till the corresponding additions are made under the said sub-sections.

(9) Where any reduction in output tax liability is accepted under sub-section (7), the interest paid under sub-section (8) shall be refunded to the recipient by crediting the

amount in the corresponding head of his electronic cash ledger in the manner as may be prescribed:

Provided that the amount of interest to be credited in any case shall not exceed the amount of interest paid by the supplier.

(10) The amount reduced from the output tax liability in contravention of the provisions of sub-section (7) shall be added to the output tax liability of the recipient in his return for the month in which such contravention takes place and such recipient shall be liable to pay interest on the amount so added at the rate specified in sub-section (3) of section 36.

### **29A. Matching, reversal and reclaim of reduction in output tax liability**

(1) The details of every credit note relating to outward supply furnished by a taxable person (hereinafter referred to in this section as the 'supplier') for a tax period shall, in the manner and within the time prescribed, be matched -

(a) with the corresponding reduction in the claim for input tax credit by the corresponding taxable person (hereinafter referred to in this section as the 'recipient') in his valid return for the same tax period or any subsequent tax period, and

(b) for duplication of claims for reduction in output tax liability.

(2) The claim for reduction in output tax liability by the supplier that matches with the corresponding reduction in the claim for input tax credit by the recipient shall be finally accepted and communicated, in the manner as may be prescribed, to the supplier.

(3) Where the reduction of output tax liability in respect of outward supplies exceeds the corresponding reduction in the claim for input tax credit or the corresponding credit note is not declared by the recipient in his valid returns, the discrepancy shall be communicated to both such persons in the manner as may be prescribed.

(4) The duplication of claims for reduction in output tax liability shall be communicated to the supplier in the manner as may be prescribed.

(5) The amount in respect of which any discrepancy is communicated under sub-section (3) and which is not rectified by the recipient in his valid return for the month in which discrepancy is communicated shall be added to the output tax liability of the supplier, in the manner as may be prescribed, in his return for the month succeeding the month in which the discrepancy is communicated.

(6) The amount in respect of any reduction in output tax liability that is found to be on account of duplication of claims shall be added to the output tax liability of the supplier in his return for the month in which such duplication is communicated.

(7) The supplier shall be eligible to reduce, from his output tax liability, the amount added under sub-section (5) if the recipient declares the details of the credit note in his valid return within the time specified in sub-section (7) of section 27.

(8) A supplier in whose output tax liability any amount has been added under sub-section (5) or, as the case may be, under sub-section (6), shall be liable to pay interest at the rate specified under sub-section (1) of section 36 in respect of the amount so added from the date of such claim for reduction in the output tax liability till the corresponding additions are made under the said sub-sections.

(9) Where any reduction in output tax liability is accepted under sub-section (7), the interest paid under sub-section (8) shall be refunded to the supplier by crediting the amount in the corresponding head of his electronic cash ledger in the manner as may be prescribed:

Provided that the amount of interest to be credited in any case shall not exceed the amount of interest paid by the recipient.

(10) The amount reduced from output tax liability in contravention of the provision of sub-section (7) shall be added to the output tax liability of the supplier in his return for the month in which such contravention takes place and such supplier shall be liable to pay interest on the amount so added at the rate specified in sub-section (3) of section 36.

### **30. Annual return**

(1) Every registered taxable person, other than an input service distributor, a deductor under section 37, a casual taxable person and a non-resident taxable person, shall furnish an annual return for every financial year electronically in such form and in such manner as may be prescribed on or before the thirty first day of December following the end of such financial year.

(2) Every taxable person who is required to get his accounts audited under sub-section (4) of section 42 shall furnish, electronically, the annual return along with the audited copy of the annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return furnished for the year with the audited annual financial statement, and such other particulars as may be prescribed.

### **31. Final return**

Every registered taxable person who applies for cancellation of registration shall furnish a final return within three months of the date of cancellation or date of cancellation order, whichever is later, in such form and in such manner as may be prescribed.

**32. Notice to return defaulters**

Where a registered taxable person fails to furnish a return under section 27 or section 31, a notice shall be issued requiring him to furnish such return within such time and in such form and manner as may be prescribed.

**33. Levy of late fee**

(1) Any registered taxable person who fails to furnish the details of outward or inward supplies required under section 25 or section 26, as the case may be, or returns required under section 27 or section 31 by the due date shall be liable to a late fee of rupees one hundred for every day during which such failure continues subject to a maximum of rupees five thousand.

(2) Any registered taxable person who fails to furnish the return required under section 30 by the due date shall be liable to a late fee of rupees one hundred for every day during which such failure continues subject to a maximum of an amount calculated at a quarter percent of his aggregate turnover.

**34. Tax Return Preparers**

(1) The appropriate Government may, by rules, prescribe the manner of approval of Tax Return Preparers, their eligibility conditions, duties and obligations, manner of removal and such other conditions as may be relevant for their functioning as a Tax Return Preparer.

(2) A registered taxable person may, in the manner prescribed, authorise an approved Tax Return Preparer to furnish the details of outward supplies under section 25, the details of inward supplies under section 26 and the return under section 27, 30 or section 31, as the case may be, and such other tasks as may be prescribed.

(3) Notwithstanding anything contained in sub-section (2), the responsibility for correctness of any particulars furnished in the return and/or other details filed by the Tax Return Preparer shall continue to rest with the registered taxable person on whose behalf such return and details are filed.

## CHAPTER-IX

### PAYMENT OF TAX

#### **35. Payment of tax, interest, penalty and other amounts**

(1) Every deposit made towards tax, interest, penalty, fee or any other amount by a taxable person by internet banking or by using credit/debit cards or National Electronic Fund Transfer or Real Time Gross Settlement or by any other mode, subject to such conditions and restrictions as may be prescribed in this behalf, shall be credited to the electronic cash ledger of such person to be maintained in the manner as may be prescribed.

Explanation.- The date of credit to the account of the appropriate Government in the authorized bank shall be deemed to be the date of deposit.

(2) The input tax credit as self-assessed in the return of a taxable person shall be credited to his electronic credit ledger to be maintained in the manner as may be prescribed.

(3) The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of the Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.

(4) The amount available in the electronic credit ledger may be used for making any payment towards tax payable under the provisions of the Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.

(5)(a) The amount of input tax credit on account of IGST available in the electronic credit ledger shall first be utilized towards payment of IGST and the amount remaining, if any, may be utilized towards the payment of CGST and SGST, in that order.

(b) The amount of input tax credit on account of CGST available in the electronic credit ledger shall first be utilized towards payment of CGST and the amount remaining, if any, may be utilized towards the payment of IGST.

(c) The input tax credit on account of CGST shall not be utilized towards payment of SGST.

**Note: This provision is to be incorporated in CGST Act.**

(b) The amount of input tax credit on account of SGST available in the electronic credit ledger shall first be utilized towards payment of SGST and the amount remaining, if any, may be utilized towards the payment of IGST.

(c) The input tax credit on account of SGST shall not be utilized towards payment of CGST.

**Note: This provision is to be incorporated in SGST Act.**

(6) The balance in the cash or credit ledger after payment of tax, interest, penalty, fee or any other amount payable under the Act or the rules made thereunder may be refunded in accordance with the provisions of section 38 and the amount collected as CGST/SGST shall stand reduced to that extent.

(7) All liabilities of a taxable person under this Act shall be recorded and maintained in an electronic register as may be prescribed.

(8) Every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in the following order:

- (a) self-assessed tax, and other dues related to returns of previous tax periods;
- (b) self-assessed tax, and other dues related to return of current tax period;
- (c) any other amount payable under the Act or the rules made thereunder including the demand determined under section 51.

(9) Every person who has paid the tax on goods and/or services under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods and/or services.

Explanation.— For the purposes of this section, the expression “tax dues” means the tax payable under this Act and does not include interest, fee and penalty.

### **36. Interest on delayed payment of tax**

(1) Every person liable to pay tax in accordance with the provisions of the Act or rules made thereunder, who fails to pay the tax or any part thereof to the account of the Central or a State Government within the period prescribed, shall, on his own, for the period for which the tax or any part thereof remains unpaid, pay interest at such rate as may be notified, on the recommendation of the Council, by the Central or a State Government.

(2) The interest under sub-section (1) shall be calculated from the first day such tax was due to be paid.

(3) In case a taxable person makes an undue or excess claim of input tax credit under sub-section (10) of section 29, he shall be liable to pay interest on such undue or excess claim at the prescribed rate for the period computed in the manner prescribed.

### **37. Tax deduction at source**

(1) Notwithstanding anything contained to the contrary in this Act, the Central or a State Government may mandate, -

- (a) a department or establishment of the Central or State Government, or
- (b) Local authority, or
- (c) Governmental agencies, or
- (d) such persons or category of persons as may be notified, by the Central or a State Government on the recommendations of the Council,

[hereinafter referred to in this section as “the deductor”], to deduct tax at the rate of one percent from the payment made or credited to the supplier [hereinafter referred to in this section as “the deductee”] of taxable goods and/or services, notified by the Central or a State Government on the recommendations of the Council, where the total value of such supply, under a contract, exceeds rupees ten lakh.

Explanation. – For the purpose of deduction of tax specified above, the value of supply shall be taken as the amount excluding the tax indicated in the invoice.

(2) The amount deducted as tax under this section shall be paid to the credit of the appropriate Government by the deductor within ten days after the end of the month in which such deduction is made, in the manner prescribed.

(3) The deductor shall, in the manner prescribed, furnish to the deductee a certificate mentioning therein the contract value, rate of deduction, amount deducted, amount paid to the appropriate Government and such particulars as may be prescribed in this behalf.

(4) If any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, within five days of crediting the amount so deducted to the appropriate Government, the deductor shall be liable to pay, by way of a late fee, a sum of rupees one hundred per day from the day after the expiry of the five day period until the failure is rectified:

Provided that the amount of fee payable under this sub-section shall not exceed rupees five thousand.

(5) The deductee shall claim credit, in his electronic cash ledger, of the tax deducted and reflected in the return of the deductor filed under sub-section (5) of section 27, in the manner prescribed.

(6) If any deductor fails to pay to the credit of the appropriate Government the amount deducted as tax under sub-section (1), he shall be liable to pay interest in accordance with the provisions of section 36, in addition to the amount of tax deducted.

(7) Determination of the amount in default under this section shall be made in the manner specified in section 51.

(8) Refund to the deductor or the deductee, as the case may be, arising on account of excess or erroneous deduction shall be dealt with in accordance with the provisions of section 38:

Provided that no refund to deductor shall be granted if the amount deducted has been credited to the electronic cash ledger of the deductee.



**CHAPTER-IXA**  
**TRANSFER OF INPUT TAX CREDIT**

**37A. Transfer of input tax credit**

On utilization of input tax credit availed under the CGST Act for payment of tax dues under the IGST Act as per sub-section (5) of section 35, the amount collected as CGST shall stand reduced by an amount equal to the credit so utilized and the Central Government shall transfer an amount equal to the amount so reduced from the CGST account to the IGST account in the manner and time as may be prescribed.

**Note: This provision is to be incorporated in the CGST Act.**

On utilization of input tax credit availed under the SGST Act for payment of tax dues under the IGST Act as per sub-section (5) of section 35, the amount collected as SGST shall stand reduced by an amount equal to the credit so utilized and the State Government shall transfer an amount equal to the amount so reduced from the SGST account to the IGST account in the manner and time as may be prescribed.

**Note. This provision is to be incorporated in SGST Act.**

## CHAPTER-X

### REFUNDS

#### 38. Refund of tax

(1) Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application in that regard to the proper officer of IGST/CGST/SGST before the expiry of two years from the relevant date in such form and in such manner as may be prescribed:

Provided that the limitation of two years shall not apply where such tax or interest or the amount referred to above has been paid under protest.

(2) Subject to the provisions of sub-section (8), a taxable person may claim refund of any unutilized input tax credit at the end of any tax period:

Provided that no refund of unutilized input tax credit shall be allowed in cases other than exports or in cases where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on outputs:

Provided further that no refund of unutilized input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty.

(3) The application shall be accompanied by—

(a) such documentary evidence as may be prescribed to establish that a refund is due to the applicant, and

(b) such documentary or other evidence (including the documents referred to in section 23A) as the applicant may furnish to establish that the amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund is claimed was collected from, or paid by, him and the incidence of such tax and interest had not been passed on by him to any other person:

Provided that where the amount claimed as refund is less than five lac rupees, it shall not be necessary for the applicant to furnish any documentary and other evidences and instead, he may file a declaration, based on the documentary or other evidences with him, certifying that the incidence of such tax and interest had not been passed on by him to any other person.

(4) If, on receipt of any such application, the proper officer is satisfied that the whole or part of the amount claimed as refund is refundable, he may make an order accordingly and the amount so determined shall be credited to the Fund.

(4A) Notwithstanding anything contained in sub-section (4), the proper officer may, in the case of any claim for refund on account of export of goods and/or services made by such category of registered taxable persons as may be notified in this behalf, refund eighty percent of the total amount so claimed, excluding the amount of input tax credit provisionally accepted, on a provisional basis, in the manner and subject to such conditions, limitations and safeguards as may be prescribed and the remaining twenty percent may be refunded after due verification of documents furnished by the applicant.

(5) The proper officer shall issue the order under sub-section (4) within ninety days from the date of receipt of application.

Explanation.- The "application" for the purpose of this sub-section shall mean complete application containing all information as may be prescribed.

(6) Notwithstanding anything contained in sub-section (4) or sub-section (4A), the refundable amount shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to –

- (a) refund of tax on goods and/or services exported out of India or on inputs used in the goods and/or services which are exported out of India;
- (b) refund of unutilized input tax credit under sub-section (2);
- (c) the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or
- (d) the tax or interest borne by such other class of applicants as the Central or a State Government may, on the recommendation of the Council, by notification, specify.

(7) Notwithstanding anything to the contrary contained in any judgment, decree, order or direction of the Appellate Tribunal or any Court or in any other provision of this Act or the rules made thereunder or in any other law for the time being in force, no refund shall be made except as provided in sub-section (6).

(8) Notwithstanding anything contained in sub-section (2), where any refund is due under the said sub-section to a registered taxable person who has defaulted in furnishing any return or who is required to pay any tax, interest or penalty, which has not been stayed by any Court, Tribunal or Appellate Authority by the specified date, the proper officer may—

- (a) withhold payment of refund due until the said person has submitted the return or paid the tax, interest or penalty, as the case may be;
- (b) deduct from the refund due, any tax, interest or penalty which the taxable person is liable to pay but which remains unpaid.

Explanation.- For the purposes of this sub-section the expression "specified date" shall mean—

- (a) the last date for filing an appeal under this Act, in a case where no appeal has been filed
- (b) thirty days after the last date for filing an appeal under this Act, in a case where an appeal has been filed.

(9) Notwithstanding anything contained in sub-section (4) or sub-section (4A), where an order giving rise to a refund is the subject matter of an appeal or further proceeding or where any other proceeding under this Act is pending and the Commissioner / Board is of the opinion that grant of such refund is likely to adversely affect the revenue, he may, after giving the taxpayer an opportunity of being heard, withhold the refund till such time as he may determine.

(10) Where a refund is withheld under sub-section (9), the taxable person shall be entitled to interest as provided under section 39, if as a result of the appeal or further proceeding he becomes entitled to refund.

(11) Notwithstanding anything contained in this section, no refund under sub-section (4) or sub-section (4A) shall be paid to an applicant if the amount is less than rupees one thousand.

Explanation. — For the purposes of this section -

(A) “refund” includes refund of tax on goods and/or services exported out of India or on inputs or input services used in the goods and/or services which are exported out of India, or refund of tax on the supply of goods regarded as deemed exports, or refund of unutilized input tax credit as provided under sub-section (2).

(B) “relevant date” means -

(a) in the case of goods exported out of India where a refund of tax paid is available in respect of the goods themselves or, as the case may be, the inputs or input services used in such goods, -

(i) if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India, or

(ii) if the goods are exported by land, the date on which such goods pass the frontier, or

(iii) if the goods are exported by post, the date of despatch of goods by Post Office concerned to a place outside India;

(b) in the case of supply of goods regarded as deemed exports where a refund of tax paid is available in respect of the goods, the date on which the return relating to such deemed exports is filed;

(c) in the case of goods returned for being remade, refined, reconditioned, or subjected to any other similar process in any place of business, the date of entry into the place of business for the purposes aforesaid;

(d) in the case of services exported out of India where a refund of tax paid is available in respect of services themselves or, as the case may be, the inputs or input services used in such services, the date of -

(i) receipt of payment in convertible foreign exchange, where the supply of service had been completed prior to the receipt of such payment; or

(ii) issue of invoice, where payment for the service had been received in advance prior to the date of issue of the invoice;

(e) in case where the tax becomes refundable as a consequence of judgment, decree, order or direction of Appellate Authority, Appellate Tribunal or any Court, the date of communication of such judgment, decree, order or direction;

(f) in the case of refund of unutilized input tax credit under sub-section (2), the end of the financial year in which such claim for refund arises; and

(g) in the case where tax is paid provisionally under this Act or the rules made thereunder, the date of adjustment of tax after the final assessment thereof.

### **39. Interest on delayed refunds**

If any tax refundable under section 38 to any applicant is not refunded within three months from the date of receipt of application under sub-section (1) of that

section, interest at such rate as may be specified in the notification issued by the Central or a State Government on the recommendation of the Council shall be payable in respect of such refund from the date immediately after the expiry of the due date for sanction of refund under section 38 till the date of refund of such tax.

Explanation.- Where any order of refund is made by an Appellate Authority, Tribunal or any Court against an order of the proper officer under sub-section (4) or sub-section (4A) of section 38, the order passed by the Appellate Authority, Tribunal or, as the case may be, by the Court shall be deemed to be an order passed under the said sub-section (4) or sub-section (4A) for the purposes of this section.

#### **40. Consumer Welfare Fund**

(1) There shall be established by the Central or a State Government a fund, to be called the Consumer Welfare Fund.

(2) There shall be credited to the Fund, in such manner as may be prescribed, -

(a) the amount of tax referred to in sub-section (4) or sub-section (4A) of section 38; and

(b) any income from investment of the amount credited to the Fund and any other monies received by the Central or a State Government for the purposes of this Fund.

#### **41. Utilization of the Fund**

(1) Any money credited to the Fund shall be utilised by the Central/State Government for the welfare of the consumers in accordance with such rules as that Government may make in this behalf.

(2) The Central/State Government shall maintain or, if it thinks fit, specify the authority which shall maintain, proper and separate account and other relevant records in relation to the Fund in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.

## **CHAPTER-XI**

### **ACCOUNTS AND RECORDS**

#### **42. Accounts and other records**

(1) Every registered person shall keep and maintain, at his principal place of business, as mentioned in the certificate of registration, a true and correct account of production or manufacture of goods, of inward or outward supply of goods and/or services, of stock of goods, of input tax credit availed, of output tax payable and paid, and such other particulars as may be prescribed in this behalf:

Provided that where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business concerned:

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

(2) The [Commissioner/Chief Commissioner] may notify a class of taxable persons to maintain additional accounts or documents for such purpose as may be specified.

(3) Where the [Commissioner/ Chief Commissioner] considers that any class of taxable persons is not in a position to keep and maintain accounts in accordance with the provisions of this section, he may, for reasons to be recorded in writing, permit such class of taxable persons to maintain accounts in such manner as may be prescribed.

(4) Every registered taxable person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant and shall submit to the proper officer a copy of the audited statement of accounts, the reconciliation statement under sub-section (2) of section 30 and such other documents in the form and manner as may be prescribed in this behalf.

#### **43. Period of retention of accounts**

(1) Every registered taxable person required to keep and maintain books of account or other records under sub-section (1) of section 42 shall retain them until the expiry of sixty months from the last date of filing of Annual Return for the year pertaining to such accounts and records:

Provided that a taxable person, who is a party to an appeal or revision or any other proceeding before any Appellate Authority or Tribunal or Court, whether filed by him or by the department, shall retain the books of account and other records pertaining to the subject matter of such appeal or revision or proceeding for a period of one year after final disposal of such appeal or revision or proceeding, or for the period specified under sub-section (1), whichever is later.

**CHAPTER - XIA****JOB WORK****43A. Special procedure for removal of goods for certain purposes**

(1) The Commissioner may, by special order and subject to conditions as may be specified by him, permit a registered taxable person (hereinafter referred to in this section as the "principal") to send taxable goods, without payment of tax, to a job worker for job-work and from there subsequently send to another job worker and likewise, and may, after completion of job-work, allow to-

(a) bring back such goods to any of his place of business, without payment of tax, for supply therefrom on payment of tax within India, or with or without payment of tax for export, as the case may be, or

(b) supply such goods from the place of business of a job-worker on payment of tax within India, or with or without payment of tax for export, as the case may be:

Provided that the goods shall not be permitted to be supplied from the place of business of a job worker in terms of clause (b) unless the "principal" declares the place of business of the job-worker as his additional place of business except in a case-

(i) where the job worker is registered under section 19; or

(ii) where the "principal" is engaged in the supply of such goods as may be notified in this behalf.

(2) The responsibility for accountability of the goods including payment of tax thereon shall lie with the "principal".

## CHAPTER - XIB

### ELECTRONIC COMMERCE

#### 43B. Definitions

In this Chapter, unless the context otherwise requires, -

- (a) '**aggregator**' means a person, who owns and manages an electronic platform, and by means of the application and a communication device, enables a potential customer to connect with the persons providing service of a particular kind under the brand name or trade name of the said aggregator;
- (b) '**brand name or trade name**' means, a brand name or a trade name, whether registered or not, that is to say, a name or a mark, such as an invented word or writing, or a symbol, monogram, logo, label, signature, which is used for the purpose of indicating, or so as to indicate a connection, in the course of trade, between a service and some other person using the name or mark with or without any indication of the identity of that person;
- (c) '**branded Services**' means services which are supplied by an electronic commerce operator under its own brand name or trade name, whether registered or not;
- (d) '**electronic commerce**' shall mean the supply or receipt of goods and / or services, or transmitting of funds or data, over an electronic network, primarily the internet, by using any of the applications that rely on the internet, like but not limited to e-mail, instant messaging, shopping carts, Web services, Universal Description, Discovery and Integration (UDDI), File Transfer Protocol (FTP), and Electronic Data Interchange (EDI), whether or not the payment is conducted online and whether or not the ultimate delivery of the goods and/or services is done by the operator;
- (e) '**electronic commerce operator**' shall include every person who, directly or indirectly, owns, operates or manages an electronic platform that is engaged in facilitating the supply of any goods and/or services or in providing any information or any other services incidental to or in connection there with but shall not include persons engaged in supply of such goods and/or services on their own behalf.

#### 43C. Collection of tax at source

(1) Notwithstanding anything to the contrary contained in the Act or in any contract, arrangement or memorandum of understanding, every electronic commerce operator (hereinafter referred to in this section as the "operator") shall, at the time of credit of any amount to the account of the supplier of goods and/or services or at the time of payment of any amount in cash or by any other mode, whichever is earlier, collect an amount, out of the amount payable or paid to the supplier, representing consideration towards the supply of goods and /or services made through it, calculated at such rate as may be notified in this behalf by the Central/State Government on the recommendation of the Council.

(2) The power to collect the amount specified in sub-section (1) shall be without prejudice to any other mode of recovery from the operator.



(3) The amount collected under sub-section (1) shall be paid to the credit of the appropriate Government by the operator within ten days after the end of the month in which such collection is made, in the manner prescribed.

(4)(a) Every operator shall, furnish a statement, electronically, of all amounts collected under sub-section (1), towards outward supplies of goods and/or services effected through it, during a calendar month, in such form and manner as may be prescribed, within ten days after the end of such calendar month.

(b) The statement under clause (a) shall contain, *inter alia*, the details of the amount collected on behalf of each supplier in respect of all supplies of goods and/or services effected through the operator and the details of such supplies during the said calendar month.

(5) Any amount collected in accordance with the provisions of this section and paid to the credit of the appropriate Government shall be deemed to be a payment of tax on behalf of the concerned supplier and the supplier shall claim credit, in his electronic cash ledger, of the tax collected and reflected in the statement of the operator filed under sub-section (4), in the manner prescribed.

(6) The details of supplies and the amount collected under sub-section (1) during a calendar month, and furnished by every operator under sub-section (4), shall, in the manner and within the period prescribed, be matched with the corresponding details of outward supplies furnished by the concerned supplier in his valid return for the same calendar month or any preceding calendar month.

(7) Where the details of outward supply, on which the tax has been collected, as declared by the operator under sub-section (4) do not match with the corresponding details declared by the supplier under section 25, the discrepancy shall be communicated to both persons in the manner and within the time as may be prescribed.

(8) The value of a supply relating to any payment in respect of which any discrepancy is communicated under sub-section (7) and which is not rectified by the supplier in his valid return for the month in which discrepancy is communicated shall be added to the output liability of the said supplier, in the manner as may be prescribed, for the calendar month succeeding the calendar month in which the discrepancy is communicated.

(9) The concerned supplier shall, in whose output tax liability any amount has been added under sub-section (8), be liable to pay the tax payable in respect of such supply along with interest, at the rate specified under sub-section (1) of section 36 on the amount so added from the date such tax was due till the date of its payment.

(10) Any authority not below the rank of Joint Commissioner may, by notice, either before or during the course of any proceeding under this Act, require the operator to furnish such details relating to—

(a) supplies of goods and/or services effected through such operator during any period, or

(b) stock of goods held by the suppliers making supplies through such operator in the godowns or warehouses, by whatever name called, managed by such operators and declared as additional places of business by such suppliers -

as may be specified in the notice.

(11) Every operator on whom a notice has been served under sub-section (10) shall furnish the required information within five working days of the date of service of such notice.

(12) Any person who fails to furnish the information required by the notice served under sub-section (10) shall, without prejudice to any action that is or may be taken under section 66, be liable to a penalty which may extend to rupees twenty-five thousand.

Explanation— For the purposes of this section, the expression 'concerned supplier' shall mean the supplier of goods and/or services making supplies through the operator."

## **CHAPTER– XII**

### **ASSESSMENT**

#### **44. Self-Assessment**

Every registered taxable person shall himself assess the taxes payable under this Act and furnish a return for each tax period as specified under section 27.

Explanation.— For the purposes of this section, where goods received in pursuance of an inward supply are returned by the recipient to the supplier within a period of six months from the date of the relevant invoice, the tax payable on such return supply shall be equal to the input tax credit availed of earlier in respect of such inward supply.

#### **44A. Provisional Assessment**

(1) Where the taxable person is unable to determine the value of goods and/or services or determine the rate of tax applicable thereto, he may request the proper officer in writing giving reasons for payment of tax on a provisional basis and the proper officer may pass an order allowing payment of tax on provisional basis at such rate or on such value as may be specified by him.

(2) The payment of tax on provisional basis may be allowed, if the taxable person executes a bond in such form as may be prescribed in this behalf, and with such surety or security as the proper officer may deem fit, binding the taxable person for payment of the difference between the amount of tax as may be finally assessed and the amount of tax provisionally assessed.

(3) The proper officer shall, within a period not exceeding six months from the date of the communication of the order issued under sub-section (1), pass the final assessment order after taking into account such information as may be required for finalizing the assessment:

Provided that the period specified in this sub-section may, on sufficient cause being shown and for reasons to be recorded in writing, be extended by the Joint/Additional Commissioner for a further period not exceeding six months and by the Commissioner for such further period as he may deem fit.

(4) The taxable person shall be liable to pay interest on any amount payable to the Central/State Government, consequent to the order for final assessment under sub-section (3), at the rate specified under sub-section (1) of section 36, from the first day after the due date of payment of tax in respect of the said goods and/or services till the date of actual payment, whether such amount is paid before or after the issue of order for final assessment.

(5) Where the taxable person is entitled to a refund consequent to the order for final assessment under sub-section (3), subject to sub-section (6) of section 38, interest shall be paid on such refund as provided in section 39.

#### **45. Scrutiny of returns**

(1) The proper officer may scrutinize the return and related particulars furnished by the taxable person to verify the correctness of the return in such manner as may be prescribed.

(2) The proper officer shall inform the taxable person of the discrepancies noticed, if any, after such scrutiny in such manner as may be prescribed and seek his explanation thereto.

(3) In case the explanation is found acceptable, the taxable person shall be informed accordingly and no further action shall be taken in this regard.

(4) In case no satisfactory explanation is furnished within a period of thirty days of being informed by the proper officer or such further period as may be permitted by him or where the taxable person, after accepting the discrepancies, fails to take the corrective measure within a reasonable period, the proper officer may initiate appropriate action including those under section 49, 50 or section 60, or proceed to determine the tax and other dues under sub-section (6) of section 51 A or under sub-section (6) of section 51 B.

#### **46. Assessment of non-filers of returns**

(1) Where a registered taxable person fails to furnish the return required under section 27 or section 31, even after the service of a notice under section 32, the proper officer may, after allowing a period of fifteen days from the date of service of the notice, proceed to assess the tax liability of the said person to the best of his judgement taking into account all the relevant material which is available or which he has gathered and issue an assessment order within the time limit specified in sub-section (7) of section 51A or sub-section (7) of section 51B, as the case may be.

(2) Where the taxable person furnishes a valid return within thirty days of the service of the assessment order under sub-section (1), the said assessment order shall be deemed to have been withdrawn.

Explanation.— For removal of doubts it is clarified that nothing in this section shall preclude the payment of interest under section 36 or payment of late fee under section 33.

#### **47. Assessment of unregistered persons**

Where a taxable person fails to obtain registration even though liable to do so, the proper officer may proceed to assess the tax liability of such taxable person to the best of his judgement for the relevant tax periods and issue an assessment order within a period of five years from the due date for filing of the annual return for the year to which the tax not paid relates:

Provided that no such assessment order shall be passed without giving a notice to show cause and without giving the person a reasonable opportunity of being heard.

#### **48. Summary assessment in certain special cases**

(1) The proper officer may, on any evidence showing a tax liability of a person coming to his notice, with the previous permission of [Additional/Joint Commissioner], proceed to assess the tax liability of such person to protect the interest of revenue and issue an assessment order, if he has sufficient grounds to believe that any delay in doing so will adversely affect the interest of revenue:

Provided that where the taxable person to whom the liability pertains is not ascertainable and such liability pertains to supply of goods, the person in charge of such goods shall be

deemed to be the taxable person liable to be assessed and pay tax and amount due under this section.

(2) On any application made within thirty days from the date of receipt of order passed under sub-section (1) by the taxable person or on his own motion, if the Additional/Joint Commissioner considers that such order is erroneous, he may withdraw such order and follow the procedure laid down in section 51.

## **CHAPTER-XIII**

### **AUDIT**

#### **49. Audit by tax authorities**

(1) The [Commissioner of CGST/Commissioner of SGST] or any officer authorised by him, by way of a general or a specific order, may undertake audit of the business transactions of any taxable person for such period, at such frequency and in such manner as may be prescribed.

(2) The tax authorities referred to in sub-section (1) may conduct audit at the place of business of the taxable person and/or in their office.

(3) The taxable person shall be informed, by way of a notice, sufficiently in advance, not less than fifteen working days, prior to the conduct of audit in the manner prescribed.

(4) The audit under sub-section (1) shall be carried out in a transparent manner and completed within a period of three months from the date of commencement of audit:

Provided that where the [Commissioner] is satisfied that audit in respect of such taxable person cannot be completed within three months from the date of commencement of audit, he may, for the reasons to be recorded in writing, extend the period by a further period not exceeding six months.

Explanation.- For the purposes of this sub-section, 'commencement of audit' shall mean the date on which the records and other documents, called for by the tax authorities, are made available by the taxable person or the actual institution of audit at the place of business, whichever is later.

(5) During the course of audit, the authorised officer may require the taxable person,

(i) to afford him the necessary facility to verify the books of account or other documents as he may require and which may be available at such place,

(ii) to furnish such information as he may require and render assistance for timely completion of the audit.

(6) On conclusion of audit, the proper officer shall without delay inform the taxable person, whose records are audited, of the findings, the taxable person's rights and obligations and the reasons for the findings.

(7) Where the audit conducted under sub-section (1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit erroneously availed, the proper officer may initiate action under section 51.

#### **50. Special audit**

(1) If at any stage of scrutiny, enquiry, investigation or any other proceedings before him, any officer not below the rank of [Deputy/Assistant Commissioner] having regard to the nature and complexity of the case and the interest of revenue, is of the opinion that the value has not been correctly declared or the credit availed is not within the normal limits, he may, with the prior approval of the [Commissioner], direct such taxable person by notice in writing to get his records including books of account examined and audited

by a chartered accountant or a cost accountant as may be nominated by the [Commissioner] in this behalf.

(2) The chartered accountant or cost accountant so nominated shall, within the period of ninety days, submit a report of such audit duly signed and certified by him to the said [Deputy/Assistant Commissioner] mentioning therein such other particulars as may be specified:

Provided that the proper officer may, on an application made to him in this behalf by the taxable person or the chartered accountant or cost accountant or for any material and sufficient reason, extend the said period by another ninety days.

(3) The provision of sub-section (1) shall have effect notwithstanding that the accounts of the taxable person have been audited under any other provision of this Act or any other law for the time being in force or otherwise.

(4) The taxable person shall be given an opportunity of being heard in respect of any material gathered on the basis of special audit under sub-section (1) which is proposed to be used in any proceedings under this Act or rules made thereunder.

(5) The expenses of, and incidental to, the examination and audit of records under sub-section (1), including the remuneration of such chartered accountant or cost accountant, shall be determined and paid by the [Commissioner] and that such determination shall be final.

(6) Where the special audit conducted under sub-section (1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit erroneously availed, the proper officer may initiate action under section 51.

**CHAPTER – XIV**  
**DEMANDS AND RECOVERY**

**51. Determination of tax not paid or short paid or erroneously refunded**

*A. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized for any reason other than fraud or any willful-misstatement or suppression of facts*

(1) Where any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilized for any reason, other than the reason of fraud or any willful-misstatement or suppression of facts to evade tax, the proper officer shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilized input tax credit, requiring him to show cause why he should not pay the amount specified in the notice along with interest payable thereon under section 36 and penalty leviable under the provisions of this Act or the rules made thereunder.

(2) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized for such periods other than those covered under subsection(1), on the person chargeable with tax. The service of such statement shall be deemed to be service of notice on such person under the aforesaid sub-section (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.

(3) The person chargeable with tax may, before service of notice under sub-section (1) or, as the case may be, the statement under sub-section (2), pay the amount of tax along with interest payable thereon under section 36 on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment. The proper officer, on receipt of such information, shall not serve any notice under sub-section (1) or, as the case may be, the statement under sub-section (2), in respect of the tax so paid or any penalty leviable under the provisions of this Act or the rules made there under.

(4) Where the proper officer is of the opinion that the amount paid under sub-section (3) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.

(5) Where any person chargeable with tax under sub-section (1) or under sub-section (2) pays the said tax along with interest payable under section 36 within thirty days of issue of show cause notice, no penalty shall be payable and all proceedings in respect of the said tax shall be deemed to be concluded.

(6) The proper officer shall, after considering the representation, if any, made by person chargeable with tax, determine the amount of tax, interest and a penalty not exceeding ten percent of tax or ten thousand rupees, whichever is higher, due from such person and issue an order.



(7) The proper officer shall issue the order under sub-section (6) within three years from the due date or the actual date, whichever is earlier, for filing of annual return for the year to which the tax not paid or short paid or input tax credit wrongly availed or utilized relates or, as the case may be, within three years from the date of erroneous refund.

*B. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized by reason of fraud or any willful-misstatement or suppression of facts*

(1) Where any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilized by reason of fraud, or any willful-misstatement or suppression of facts to evade tax, the proper officer shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilized input tax credit requiring him to show cause why he should not pay the amount specified in the notice along with interest payable thereon under section 36 and a penalty equivalent to the tax specified in the notice.

(2) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized for such periods other than those covered under sub-section (1), on the person chargeable with tax. The service of such statement shall be deemed to be service of notice on such person under the aforesaid sub-section (1), subject to the condition that the grounds relied upon for such periods other than those covered under sub-section(1) are the same as are mentioned in the earlier notice.

(3) The person chargeable with tax may, before service of notice under sub-section (1) or, as the case may be, the statement under sub-section (2), pay the amount of tax along with interest payable under section 36 and a penalty equivalent to fifteen per cent of such tax on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment. The proper officer, on receipt of such information, shall not serve any notice under sub-section (1) or, as the case may be, the statement under sub-section (2), in respect of the tax so paid or any penalty leviable under the provisions of this Act or the rules made there under.

(4) Where the proper officer is of the opinion that the amount paid under sub-section (3) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.

(5) Where any person chargeable with tax under sub-section (1) or under sub-section (2) pays the said tax along with interest payable under section 36 and a penalty equivalent to twenty five per cent of such tax within thirty days of communication of the notice, all proceedings in respect of the said tax shall be deemed to be concluded.

(6) The proper officer shall, after considering the representation, if any, made by the person chargeable with tax, determine the amount of tax, interest and penalty due from such person and issue an order.

(7) The proper officer shall issue the order under sub-section (6) within a period of five years from the due date or the actual date, whichever is earlier, for filing of annual return for the year to which the tax not paid or short paid or input tax credit wrongly availed or utilized relates or, as the case may be, within five years from the date of erroneous refund.

(8) Where any person served with an order issued under sub-section (6) pays the tax along with interest payable thereon under section 36 and a penalty equivalent to fifty percent of such tax within thirty days of the communication of order, all proceedings in respect of the said tax shall be deemed to be concluded.

*C. General provisions relating to demand of tax*

(1) Where the service of notice or issuance of order is stayed by an order of a Court or Tribunal, the period of such stay shall be excluded in computing the period of three years or five years, as the case may be.

(2) Where any Appellate Authority or Tribunal or Court concludes that the notice issued under sub-section B (1) or B (2) is not sustainable for the reason that the charges of fraud or any wilful mis-statement or suppression of facts to evade tax has not been established against the person to whom the notice was issued, the proper officer shall determine the tax payable by such person for the period of three years, deeming as if the notice were issued under sub-section A (1) or A (2).

(3) An opportunity of personal hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person.

(4) The proper officer shall, if sufficient cause is shown by the person chargeable with tax, grant time, from time to time, to the said person and adjourn the hearing for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a person during the proceeding.

(5) The proper officer, in his order, shall set out the relevant facts and the basis of his decision.

(6) The amount of tax, interest and penalty demanded in the order shall not be in excess of the amount specified in the notice and no demand shall be confirmed on grounds other than the grounds specified in the notice.

(7) Where the Appellate Authority or Tribunal or Court modifies the amount of tax determined by the proper officer, the amount of interest and penalty shall stand modified accordingly, taking into account the amount of tax so modified.

(8) Interest on the tax short paid or not paid shall be payable whether or not specified in the order determining the tax liability.

(9) The adjudication proceedings shall be deemed to be concluded if the order is not issued within three years as provided for in sub-section A (7) or within five years as provided for in sub-section B (7).

(10) An issue on which the First Appellate Authority or the Appellate Tribunal or the High Court has given its decision which is prejudicial to the interest of revenue in some other proceedings and an appeal to the Appellate Tribunal or the High Court or the Supreme Court against such decision of the First Appellate Authority or the Appellate Tribunal or as the case may be, the High Court is pending, the period spent between the date of the decision of the First Appellate Authority and the date of decision of the Appellate Tribunal or the date of decision of the Appellate Tribunal and the date of the decision of the High Court or as the case may be, the date of the decision of the High Court and the date of the decision of the Supreme Court shall be excluded in computing the period referred to in sub-section A (7) or sub-section B (7), as the case may be, where proceedings are initiated by way of issue of a show cause notice under this section.

D (1) The provisions of sub-section A, B, C above shall apply, *mutatis mutandis*, to the recovery of interest where interest payable has not been paid or part paid or erroneously refunded.

## **52. Tax collected but not deposited with the Central or a State Government**

(1) Notwithstanding anything to the contrary contained in any order or direction of any Appellate Authority or Tribunal or Court or in any other provision of this Act or the rules made thereunder or any other law, every person who has collected from any other person any amount as representing the tax under this Act, and has not paid the said amount to the Central or a State Government, shall forthwith deposit the said amount to the credit of the Central or a State Government, regardless of whether the supplies in respect of which such amount was collected are taxable or not.

(2) Where any amount is required to be paid to the credit of the Central or a State Government under sub-section (1), and which has not been so paid, the proper officer may serve on the person liable to pay such amount a notice requiring him to show cause why the said amount as specified in the notice, should not be paid by him to the credit of the Central or a State Government and why a penalty equivalent to the amount specified in the notice should not be imposed on him under the provisions of this Act.

(3) The proper officer shall, after considering the representation, if any, made by the person on whom the notice is served under sub-section (2), determine the amount due from such person and thereupon such person shall pay the amount so determined.

(4) The person referred to in sub-section (1) shall in addition to paying the amount referred to in sub-section (1) or (3), as the case may be, also be liable to pay interest thereon at the rate specified under section 36 from the date such amount was collected by him to the date such amount is paid by him to the credit of the Central or a State Government.

(5) An opportunity for personal hearing shall be granted where a request is received in writing from the person to whom the notice was issued to show cause.

(6) The proper officer shall issue an order within one year from the date of issue of the notice.

(7) Where the issuance of order is stayed by an order of the Court or Tribunal, the period of such stay shall be excluded in computing the period of one year.

(8) The proper officer, in his order, shall set out the relevant facts and the basis of his decision.

(9) The amount paid to the credit of the Central Government or a State Government under sub-section (1) or sub-section (3) shall be adjusted against the tax payable, if any by the person in relation to the supplies referred to in sub-section (1).

(10) Where any surplus is left after the adjustment under sub-section (9), the amount of such surplus shall either be credited to the Fund or, as the case may be, refunded to the person who has borne the incidence of such amount.

(11) The person who has borne the incidence of the amount referred to in sub-section (10), may apply for the refund of the same and for such refund, the provisions of section 38 shall apply *mutatis mutandis*.

### **53. Tax wrongfully collected and deposited with the Central or a State Government**

(1) A taxable person who has paid CGST/SGST (in SGST Act) on a transaction considered by him to be an intra-state supply, but which is subsequently held to be an inter-state supply, shall, upon payment of IGST, be allowed to take the amount of CGST /SGST (in SGST Act) so paid as refund subject to the provisions of section 38 and subject to such other conditions as may be prescribed.

**(CGST Act)**

### **54. Recovery of tax**

(1) Where any amount payable by a person to the credit of the Central or a State Government under any of the provisions of this Act or of the rules made thereunder is not paid, the proper officer shall proceed to recover the amount by one or more of the modes mentioned below: -

(a) the proper officer may deduct or may require any other specified officer to deduct the amount so payable from any money owing to such person which may be under the control of the proper officer or such other specified officer.

(b) the proper officer may recover or may require any other specified officer to recover the amount so payable by detaining and selling any goods belonging to such person which are under the control of the proper officer or such other specified officer.

(c) (i) the proper officer may, by a notice in writing, require any other person from whom money is due or may become due to such person or who holds or may subsequently hold money for or on account of such person, to pay to the credit of the Central or a State Government either forthwith upon the money becoming due or being held, or at or within the time specified in the notice not being before the money becomes due or is held, so much of the money as is sufficient to pay the amount due from such person or the whole of the money when it is equal to or less than that amount;

(ii) every person to whom the notice is issued under this section shall be bound to comply with such notice, and in particular, where any such notice is issued to a post office, banking company or an insurer, it shall not be necessary to produce any pass book, deposit receipt, policy or any other document for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary;

(iii) in case the person to whom a notice under this section has been issued, fails to make the payment in pursuance thereof to the Central or a State Government, he shall be deemed to be a defaulter in respect of the amount specified in the notice and all the consequences of this Act or the rules made thereunder shall follow;

(iv) the officer issuing a notice under sub-clause (i) may, at any time or from time to time, amend or revoke such notice or extend the time for making any payment in pursuance of the notice;

(v) any person making any payment in compliance with a notice issued under sub-clause (i) shall be deemed to have made the payment under the authority of the person in default and such payment being credited to the appropriate Government shall be deemed to constitute a good and sufficient discharge of the liability of such person to the person in default to the extent of the amount specified in the receipt;

(vi) any person discharging any liability to the person in default after service on him of the notice issued under sub-clause (i) shall be personally liable to the Central or a State Government to the extent of the liability discharged or to the extent of the liability of the person in default for tax, interest and penalty, whichever is less.

(vii) where a person on whom a notice is served under sub-clause (i) proves to the satisfaction of the officer issuing the notice that the money demanded or any part thereof was not due to the person in default or that he did not hold any money for or on account of the person in default, at the time the notice was served on him, nor is the money demanded or any part thereof, likely to become due to the said person or be held for or on account of such person, nothing contained in this section shall be deemed to require the person on whom the notice has been served to pay to the credit of the appropriate Government any such money or part thereof, as the case may be.

(d) the proper officer may, on an authorisation by the competent authority and in accordance with the rules made in this behalf, distrain any movable or immovable property belonging to or under the control of such person, and detain the same until the amount payable is paid; and in case, any part of the said amount payable or of the cost of the distress or keeping of the property, remains unpaid for a period of thirty days next after any such distress, may cause the said property to be sold and with the proceeds of such sale, may satisfy the amount payable and the costs including cost of sale remaining unpaid and shall render the surplus amount, if any, to such person;

(e) the proper officer may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business and the said Collector, on receipt of such certificate, shall proceed to recover from such person the amount specified there under as if it were an arrear of land revenue;

(f) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Act 2 of 1974), the proper officer may file an application to the appropriate Magistrate and such Magistrate shall proceed to recover from such person the amount specified thereunder as if it were a fine imposed by him.

(2) Where the terms of any bond or other instrument executed under this Act or any rules or regulations made thereunder provide that any amount due under such instrument may be recovered in the manner laid down in sub-section (1), the amount

may, without prejudice to any other mode of recovery, be recovered in accordance with the provisions of that sub-section.

(3) Where any amount of tax, interest or penalty is payable by a person to the credit of the Central Government under any of the provisions of this Act or the rules made thereunder and which remains unpaid, the proper officer of SGST, during the course of recovery of SGST arrears, may recover the amount from the said person as if it were an arrear of SGST and credit the amount so recovered to the account of the Central Government.

**(CGST ACT)**

(3) Where any amount of tax, interest or penalty is payable by a person to the credit of the State Government under any of the provisions of this Act or the rules made thereunder and which remains unpaid, the proper officer of CGST, during the course of recovery of CGST arrears, may recover the amount from the said person as if it were an arrear of CGST and credit the amount so recovered to the account of the State Government.

**(SGST ACT)**

**55. Payment of tax and other amount in installments.**

On an application filed by a taxable person, the [Commissioner/Chief Commissioner] may, for reasons to be recorded in writing, extend the time for payment or allow payment of any amount due under the Act, other than the amount due as per the liability self-assessed in any return, by such person in monthly installments not exceeding twenty four, subject to payment of interest under section 36 with such restrictions and conditions as may be prescribed:

Provided that where there is default in payment of any one installment on its due date, the whole outstanding balance payable on such date shall become due and payable forthwith and shall, without any further notice being served on the person, be liable for recovery.

**56. Transfer of property to be void in certain cases**

Where a person, after any tax has become due from him, creates a charge on or parts with the property belonging to him or in his possession by way of sale, mortgage, exchange, or any other mode of transfer whatsoever of any of his properties in favour of any other person with the intention of defrauding the Government revenue, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the said person:

Provided that, such charge or transfer shall not be void if it is made for adequate consideration and without notice of the pendency of such proceeding under this Act or, as the case may be, without notice of such tax or other sum payable by the said person, or with the previous permission of the proper officer.

**57. Tax to be first charge on property**

Notwithstanding anything to the contrary contained in any law for the time being in force, any amount payable by a taxable person or any other person on account of tax,

interest or penalty which he is liable to pay to the Central or a State Government shall be a first charge on the property of such taxable person, or as the case may be, such person.

#### **58. Provisional attachment to protect revenue in certain cases**

(1) Where during the pendency of any proceedings under section 46, section 47, section 48 or section 51, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary so to do, he may by order in writing attach provisionally any property belonging to the taxable person in such a manner as may be prescribed.

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of one year from the date of the order made under sub-section (1).

#### **59. Continuation of certain recovery proceedings**

(1) Where any notice of demand in respect of any tax, penalty, interest or any other amount payable under this Act, (hereinafter in this section referred to as "Government dues"), is served upon any taxable person and any appeal, revision application is filed or other proceedings is initiated in respect of such Government dues, then -

(a) Where such Government dues are enhanced in such appeal, revision or other proceeding, the Commissioner shall serve upon the taxable person another notice of demand only in respect of the amount by which such Government dues are enhanced and any recovery proceeding in relation to such Government dues as are covered by the notice of demand served upon him before the disposal of such appeal, revision application or proceeding may, without the service of any fresh notice of demand, be continued from the stage at which such proceedings stood immediately before such disposal.

(b) Where such Government dues are reduced in such appeal, revision or in other proceeding -

(i) It shall not be necessary for the Commissioner to serve upon the taxable person a fresh notice of demand;

(ii) The Commissioner shall give intimation of such reduction to him and to the appropriate authority with whom recovery proceeding is pending;

(iii) Any recovery proceedings initiated on the basis of the demand served upon him prior to the disposal of such appeal, revision application or other proceeding may be continued in relation to the amount so reduced from the stage at which such proceedings stood immediately before such disposal.

**CHAPTER- XV**  
**INSPECTION, SEARCH, SEIZURE AND ARREST**

**60. Power of inspection, search and seizure**

(1) Where the CGST/SGST officer, not below the rank of Joint Commissioner, has reasons to believe that -

(a) a taxable person has suppressed any transaction relating to supply of goods and/or services or the stock of goods in hand, or has claimed input tax credit in excess of his entitlement under the Act or has indulged in contravention of any of the provisions of this Act or rules made thereunder to evade tax under this Act; or

(b) any person engaged in the business of transporting goods or an owner or operator of a warehouse or a godown or any other place is keeping goods which have escaped payment of tax or has kept his accounts or goods in such a manner as is likely to cause evasion of tax payable under this Act,

he may authorize in writing any other officer of CGST/SGST to inspect any places of business of the taxable person or the persons engaged in the business of transporting goods or the owner or the operator of warehouse or godown or any other place.

(2) Where the CGST/SGST officer, not below the rank of Joint Commissioner, either pursuant to an inspection carried out under sub-section (1) or otherwise, has reasons to believe that any goods liable to confiscation or any documents or books or things, which in his opinion shall be useful for or relevant to any proceedings under this Act, are secreted in any place, he may authorize in writing any other CGST/SGST officer to search and seize or may himself search and seize such goods, documents or books or things:

Provided that the goods, documents or books or things so seized shall be retained by such officer only for so long as may be necessary for their examination and for any inquiry or proceeding under this Act.

(3) The officer authorised under sub-section (2) shall have the power to seal or break open the door of any premises or to break open any *almirah*, box, receptacle in which any goods, accounts, registers or documents of the person are suspected to be concealed, where access to such premises, *almirah*, box or receptacle is denied.

(4) The person from whose custody any documents are seized under sub-section (2) shall be entitled to make copies thereof or take extracts therefrom in the presence of an officer of CGST/SGST.

(5) Where any goods are seized under sub-section (2) and no notice in respect thereof is given within sixty days of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized:

Provided that the aforesaid period of sixty days may, on sufficient cause being shown, be extended by the [competent authority] for a further period not exceeding sixty days at a time subject to a maximum of six months.

(6) The Central or a State Government may, having regard to the perishable or hazardous nature of any goods, depreciation in the value of the goods with the passage of time, constraints of storage space for the goods or any other relevant considerations,



by notification, specify the goods or class of goods which shall, as soon as may be after its seizure under sub-section (2), be disposed of by the proper officer in such manner as the Central or a State Government may prescribe.

(7) Where any goods, being goods specified under sub-section (6), have been seized by a proper officer under sub-section (2), he shall prepare an inventory of such goods in the manner as may be prescribed in this behalf.

(8) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to search and seizure, shall, so far as may be, apply to search and seizure under this section subject to the modification that sub-section (5) of section 165 of the said Code shall have effect as if for the word "Magistrate", wherever it occurs, the words [Principal Commissioner/Commissioner of CGST/Commissioner of SGST] were substituted.

### **61. Inspection of goods in movement**

(1) The Central or a State Government may require the person in charge of a conveyance carrying any consignment of goods of value exceeding fifty thousand rupees to carry with him such documents as may be prescribed in this behalf.

(2) Where any vehicle referred to in sub-section (1) is intercepted by the proper officer at any place, he may require the person in charge of the said vehicle to produce such documents for verification and the said person shall be liable to produce the documents.

### **62. Power to arrest**

(1) If the [Commissioner of CGST or the Commissioner of SGST] has reason to believe that any person has committed an offence punishable under clause (i) or (ii) of sub-section (1) or under sub-section (2) of section 73, he may, by order, authorise any CGST/SGST officer to arrest such person.

(2) Where a person is arrested for any cognizable offence, every officer authorised to arrest a person shall inform such person of the grounds of arrest and produce him before a magistrate within twenty four hours.

(3) In the case of a non-cognizable and bailable offence, the Deputy Commissioner or the Assistant Commissioner of CGST/SGST, as the case may be, shall, for the purpose of releasing an arrested person on bail or otherwise, have the same powers and be subject to the same provisions as an officer-in-charge of a police station has, and is subject to, under section 436 of the Code of Criminal Procedure, 1973 (2 of 1974).

(4) All arrests made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to arrest.

### **63. Power to summon persons to give evidence and produce documents**

(1) Any [CGST/SGST officer], duly authorised by the competent authority in this behalf, shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry which such officer is making for any of the purposes of this Act.

(2) A summons to produce documents or other things may be for the production of certain specified documents or things or for the production of all documents or things of a certain description in the possession or under the control of the person summoned.

(3) All persons so summoned shall be bound to attend, either in person or by an authorised representative, as such officer may direct; and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statements and produce such documents and other things as may be required:

Provided that the exemptions under sections 132 and 133 of the Code of Civil Procedure, 1908 (5 of 1908) shall be applicable to requisitions for attendance under this section.

(4) Every such inquiry as aforesaid shall be deemed to be a "judicial proceeding" within the meaning of section 193 and section 228 of the Indian Penal Code, 1860 (45 of 1860).

#### **64. Access to business premises**

(1) Any CGST/SGST officer authorized by the [Additional/Joint Commissioner of CGST or SGST] shall have access to any business premises to inspect books of account, documents, computers, computer programs, computer software (whether installed in a computer or otherwise) and such other things as he may require and which may be available at such premises, for the purposes of carrying out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of revenue.

(2) Every person in charge of premises referred to in sub-section (1) shall, on demand, make available to the officer authorized under sub-section (1) or the audit party deputed by the Additional/Joint Commissioner of CGST or SGST or the Comptroller and Auditor General of India or a cost accountant or chartered accountant nominated under section 50, as the case may be,-

- (i) the records as prepared or maintained by the registered taxable person and declared to the CGST/SGST officer as may be prescribed;
- (ii) trial balance or its equivalent;
- (iii) Statements of annual financial accounts, duly audited, wherever required;
- (iv) cost audit report, if any, under section 148 of the Companies Act, 2013 (18 of 2013);
- (v) the income-tax audit report, if any, under section 44AB of the Income-tax Act, 1961 (43 of 1961); and
- (vi) any other relevant record,

for the scrutiny of the officer or audit party or the cost accountant or chartered accountant, as the case may be, within a reasonable time, not exceeding fifteen working days from the day when such demand is made, or such further period as may be allowed by the said officer or the audit party or the cost accountant or chartered accountant, as the case may be.

#### **65. Officers required to assist CGST/SGST officers**

(1) All officers of Police, Customs and those of State/Central Government engaged in collection of goods and services tax and all officers of State/Central Government engaged in the collection of land revenue, and all village officers are hereby empowered and required to assist the CGST/SGST officers in the execution of this Act.

(2) The Central/State Government may, by notification, empower and require any other class of officers to assist the CGST/SGST officers in the execution of this Act when called upon to do so by the Commissioner of CGST/SGST.

**CHAPTER – XVI**  
**OFFENCES AND PENALTIES**

**66. Offences and penalties**

(1) Where a taxable person who -

(i) supplies any goods and/or services without issue of any invoice or issues an incorrect or false invoice with regard to any such supply;

(ii) issues any invoice or bill without supply of goods and/or services in violation of the provisions of this Act, or the rules made thereunder;

(iii) collects any amount as tax but fails to pay the same to the credit of the appropriate Government beyond a period of three months from the date on which such payment becomes due;

(iv) collects any tax in contravention of the provisions of this Act but fails to pay the same to the credit of the appropriate Government beyond a period of three months from the date on which such payment becomes due;

(v) fails to deduct the tax in terms of sub-section (1) of section 37, or deducts an amount which is less than the amount required to be deducted under the said sub-section, or where he fails to pay to the credit of the appropriate Government under sub-section (2) thereof, the amount deducted as tax;

(va) fails to collect tax in terms of sub-section (1) of section 43C, or collects an amount which is less than the amount required to be collected under the said sub-section, or where he fails to pay to the credit of the appropriate Government under sub-section (4) thereof, the amount collected as tax;

(vi) takes and/or utilizes input tax credit without actual receipt of goods and/or services either fully or partially, in violation of the provisions of this Act, or the rules made thereunder;

(vii) fraudulently obtains refund of any CGST/SGST under this Act;

(viii) takes or distributes input tax credit in violation of section 17, or the rules made thereunder;

(ix) falsifies or substitutes financial records or produces fake accounts and/or documents or furnishes any false information or return with an intention to evade payment of tax due under this Act;

(x) is liable to be registered under this Act but fails to obtain registration;

(xi) furnishes any false information with regard to particulars specified as mandatory, either at the time of applying for registration, or subsequently;

(xii) obstructs or prevents any officer in discharge of his duties under the Act;

(xiii) transports any taxable goods without the cover of documents as may be specified in this behalf;

(xiv) suppresses his turnover leading to evasion of tax under this Act;

(xv) fails to keep, maintain or retain books of account and other documents in accordance with the provisions of this Act or the rules made thereunder;

(xvi) fails to furnish information and/or documents called for by a CGST/SGST officer in accordance with the provisions of this Act or rules made thereunder or furnishes false information and/or documents during any proceedings under this Act;

(xvii) supplies, transports or stores any goods which he has reason to believe are liable to confiscation under this Act;

(xviii) issues any invoice or document by using the identification number of another taxable person;

(xix) tampers with, or destroys any material evidence;

(xx) disposes off or tampers with any goods that have been detained, seized, or attached under this Act;

shall be liable to a penalty of rupees ten thousand or an amount equivalent to the tax evaded or the tax not deducted or short deducted or deducted but not paid to the Government or input tax credit availed of or passed on or distributed irregularly, or the refund claimed fraudulently, as the case may be, whichever is higher.

(2) Any registered taxable person who repeatedly makes short payment of tax shall be liable to a penalty of rupees ten thousand or ten percent of the tax short paid, whichever is higher.

Explanation.- For the purposes of this sub-section, a taxable person shall be deemed to have made short payments 'repeatedly', if there were short payments in three returns during any six consecutive tax periods.

(3) Any person who

(a) aids or abets any of the offences specified in clauses (i) to (xx) of sub-section (1) above;

(b) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with any goods which he knows or has reason to believe are liable to confiscation under this Act or the rules made thereunder;

(c) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reason to believe are in contravention of any provisions of this Act or the rules made thereunder;

(d) fails to appear before the CGST/SGST officer, when issued with a summon for appearance to give evidence or produce a document in an enquiry;

(e) fails to issue invoice in accordance with the provisions of this Act or rules made thereunder, or fails to account for an invoice in his books of account;

shall be liable to a penalty which may extend to rupees twenty five thousand.

## **67. General penalty**

Any person, who contravenes any of the provisions of this Act or any rules made thereunder for which no penalty is separately provided for in this Act, shall be liable to a penalty which may extend to rupees twenty five thousand.

### **68. General disciplines related to penalty**

(1) No tax authority shall impose substantial penalties for minor breaches of tax regulations or procedural requirements. In particular, no penalty in respect of any omission or mistake in documentation which is easily rectifiable and obviously made without fraudulent intent or gross negligence shall be greater than necessary to serve merely as a warning.

Explanation.- For the purpose of this sub-section –

(a) a breach shall be considered a 'minor breach' if the amount of tax involved is less than rupees five thousand.

(b) an omission or mistake in documentation shall be considered to be easily rectifiable if the same is an error apparent on record.

(2) The penalty imposed shall depend on the facts and circumstances of the case and shall be commensurate with the degree and severity of the breach.

(3) No penalty shall be imposed on any taxable person without giving a notice to show cause and without giving the person a reasonable opportunity of being heard.

(4) The tax authority shall ensure that when a penalty is imposed in an order for a breach of the laws, regulations or procedural requirements, an explanation is provided therein to the persons upon whom the penalty is imposed, specifying the nature of the breach and the applicable law, regulation or procedure under which the amount or range of penalty for the breach has been prescribed.

(5) When a person voluntarily discloses to a tax authority the circumstances of a breach of the tax law, regulation or procedural requirement prior to the discovery of the breach by the tax authority, the tax authority may consider this fact as a potential mitigating factor when establishing a penalty for that person.

(6) The provisions of this section will not apply in such cases where the penalty prescribed under the Act is either a fixed sum or expressed as a fixed percentage.

### **69. Detention of goods and conveyances, and levy of penalty**

(1) Where any person –

(i) transports any goods or stores such goods while they are in transit in violation of the provisions of this Act; or

(ii) stores or keeps in stock goods or supplies goods which have not been accounted for in the books or records maintained by him in the manner required by this Act;

all such goods and the conveyance used as a means of transport for carrying the said goods shall be liable to detention, in the manner prescribed, by the proper officer and shall be released only after payment of applicable tax, interest and penalty leviable thereon or upon furnishing a security, in such form as may be prescribed, equivalent to the amount of the applicable tax, interest and penalty.

(2) No tax, interest or penalty shall be determined under sub-section (1) without giving a notice to show cause and without giving the person a reasonable opportunity of being heard.

### **70. Confiscation of goods and levy of penalty**

(1) If any person –

(i) supplies any goods in contravention of any of the provisions of this Act or rules made thereunder leading to evasion of tax; or

(ii) does not account for any goods on which he is liable to pay tax under this Act; or

(iii) supplies any goods liable to tax under this Act without having applied for the registration; or

(iv) contravenes any of the provisions of this Act or rules made thereunder with intent to evade payment of tax,

then, all such goods shall be liable to confiscation and the person shall be liable to penalty under section 66.

(2) Whenever confiscation of any goods is authorized by this Act, the CGST/SGST officer adjudging it shall give to the owner of the goods or, where such owner is not known, the person from whose possession or custody such goods have been seized, an option to pay in lieu of confiscation such fine as the said officer thinks fit:

Provided that such fine shall not exceed the market price of the goods confiscated, less the tax chargeable thereon.

(3) Where any fine in lieu of confiscation of goods is imposed under sub-section (2), the owner of such goods or the person referred to in sub-section (1), shall, in addition, be liable to any tax and charges payable in respect of such goods.

(4) No order of confiscation of goods and/or imposition of penalty shall be issued without giving a notice to show cause and without giving the person a reasonable opportunity of being heard.

(5) Where any goods are confiscated under this Act, the title of such goods shall thereupon vest in the appropriate Government.

(6) The proper officer adjudging confiscation shall take and hold possession of the things confiscated and every Officer of Police, on the requisition of such proper officer, shall assist him in taking and holding such possession.

### **71. Confiscation of conveyances**

Any conveyance used as a means of transport for carriage of taxable goods without the cover of documents as may be prescribed in this behalf shall be liable to confiscation, unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance:

Provided that where any such conveyance is used for the carriage of the goods or passengers for hire, the owner of the conveyance shall be given an option to pay in lieu

of the confiscation of the conveyance a fine equal to the tax payable on the goods being transported thereon.

**72. Confiscation or penalty not to interfere with other punishments**

No confiscation made or penalty imposed under the provisions of this Act or the rules made thereunder shall prevent the infliction of any other punishment to which the person affected thereby is liable under the provisions of this Act or under any other law.

## CHAPTER – XVII

### PROSECUTION AND COMPOUNDING OF OFFENCES

#### 73. Prosecution

- (1) Whoever commits any of the following offences, namely—
- (a) supplies any goods and/or services without issue of any invoice or issues an incorrect or false invoice with regard to any such supply;
  - (b) issues any invoice or bill without supply of goods and/or services in violation of the provisions of this Act, or the rules made thereunder;
  - (c) collects any amount as tax but fails to pay the same to the credit of the appropriate Government beyond a period of three months from the date on which such payment becomes due;
  - (d) collects any tax in contravention of the provisions of this Act but fails to pay the same to the credit of the appropriate Government beyond a period of three months from the date on which such payment becomes due;
  - (e) takes and/or utilizes input tax credit without actual receipt of goods and/or services either fully or partially, in violation of the provisions of this Act, or the rules made thereunder;
  - (f) fraudulently obtains refund of any CGST/SGST;
  - (g) falsifies or substitutes financial records or produces fake accounts and/or documents or furnishes any false information with an intention to evade payment of tax due under this Act;
  - (h) obstructs or prevents any officer in the discharge of his duties under this Act;
  - (i) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with, any goods which he knows or has reason to believe are liable to confiscation under this Act or the rules made thereunder;
  - (j) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reason to believe are in contravention of any provisions of this Act or the rules made thereunder;
  - (k) fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information; or
  - (l) attempts to commit, or abets the commission of, any of the offences mentioned in clauses (a) to (k) of this section;

shall be punishable –

- (i) in cases where the amount of tax evaded exceeds two hundred and fifty lakh rupees, with imprisonment for a term which may extend to five years and with fine;



(ii) in cases where the amount of tax evaded exceeds fifty lakh rupees but does not exceed two hundred and fifty lakh rupees, with imprisonment for a term which may extend to three years and with fine;

(iii) in the case of any other offence where the amount of tax evaded exceeds twenty five lakh rupees but does not exceed fifty lakh rupees, with imprisonment for a term which may extend to one year and with fine.

(2) If any person convicted of an offence under this section is again convicted of an offence under this section, then, he shall be punishable for the second and for every subsequent offence with imprisonment for a term which may extend to five years and with fine:

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court, the imprisonment referred to in sub-sections (1) and (2) shall not be for a term of less than six months.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), all offences under this Act, except the offences referred to in sub-section (4) shall be non-cognizable and bailable.

(4) The offences relating to taxable goods and/or services where the amount of tax evaded exceeds two hundred and fifty lakh rupees shall be cognizable and non-bailable.

(5) A person shall not be prosecuted for any offence under this section except with the previous sanction of the designated authority.

#### **74. Cognizance of offences**

No Court shall take cognizance of any offence punishable except with the previous sanction of the designated authority, and no Court inferior to that of a Magistrate of the First Class, shall try any such offence.

#### **75. Presumption of culpable mental state**

(1) In any prosecution for an offence under this Act which requires a culpable mental state on the part of the accused, the Court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Explanation.— In this section, “culpable mental state” includes intention, motive, knowledge of a fact, and belief in, or reason to believe, a fact.

(2) For the purposes of this section, a fact is said to be proved only when the Court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.

#### **76. Relevancy of statements under certain circumstances**

(1) A statement made and signed by a person before any gazetted officer of CGST/IGST/SGST during the course of any inquiry or proceeding under this Act shall be relevant, for the purpose of proving, in any prosecution for an offence under this Act, the truth of the facts which it contains,-

- (a) when the person who made the statement is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or whose presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the Court considers unreasonable; or
- (b) when the person who made the statement is examined as a witness in the case before the Court and the Court is of the opinion that, having regard to the circumstances of the case, the statement should be admitted in evidence in the interests of justice.
- (2) The provisions of sub-section (1) shall, so far as may be, apply in relation to any proceeding under this Act, other than a proceeding before a Court, as they apply in relation to a proceeding before a Court.

### **77. Offences by Companies and certain other persons**

- (1) Where an offence committed by a person under this Act is a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:
- (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purposes of this section, -

- (a) "company" means a body corporate and includes a firm or other association of individuals; and
- (b) "director", in relation to a firm, means a partner in the firm.
- (3) Where an offence under this Act has been committed by a taxable person being a partnership firm or a Limited Liability Partnership or a Hindu Undivided Family or a trust, the partner or *karta* or managing trustee, as the case may be, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly and the provisions of sub-section (2) shall apply *mutatis mutandis* to such persons.
- (4) Nothing contained in this section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

### **78. Compounding of offences**

- (1) Any offence under the Act may, either before or after the institution of prosecution, be compounded by the Competent Authority on payment, by the person accused of the offence, to the Central Government or the State Government, as the case be, of such compounding amount in such manner as may be prescribed:

Provided that nothing contained in this section shall apply to -

- (a) a person who has been allowed to compound once in respect of any of the offences described under clause (a) to (g) of sub-section (1) of section 73 and the offences described under clause (l) which are relatable to offences described under clause (a) to (g) of the said sub-section;
- (b) a person who has been allowed to compound once in respect of any offence (other than those in clause (a)) under the Act or under the provisions of any other SGST Act or IGST Act in relation to supplies of value exceeding rupees one crore;
- (c) a person who has been accused of committing an offence under the Act which is also an offence under the Narcotic Drugs and Psychotropic Substance Act, 1985 (61 of 1985), the Foreign Exchange Management Act, 1999 (42 of 1999) or any other Act other than the CGST/SGST Act;
- (d) any other class of persons or offences as may be prescribed:

Provided further that any compounding allowed under the provision of this section shall not affect the proceedings if any, instituted under any other law:

Provided also that compounding shall be allowed only after making payment of tax, interest and penalty involved in such offences.

- (2) The amount for compounding of offences under this section shall be as may be prescribed under the rules to be made under sub-section (1), subject to the minimum amount not being less than rupees ten thousand or fifty per cent of the tax involved, whichever is greater, and the maximum amount not being more than rupees thirty thousand or one hundred and fifty per cent of the tax, whichever is greater.
- (3) On payment of such compounding amount as may be determined by the competent authority, no further proceedings shall be initiated under the Act against the accused person in respect of the same offence and any criminal proceedings, if already initiated in respect of the said offence, shall stand abated.

## CHAPTER–XVIII

### APPEALS

**(Sections 79, 81, 82 and 83 shall be applicable for appeals under CGST Law. Sections 84 to 93 are common for CGST and SGST law)**

#### **79. Appeals to First Appellate Authority**

(1) Any person aggrieved by any decision or order passed against him under this Act by an adjudicating authority, may appeal to the prescribed First Appellate Authority.

(2) The Commissioner of GST may, of his own motion, call for and examine the record of any proceeding in which an adjudicating authority has passed any decision or order under this Act, for the purpose of satisfying himself as to the legality or propriety of the said decision or order and may, by order, direct any GST Officer subordinate to him to apply to the First Appellate Authority for the determination of such points arising out of the said decision or order as may be specified by the Commissioner of GST in his order.

(3) Where, in pursuance of an order under sub-section (2), the authorized officer makes an application to the First Appellate Authority, such application shall be dealt with by the First Appellate Authority as if it were an appeal made against the decision or order of the adjudicating authority and the provisions of this Act relating to appeals shall, so far as may be, apply to such application.

(4) Every appeal under this section shall be filed within three months from the date on which the decision or order sought to be appealed against is communicated to the Commissioner of GST, or, as the case may be, the person preferring the appeal:

Provided that the First Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months, allow it to be presented within a further period of one month.

(5) Every appeal under this section shall be in the prescribed form and shall be verified in the prescribed manner.

(6) No appeal shall be filed under sub-section (1) unless the appellant has deposited a sum equal to ten percent of the amount in dispute arising from the said order, in relation to which the appeal has been filed.

Explanation.- For the purposes of this sub-section, the expression "amount in dispute" shall include –

- i. amount determined under section 46 or 47 or 48 or 51;
- ii. amount payable under rule-----of the GST Credit Rules 201...; and
- iii. amount of fee levied or penalty imposed.

(7) The First Appellate Authority shall give an opportunity to the appellant of being heard, if he so desires.

(8) The First Appellate Authority may, if sufficient cause is shown at any stage of hearing of an appeal, grant time, from time to time, to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.

(9) The First Appellate Authority may, at the hearing of an appeal, allow an appellant to go into any ground of appeal not specified in the grounds of appeal, if he is satisfied that the omission of that ground from the grounds of appeal was not wilful or unreasonable.

(10) The First Appellate Authority shall, after making such further inquiry as may be necessary, pass such order, as he thinks just and proper, confirming, modifying or annulling the decision or order appealed against:

Provided that an order enhancing any fee or penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund or input tax credit shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order:

Provided further that where the First Appellate Authority is of the opinion that any tax has not been paid or short-paid or erroneously refunded, or where input tax credit has been wrongly availed or utilized, no order requiring the appellant to pay such tax or input tax credit shall be passed unless the appellant is given notice to show cause against the proposed order and the order is passed within the time limit specified under section 51.

(11) The order of the First Appellate Authority disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision.

(12) The First Appellate Authority shall, where it is possible to do so, hear and decide every appeal within a period of one year from the date on which it is filed:

Provided that where the issuance of order is stayed by an order of a Court or Tribunal, the period of such stay shall be excluded in computing the period of one year.

(13) On disposal of the appeal, the First Appellate Authority shall communicate the order passed by him to the appellant and to the adjudicating authority.

(14) A copy of the order passed by the First Appellate Authority shall also be sent to the jurisdictional Commissioner of CGST or the authority designated by him in this behalf and the jurisdictional Commissioner of SGST or the authority designated by him in this behalf.

(15) Every order passed under this section shall, subject to the provisions of section 83, 87 or 88, be final.

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### **81. Constitution of the National Appellate Tribunal**

(1) The Central Government shall on the recommendation of the GST Council constitute a National Goods and Services Tax Appellate Tribunal (hereinafter referred to as the Appellate Tribunal).

- (2) The Appellate Tribunal shall be headed by a National President.
- (3) The Appellate Tribunal shall have one branch for each state, which shall be called as the State GST Tribunal.
- (4) Every State GST Tribunal will be headed by a State President.
- (5) Every State GST Tribunal shall consist of as many Members (Judicial), Members (Technical - CGST) and Members (Technical - SGST) as may be prescribed, to exercise the powers and discharge the functions conferred on the Appellate Tribunal by this Act.
- (6) The qualifications, eligibility conditions and the manner of selection and appointment of the National President, the State Presidents, and the Members shall be such as may be prescribed on the recommendations of the Council.
- (7) The National President and the State Presidents shall exercise such powers and discharge such functions as may be prescribed on the recommendations of the Council.
- (8) On ceasing to hold office, the National President, the State Presidents or other Members of the Appellate Tribunal shall not be entitled to appear, act or plead before the Appellate Tribunal.

## **82. Appeals to the Appellate Tribunal**

- (1) Any person aggrieved by an order passed against him under section 79 may appeal to the Appellate Tribunal against such order.
- (2) The Appellate Tribunal may, in its discretion, refuse to admit any such appeal where the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined by such order, does not exceed one lakh rupees.
- (3) The Board may by order constitute such Committees as may be necessary for the purposes of filing appeals against the orders of the First Appellate Authority. Every such Committee shall consist of two designated officers of GST.
- (4) The Committee of designated officers of GST may, if it is of the opinion that an order passed by the First Appellate Authority under sub-section (10) of section 79, is not legal or proper, direct any GST Officer authorized by it in this behalf to apply to the Appellate Tribunal for the determination of such points arising out of the order passed by the First Appellate Authority as may be specified by the Committee in its order:  
Provided that where the Committee of designated officers of GST differs in its opinion, it shall be deemed that the Committee has formed the opinion that the order under review is not legal or proper.
- (5) Where in pursuance of an order under sub-section (4) the authorized officer makes an application to the Appellate Tribunal, such application shall be dealt with by the Appellate Tribunal as if it were an appeal made against the order of the First Appellate Authority and the provisions of this Act shall, so far as may be, apply to such application, as they apply in relation to appeals filed under sub-section (1).
- (6) Every appeal under this section shall be filed within three months from the date on which the order sought to be appealed against is communicated to the Commissioner of GST, or, as the case may be, the person preferring the appeal.
- (7) On receipt of notice that an appeal has been preferred under this section, the party against whom the appeal has been preferred may, notwithstanding that he may

not have appealed against such order or any part thereof, file, within forty-five days of the receipt of the notice, a memorandum of cross-objections, verified in the prescribed manner, against any part of the order appealed against and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (6).

(8) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the period referred to in sub-section (6) or sub-section (7) respectively, if it is satisfied that there was sufficient cause for not presenting it within that period.

(9) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a prescribed fee:

Provided that no such fee shall be payable in the case of an appeal filed by the Commissioner referred to in sub-section (5) or a memorandum of cross-objections referred to in sub-section (7).

(10) No appeal shall be filed under sub-section (1) unless the appellant has deposited a sum equal to ten percent of the amount in dispute arising from the said order, in relation to which the appeal has been filed.

Explanation.- For the purposes of this sub-section, the expression "amount in dispute" shall include –

- i. amount determined under section 46 or 47 or 48 or 51;
- ii. amount payable under rule-----of the GST Credit Rules 201...; and
- iii. amount of fee levied or penalty imposed.

(11) Every application made before the Appellate Tribunal, –

(a) in an appeal for rectification of mistake or for any other purpose; or

(b) for restoration of an appeal or an application,

shall be accompanied by a prescribed fee :

Provided that no such fee shall be payable in the case of an application filed by or on behalf of the Commissioner of GST under sub-section (5).

### **83. Orders of Appellate Tribunal**

(1) The Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the decision or order appealed against or may refer the case back to the First Appellate Authority or to the original adjudicating authority, with such directions as it may think fit, for a fresh adjudication or decision, as the case may be, after taking additional evidence, if necessary.

(2) The Appellate Tribunal may, if sufficient cause is shown, at any stage of hearing of an appeal, grant time, from time to time, to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.

(3) The Appellate Tribunal may amend any order passed by it under sub-section (1) so as to rectify any mistake apparent from the record, if such mistake is noticed by it on its own accord, or is brought to its notice by the Commissioner of GST or the other party to the appeal within a period of three months from the date of the order:

Provided that no amendment which has the effect of enhancing an assessment or reducing a refund or input tax credit or otherwise increasing the liability of the other party, shall be made under this sub-section, unless the Appellate Tribunal has given notice to him of its intention to do so and has allowed him a reasonable opportunity of being heard.

(4) The Appellate Tribunal shall, where it is possible to do so, hear and decide every appeal within a period of one year from the date on which it is filed.

(5) The Appellate Tribunal shall send a copy of every order passed under this section to the First Appellate Authority, or to the original adjudicating authority, as the case may be, the appellant, the jurisdictional Commissioner of CGST and the jurisdictional Commissioner of SGST.

(6) Every order passed under this section shall, subject to the provisions of section 87 or 88, be final.



**CHAPTER–XVIII**  
**APPEALS AND REVISION**

**(Sections 79, 80, 81, 82 and 83 shall be applicable for appeals under SGST Law. Sections 84 to 93 are common for CGST and SGST law)**

**79. Appeals to First Appellate Authority**

(1) Any person aggrieved by any decision or order passed against him under this Act by an adjudicating authority, may appeal to the prescribed First Appellate Authority.

(2) Every appeal under this section shall be filed within three months from the date on which the decision or order sought to be appealed against is communicated to the person preferring the appeal:

Provided that the First Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months, allow it to be presented within a further period of one month.

(3) Every appeal under this section shall be in the prescribed form and shall be verified in the prescribed manner.

(4) No appeal shall be filed under sub-section (1) unless the appellant has deposited –

(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and

(b) a sum equal to ten percent of the remaining amount in dispute arising from the said order, in relation to which the appeal has been filed.

Explanation.- For the purposes of this sub-section, the expression “amount in dispute” shall include –

- i. amount determined under section 46 or 47 or 48 or 51;
- ii. amount payable under rule-----of the GST Credit Rules 201...; and
- iii. amount of fee levied or penalty imposed:

Provided that nothing in this sub-section shall affect the right of the departmental authorities to apply to the First Appellate Authority for ordering a higher amount of pre-deposit, not exceeding fifty percent of the amount in the dispute, in a case which is considered by the Commissioner of GST to be a “serious case”.

Explanation .- For the purpose of this proviso, the expression “serious case” shall mean a case involving a disputed tax liability of not less than Rupees Twenty Five Crores and where the Commissioner of GST is of the opinion (for reasons to be recorded in writing) that the department has a very good case against the taxpayer.

(5) The First Appellate Authority shall give an opportunity to the appellant of being heard, if he so desires.

(6) The First Appellate Authority may, if sufficient cause is shown at any stage of hearing of an appeal, grant time, from time to time, to the parties or any of them and

adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.

(7) The First Appellate Authority may, at the hearing of an appeal, allow an appellant to go into any ground of appeal not specified in the grounds of appeal, if he is satisfied that the omission of that ground from the grounds of appeal was not wilful or unreasonable.

(8) The First Appellate Authority shall, after making such further inquiry as may be necessary, pass such order, as he thinks just and proper, confirming, modifying or annulling the decision or order appealed against:

Provided that an order enhancing any fee or penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund or input tax credit shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order:

Provided further that where the First Appellate Authority is of the opinion that any tax has not been paid or short-paid or erroneously refunded, or where input tax credit has been wrongly availed or utilized, no order requiring the appellant to pay such tax or input tax credit shall be passed unless the appellant is given notice to show cause against the proposed order and the order is passed within the time limit specified under section 51.

(9) The order of the First Appellate Authority disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision.

(10) The First Appellate Authority shall, where it is possible to do so, hear and decide every appeal within a period of one year from the date on which it is filed:

Provided that where the issuance of order is stayed by an order of a Court or Tribunal, the period of such stay shall be excluded in computing the period of one year.

(11) On disposal of the appeal, the First Appellate Authority shall communicate the order passed by him to the appellant and to the adjudicating authority.

(12) A copy of the order passed by the First Appellate Authority shall also be sent to the jurisdictional Commissioner of CGST or the authority designated by him in this behalf and the jurisdictional Commissioner of SGST or the authority designated by him in this behalf.

(13) Every order passed under this section shall, subject to the provisions of sections 80, 83, 87 or 88, be final.

## **80. Revisional powers of Commissioner**

(1) Subject to the provisions of section 93 and any rules made thereunder, the Commissioner may on his own motion or upon information received by him, call for and examine the record of any proceeding under this Act, and if he considers that any decision or order passed under this Act by any officer subordinate to him is erroneous in so far as it is prejudicial to the interest of the revenue, he may, if necessary, stay the operation of such decision or order for such period as he deems fit and after giving the person concerned an opportunity of being heard and after making such further inquiry as

may be necessary, pass such order, as he thinks just and proper, including enhancing or modifying or annulling the said decision or order.

(2) The Commissioner shall not exercise any power under sub-section (1), if.-

(a) the order has been subject to an appeal under section 79 or under section 82 or under section 87 or under section 88; or

(b) more than three years have expired after the passing of the decision or order sought to be revised.

(3) Notwithstanding anything contained in sub-section (2), the Commissioner may pass an order under sub-section (1) on any point which has not been raised and decided in an appeal referred to in clause (a) of sub-section (2), before the expiry of a period of one year from the date of the order in such appeal or before the expiry of a period of three years referred to in clause (b) of that sub-section, whichever is later.

(4) Every order passed in revision under sub-section (1) shall, subject to the provisions of sections 83, 87 or 88, be final.

(5) If the decision or order passed under this Act by an officer subordinate to the Commissioner involves an issue on which the Appellate Tribunal or the High Court has given its decision which is prejudicial to the interest of revenue in some other proceedings and an appeal to the High Court or the Supreme Court against such decision of the Appellate Tribunal or as the case may be, the High Court is pending, the period spent between the date of the decision of the Appellate Tribunal and the date of the decision of the High Court or as the case may be, the date of the decision of the High Court and the date of the decision of the Supreme Court shall be excluded in computing the period referred to in clause (b) of sub-section (2).

(6) Where the issuance of an order under sub-section (1) is stayed by the order of a Court or Tribunal, the period of such stay shall be excluded in computing the period of three years under sub-section (2).

(7) For the purposes of this section, 'record' shall include all records relating to any proceedings under this Act available at the time of examination by the Commissioner.

(8) For the purposes of this section, 'decision' shall include intimation given by any officer subordinate to the Commissioner.

### **81. Constitution of the National Appellate Tribunal**

(1) The Central Government shall on the recommendation of the GST Council constitute a National Goods and Services Tax Appellate Tribunal (hereinafter referred to as the Appellate Tribunal).

(2) The Appellate Tribunal shall be headed by a National President.

(3) The Appellate Tribunal shall have one branch for each state, which shall be called as the State GST Tribunal.

(4) Every State GST Tribunal will be headed by a State President.

(5) Every State GST Tribunal shall consist of as many Members (Judicial), Members (Technical - CGST) and Members (Technical - SGST) as may be prescribed, to exercise

the powers and discharge the functions conferred on the Appellate Tribunal by this Act.

(6) The qualifications, eligibility conditions and the manner of selection and appointment of the National President, the State Presidents, and the Members shall be such as may be prescribed on the recommendations of the Council.

(7) The National President and the State Presidents shall exercise such powers and discharge such functions as may be prescribed on the recommendations of the Council.

(8) On ceasing to hold office, the National President, the State Presidents or other Members of the Appellate Tribunal shall not be entitled to appear, act or plead before the Appellate Tribunal.

## **82. Appeals to the Appellate Tribunal**

(1) Any person aggrieved by an order passed against him under section 79 or under section 80 may appeal to the Appellate Tribunal against such order.

(2) The Appellate Tribunal may, in its discretion, refuse to admit any such appeal where the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined by such order, does not exceed one lakh rupees.

(3) Every appeal under this section shall be filed within three months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal.

(4) On receipt of notice that an appeal has been preferred under this section, the party against whom the appeal has been preferred may, notwithstanding that he may not have appealed against such order or any part thereof, file, within forty-five days of the receipt of the notice, a memorandum of cross-objections, verified in the prescribed manner, against any part of the order appealed against and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (3).

(5) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the period referred to in sub-section (3) or sub-section (4) respectively, if it is satisfied that there was sufficient cause for not presenting it within that period.

(6) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a prescribed fee:

Provided that no such fee shall be payable in the case of an appeal filed by the Commissioner or a memorandum of cross-objections referred to in sub-section (4).

(7) (a) No appeal shall be filed under sub-section (1) unless the appellant has deposited –

(i) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and

(ii) a sum equal to ten percent of the remaining amount in dispute arising from the said order, in relation to which the appeal has been filed.

Explanation.- For the purposes of this sub-section, the expression "amount in dispute"

shall include –

- i. amount determined under section 46 or 47 or 48 or 51;
- iii. amount payable under rule-----of the GST Credit Rules 201...; and
- iii. amount of fee levied or penalty imposed:

Provided that nothing in this sub-section shall affect the right of the departmental authorities to apply to the Appellate Tribunal for ordering a higher amount of pre-deposit, not exceeding fifty percent of the amount in the dispute after taking into account the amount deposited in the first appeal, in a case which is considered by the Commissioner of GST to be a "serious case".

Explanation. - For the purpose of this proviso, the expression "serious case" shall mean a case involving a disputed tax liability of not less than Rupees Twenty Five Crores and where the Commissioner of GST is of the opinion (for reasons to be recorded in writing) that the department has a very good case against the taxpayer.

(b) The provisions of clause (a) shall also apply mutatis mutandis to cross objections filed under sub-section (4).

(8) Every application made before the Appellate Tribunal, –

(a) in an appeal for rectification of mistake or for any other purpose; or

(b) for restoration of an appeal or an application,

shall be accompanied by a prescribed fee :

Provided that no such fee shall be payable in the case of an application filed by or on behalf of the Commissioner of GST.

### **83. Orders of Appellate Tribunal**

(1) The Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the decision or order appealed against or may refer the case back to the First Appellate Authority, or the revisional authority, as the case may be, or to the original adjudicating authority, with such directions as it may think fit, for a fresh adjudication or decision, as the case may be, after taking additional evidence, if necessary.

(2) The Appellate Tribunal may, if sufficient cause is shown, at any stage of hearing of an appeal, grant time, from time to time, to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.

(3) The Appellate Tribunal may amend any order passed by it under sub-section (1) so as to rectify any mistake apparent from the record, if such mistake is noticed by it on its own accord, or is brought to its notice by the Commissioner of GST or the other party to the appeal within a period of three months from the date of the order:

Provided that no amendment which has the effect of enhancing an assessment or reducing a refund or input tax credit or otherwise increasing the liability of the other party, shall be made under this sub-section, unless the Appellate Tribunal has given notice to him of its intention to do so and has allowed him a reasonable opportunity of

being heard.

(4) The Appellate Tribunal shall, where it is possible to do so, hear and decide every appeal within a period of one year from the date on which it is filed.

(5) The Appellate Tribunal shall send a copy of every order passed under this section to the First Appellate Authority or the revisional authority, or the original adjudicating authority, as the case may be, the appellant, the jurisdictional Commissioner of CGST and the jurisdictional Commissioner of SGST.

(6) Save as provided in section 87 or section 88, orders passed by the Appellate Tribunal on an appeal shall be final.

#### **84. Procedure of Appellate Tribunal**

(1) The powers and functions of the Appellate Tribunal may be exercised and discharged by Benches constituted by the National President or the State Presidents from amongst the members thereof.

(2) Subject to the provisions contained in sub-section (3), a Bench shall consist of one Member (Judicial), one Member (Technical - CGST) and one Member (Technical - SGST).

(3) The National President or a State President, or any other member of the Appellate Tribunal authorized in this behalf by the National President or a State President, may, sitting singly, dispose of any case which has been allotted to the Bench of which he is a member, where in any disputed case, the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty involved, does not exceed ten lakh rupees.

(4) If the members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority; but if the members are equally divided, they shall state the point or points on which they differ and make a reference to the National President or the State President who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other members of the Appellate Tribunal and such point or points shall be decided according to the opinion of the majority of these members of the Appellate Tribunal who have heard the case, including those who first heard it.

(5) Subject to the provisions of this Act, the Appellate Tribunal shall have power to regulate its own procedure and the procedure of the Benches thereof in all matters arising out of the exercise of its powers or of the discharge of its functions, including the places at which the Benches shall hold their sittings.

(6) The Appellate Tribunal shall, for the purposes of discharging its functions, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the following matters, namely :-

- a) discovery and inspection;
- b) enforcing the attendance of any person and examining him on oath;
- c) compelling the production of books of account and other documents; and
- d) issuing commissions.

(7) Any proceeding before the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code (45 of 1860), and the Appellate Tribunal shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

### **85. Interest on delayed refund of pre-deposit**

Where an amount deposited by the appellant under sub-section (6)/(4) of section 79 or under sub-section (10)/(7) of section 82 is required to be refunded consequent to any order of the First Appellate Authority or of the Appellate Tribunal, as the case may be, interest at the rate specified under section 39 shall be payable in respect of such refund from the date of payment of the amount till the date of refund of such amount.

### **86. Appearance by authorised representative**

(1) Any person who is entitled or required to appear before a GST Officer appointed under this Act, or the First Appellate Authority or the Appellate Tribunal in connection with any proceedings under the Act, may, otherwise than when required under this Act to appear personally for examination on oath or affirmation, subject to the other provisions of this section, appear by an authorized representative.

(2) For the purposes of this section, "authorised representative" means a person authorised by the person referred to in sub-section (1) to appear on his behalf, being —

(a) his relative or regular employee; or

(b) an advocate who is entitled to practice in any court in India, and who has not been debarred from practicing before any court in India; or

(c) any chartered accountant, a cost accountant or a company secretary, who holds a valid certificate of practice and who has not been debarred from practice; or

(d) any person who has acquired such qualifications as the Central Government (or the State Government) may, on the recommendation of the Council, prescribe for this purpose.

(3) Notwithstanding anything contained in this section, no person who was serving in the indirect tax departments of the Government of India or of any State Government, and has retired or resigned from such service after having served for not less than two years as a Gazetted officer in that department shall be entitled to appear as an authorised representative in any proceedings before a GST Officer for a period of one year from the date of his retirement or resignation, as the case may be.

(4) No person, —

a) who has been dismissed or removed from government service; or

b) who is convicted of an offence connected with any proceeding under this Act, the Customs Act, 1962 (52 of 1962), the Central Excise Act, 1944 (1 of 1944) or Chapter V of the Finance Act 1994 (25 of 2014) or under any of the Acts passed by a state legislature dealing with the imposition of taxes on sale of goods or supply of goods and/or services, or

c) who has become an insolvent,

shall be qualified to represent any person under sub-section (1) --

- (i) for all times in the case of a person referred to in clause (a),
- (ii) for such time as the Commissioner of GST or the competent authority under the Acts referred to in clause (b) may, by order, determine in the case of a person referred to in clause (b), and
- (iii) for the period during which the insolvency continues in the case of a person referred to in clause (c).

(5) If any person is found guilty of misconduct by the prescribed authority in connection with any proceedings under this Act or under any of the Acts referred to in clause (b) of sub-section (4), the prescribed authority may direct that he shall thenceforth be disqualified to represent any person under sub-section (1).

(6) Any order or direction under clause (b) of sub-section (4) or sub-section (5) shall be subject to the following conditions, namely:—

- a) no such order or direction shall be made in respect of any person unless he has been given a reasonable opportunity of being heard;
- b) any person against whom any such order or direction is made may, within one month of the making of the order or direction, appeal to the competent authority [Central/State Government] to have the order or direction cancelled; and
- c) no such order or direction shall take effect until the expiration of one month from the making thereof, or, where an appeal has been preferred, until the disposal of the appeal.

### **87. Appeal to the High Court**

(1) The Commissioner of GST or the other party aggrieved by any order passed by the Appellate Tribunal under section 83 may file an appeal to the High Court and the High Court may admit such appeal if it is satisfied that the case involves a substantial question of law.

(2) Notwithstanding the provisions of sub section (1), no appeal shall lie to High Court against an order passed by the Appellate Tribunal under section 83 if such order relates, among other things, to:-

- i) a matter where two or more States, or a State and Center, have a difference of views regarding the treatment of a transaction(s) being intra-State or inter-State; or
- ii) a matter where two or more States, or a State and Center, have a difference of views regarding place of supply.

(3) An appeal under sub-section (1) shall be -

- a) filed within one hundred and eighty days from the date on which the order appealed against is received by the Commissioner of GST or the other party;
- b) accompanied by a prescribed fee ;
- c) in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.

(4) The High Court may admit an appeal after the expiry of the period of one hundred and eighty days referred to in clause (a) of sub-section (3), if it is satisfied that there was sufficient cause for not filing the same within that period.

(5) Where the High Court is satisfied that a substantial question of law is involved in



any case, it shall formulate that question.

(6) The appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question:

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the Court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

(7) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(8) The High Court may determine any issue which -

- a) has not been determined by the Appellate Tribunal; or
- b) has been wrongly determined by the Appellate Tribunal, by reason of a decision on such question of law as herein referred to above.

(9) When an appeal has been filed before the High Court, it shall be heard by a bench of not less than two Judges of the High Court, and shall be decided in accordance with the opinion of such Judges or of the majority, if any, of such Judges.

(10) Where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall, then, be heard upon that point only, by one or more of the other Judges of the High Court and such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.

(11) Where the High Court delivers a judgment in an appeal filed before it under this section, effect shall be given to such judgment by either side on the basis of a certified copy of the judgment.

(12) Save as otherwise provided in this Act, the provisions of the Code of Civil Procedure, 1908 (5 of 1908), relating to appeals to the High Court shall, as far as may be, apply in the case of appeals under this section.

### **88. Appeal to the Supreme Court**

(1) An appeal shall lie to the Supreme Court from any judgment or order passed by the High Court in an appeal made under section 87, in any case which, on its own motion or on an oral application made by or on behalf of the party aggrieved, immediately after passing of the judgment or order, the High Court certifies to be a fit one for appeal to the Supreme Court.

(2) An appeal shall lie to the Supreme Court from any order passed by the Appellate Tribunal under section 83 where such order is of the nature referred to in sub section (2) of section 87.

### **89. Hearing before Supreme Court**

(1) The provisions of the Code of Civil Procedure, 1908 (5 of 1908), relating to appeals to the Supreme Court shall, so far as may be, apply in the case of appeals under

section 88 as they apply in the case of appeals from decrees of a High Court :

Provided that nothing in this sub-section shall be deemed to affect the provisions of section 90.

(2) The costs of the appeal shall be at the discretion of the Supreme Court.

(3) Where the judgment of the High Court is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in section 87 in the case of a judgment of the High Court.

### **90. Sums due to be paid notwithstanding appeal etc.**

Notwithstanding that an appeal has been preferred to the High Court or the Supreme Court, sums due to the Government as a result of an order passed by the Appellate Tribunal under sub-section (1) of section 83 or an order passed by the High Court under section 87, as the case may be, shall be payable in accordance with the order so passed.

### **91. Exclusion of time taken for copy**

In computing the period of limitation prescribed for an appeal or application under this Chapter, the day on which the order complained of was served, and if the party preferring the appeal or making the application was not furnished with a copy of the order when the notice of the order was served upon him, the time required for obtaining a copy of such order, shall be excluded.

### **92. Appeal not to be filed in certain cases**

(1) The Board or the State Government may, on the recommendation of the Council, from time to time, issue orders or instructions or directions fixing such monetary limits, as it may deem fit, for the purposes of regulating the filing of appeal or application by the GST officer under the provisions of this Chapter.

(2) Where, in pursuance of the orders or instructions or directions, issued under sub-section (1), the GST officer has not filed an appeal or application against any decision or order passed under the provisions of this Act, it shall not preclude such GST officer from filing appeal or application in any other case involving the same or similar issues or questions of law.

(3) Notwithstanding the fact that no appeal or application has been filed by the GST Officer pursuant to the orders or instructions or directions issued under sub-section (1), no person, being a party in appeal or application shall contend that the GST officer has acquiesced in the decision on the disputed issue by not filing an appeal or application.

(4) The Appellate Tribunal or court hearing such appeal or application shall have regard to the circumstances under which appeal or application was not filed by the GST Officer in pursuance of the orders or instructions or directions issued under sub-section (1).

### **93. Non Appealable decisions and orders**

Notwithstanding anything to the contrary in any provisions of this Act, no appeal shall lie against any decision taken or order passed by a GST officer if such decision taken or order passed relates to any one or more of the following matters:-

- (a) An order of the Commissioner or other competent authority for transfer of proceeding from one officer to another officer;
- (b) An order pertaining to the seizure or retention of books of account, register and other documents; or
- (c) An order sanctioning prosecution under the Act; or
- (d) An order passed under section 55.

## **CHAPTER– XIX**

### **ADVANCE RULING**

#### **94. Definitions**

In this Chapter, unless the context otherwise requires, -

- (a) "advance ruling" means a written decision provided by the Authority or, as the case may be, the Appellate Authority to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 99, as the case may be, in relation to the supply of goods and/or services proposed to be undertaken or being undertaken by the applicant;
- (b) "applicant" means any person registered or desirous of obtaining registration under the Act.
- (c) "application" means an application made to the Authority under sub-section (1) of section 97;
- (d) "Authority" means the Authority for Advance Ruling, constituted under section 95;
- (e) "Appellate Authority" means the Appellate Authority for Advance Ruling constituted under section 96.

#### **95. Authority for Advance Ruling**

- (1) The Authority shall be located in each State.
- (2) The Authority shall comprise one member CGST and one member SGST to be appointed respectively by the Central Government and the State Government.
- (3) The qualifications, eligibility conditions, method and the process of appointment of the members shall be as may be prescribed.

#### **96. Appellate Authority for Advance Ruling**

- (1) The Appellate Authority shall be located in each State.
- (2) The Appellate Authority shall comprise the Chief Commissioner of CGST as designated by the Board and the Commissioner of SGST having jurisdiction over the applicant.

#### **97. Application for advance ruling**

- (1) An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and in such manner as may be prescribed, stating the question on which the advance ruling is sought.
- (2) The question on which the advance ruling is sought shall be in respect of,
  - (a) classification of any goods and/or services under the Act;
  - (b) applicability of a notification issued under provisions of the Act having a bearing on the rate of tax;
  - (c) the principles to be adopted for the purposes of determination of value of the goods and/or services under the provisions of the Act;
  - (d) admissibility of input tax credit of tax paid or deemed to have been paid;
  - (e) determination of the liability to pay tax on any goods and/or services under the Act;

- (f) whether applicant is required to be registered under the Act;
  - (g) whether any particular thing done by the applicant with respect to any goods and/or services amounts to or results in a supply of goods and/or services, within the meaning of that term.
- (3) The application shall be accompanied by a fee as may be prescribed.

### **98. Procedure on receipt of application**

(1) On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the officers as may be prescribed and, if necessary, call upon him to furnish the relevant records:

Provided that where any records have been called for by the Authority in any case, such records shall, as soon as possible, be returned to the said prescribed officers.

(2) The Authority may, after examining the application and the records called for and after hearing the applicant or authorized representative of the applicant as well as the authorized representative of the prescribed officers, by order, either admit or reject the application:

Provided that the Authority shall not admit the application where the question raised in the application is, -

- (a) already pending in the applicant's case before any First Appellate Authority, the Appellate Tribunal or any Court;
- (b) the same as in a matter already decided by the First Appellate Authority, the Appellate Tribunal or any Court;
- (c) the same as in a matter already pending in any proceedings in the applicant's case under any of the provisions of the Act;
- (d) the same as in a matter in the applicant's case already decided by the adjudicating authority or assessing authority, whichever is applicable:

Provided further that no application shall be rejected under this sub-section unless an opportunity has been given to the applicant of being heard:

Provided also that where the application is rejected, reasons for such rejection shall be given in the order.

(3) A copy of every order made under sub-section (2) shall be sent to the applicant and to the prescribed officers.

(4) Where an application is admitted under sub-section (2), the Authority shall, after examining such further material as may be placed before it by the applicant or obtained by the Authority and after providing an opportunity of being heard to the applicant or the authorized representative of the applicant as well as to the authorized representative of the prescribed or the jurisdictional CGST/SGST officer, pronounce its advance ruling on the question specified in the application.

Explanation. - For the purposes of this sub-section, "authorized representative" shall have the meaning assigned to it in section 86.

(5) Where the members of the Authority differ on any question on which the advance ruling is sought, they shall state the point or points on which they differ and make a reference to the Appellate Authority for hearing and decision on such question.

(6) The Authority or, as the case may be, the Appellate Authority shall pronounce its advance ruling in writing within ninety days of the receipt of application or, as the case may be, reference made under sub-section (5).

(7) Where the members of the Appellate Authority differ on any point or points referred to it under sub-section (5), it shall be deemed that no advance ruling can be issued in respect of the question covered by the reference application.

(8) A copy of the advance ruling pronounced by the Authority or, as the case may be, the Appellate Authority duly signed by the Members and certified in the prescribed manner shall be sent to the applicant and the jurisdictional CGST / SGST officer and, as the case may be, to the Authority, as soon as may be, after such pronouncement.

### **99. Appeal to the Appellate Authority**

(1) The prescribed or jurisdictional CGST/SGST officer or, as the case may be, an applicant aggrieved by any advance ruling pronounced under sub-section (4) of section 98, may appeal to the Appellate Authority.

(2) Every appeal under this section shall be filed within a period of thirty days from the date on which the ruling sought to be appealed against is communicated to the prescribed or the jurisdictional CGST/SGST officer or, as the case may be, the applicant.

(3) Every appeal under this section shall be in the prescribed form and shall be verified in the prescribed manner.

### **100. Orders of the Appellate Authority**

(1) The Appellate Authority may, after giving the parties to the appeal, an opportunity of being heard, pass such order as it thinks fit, confirming or modifying the ruling appealed against.

(2) The order referred to in sub-section (1) shall be passed within a period of ninety days from the date of filing appeal under section 99.

(3) Where the members of the Appellate Authority differ on any point or points referred to in appeal, it shall be deemed that no advance ruling can be issued in respect of the question covered under the appeal.

(4) A copy of the advance ruling pronounced by the Appellate Authority duly signed by the Members and certified in the prescribed manner shall be sent to the applicant, the prescribed or the jurisdictional CGST / SGST officer and to the Authority, as soon as may be, after such pronouncement.

### **101. Rectification of advance ruling**

The Authority or, as the case may be, the Appellate Authority may amend any order passed by it under section 98 or section 100, as the case may be, so as to rectify any mistake apparent from the record, if such mistake is noticed by the Authority or, as the case may be, the Appellate Authority on its own accord, or is brought to its notice by the prescribed or the jurisdictional CGST / SGST officer or the applicant within a period of six months from the date of the order:

Provided that no rectification which has the effect of enhancing the tax liability or reducing the amount of admissible input tax credit shall be made unless the Authority or, as the case may be, the Appellate Authority has given notice to the applicant or, as the

case may be, the appellant of its intention to do so and has allowed him a reasonable opportunity of being heard.

Explanation.— For the removal of doubts, it is hereby clarified that the Authority or, as the case may be, the Appellate Authority shall not, while rectifying any mistake apparent from record, amend substantive part of its order.

### **102. Applicability of advance ruling**

(1) The advance ruling pronounced by the Authority or, as the case may be, the Appellate Authority under this chapter shall be binding only -

(a) on the applicant who had sought it in respect of any matter referred to in sub-section (2) of section 97 of the application for advance ruling;

(b) on the jurisdictional tax authorities in respect of the applicant.

(2) The advance ruling referred to in sub-section (1) shall be binding as aforesaid unless the law, facts or circumstances supporting the original advance ruling have changed.

### **103. Advance ruling to be void in certain circumstances**

(1) Where the Authority or, as the case may be, the Appellate Authority finds that advance ruling pronounced by it under sub-section (4) of section 98 or under sub-section (1) of section 100 has been obtained by the applicant or, as the case may be, the appellant by fraud or suppression of material facts or misrepresentation of facts, it may, by order, declare such ruling to be void *ab initio* and thereupon all the provisions of the Act shall apply (after excluding the period beginning with the date of such advance ruling and ending with the date of order under this sub-section) to the applicant as if such advance ruling had never been made:

Provided that no order shall be passed under this sub-section unless an opportunity has been given to the applicant of being heard.

(2) A copy of the order made under sub-section (1) shall be sent to the applicant and the prescribed officers.

### **104. Powers of the Authority and Appellate Authority**

(1) The Authority or, as the case may be, the Appellate Authority shall, for the purpose of exercising its powers regarding discovery and inspection, enforcing the attendance of any person and examining him on oath, issuing commissions and compelling production of books of account and other records, have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908).

(2) The Authority or, as the case may be, the Appellate Authority shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974), and every proceeding before the Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code (45 of 1860).

### **105. Procedure of the Authority and the Appellate Authority**

The Authority or, as the case may be, the Appellate Authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure in all matters arising out of the exercise of its powers under the Act.

**CHAPTER– XX**  
**SETTLEMENT OF CASES**

At present, the provisions for settlement of cases are incorporated under Chapter VIIA of the IGST Act.



## CHAPTER– XXI

### PRESUMPTION AS TO DOCUMENTS

#### **106. Presumption as to documents in certain cases**

Where any document-

- (i) is produced by any person under the Act or any other law, or
- (ii) has been seized from the custody or control of any person under the Act or any other law, or
- (iii) has been received from any place within or outside India in the course of any proceedings under the Act or any other law

and such document is tendered by the prosecution in evidence against him or any other person who is tried jointly with him, the court shall-

(a) unless the contrary is proved by such person, presume —

- (i) the truth of the contents of such document;
- (ii) that the signature and every other part of such document which purports to be in the handwriting of any particular person or which the Court may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is in that person's handwriting, and in the case of a document executed or attested, that it was executed or attested by the person by whom it purports to have been so executed or attested;

(b) admit the document in evidence notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence.

#### **107. Admissibility of micro films, facsimile copies of documents and computer printouts as documents and as evidence**

(1) Notwithstanding anything contained in any other law for the time being in force, —

- a) a micro film of a document or the reproduction of the image or images embodied in such micro film (whether enlarged or not); or
- b) a facsimile copy of a document; or
- c) a statement contained in a document and included in a printed material produced by a computer (hereinafter referred to as a "computer printout"), if the conditions mentioned in sub-section (2) and the other provisions contained in this section are satisfied in relation to the statement and the computer in question; or
- d) any information stored electronically in any device or media, including any hard copies made of such information

shall be deemed to be also a document for the purposes of the Act and the rules made thereunder and shall be admissible in any proceedings there under, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.

(2) The conditions referred to in sub-section (1) in respect of a computer printout shall be the following, namely:—

- a) the computer printout containing the statement was produced by the computer during the period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over that period by the person having lawful control over the use of the computer;
- b) during the said period, there was regularly supplied to the computer in the ordinary course of the said activities, information of the kind contained in the statement or of the kind from which the information so contained is derived;
- c) throughout the material part of the said period, the computer was operating properly or, if not, then any respect in which it was not operating properly or was out of operation during that part of that period was not such as to affect the production of the document or the accuracy of the contents; and
- d) the information contained in the statement reproduced or is derived from information supplied to the computer in the ordinary course of the said activities.

(3) Where over any period, the function of storing or processing information for the purposes of any activities regularly carried on over that period as mentioned in clause (a) of sub-section (2) was regularly performed by computers, whether —

- a) by a combination of computers operating over that period; or
- b) by different computers operating in succession over that period; or
- c) by different combinations of computers operating in succession over that period; or
- d) in any other manner involving the successive operation over that period, in whatever order, of one or more computers and one or more combinations of computers,

all the computers used for that purpose during that period shall be treated for the purposes of this section as constituting a single computer; and references in this section to a computer shall be construed accordingly.

(4) In any proceedings under this Act and the rules made thereunder where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say, —

- a) identifying the document containing the statement and describing the manner in which it was produced;
- b) giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer;
- c) dealing with any of the matters to which the conditions mentioned in sub-section (2) relate, and purporting to be signed by a person occupying a responsible official position in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate) shall be evidence of any matter stated in the certificate; and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

(5) For the purposes of this section, —

- a) information shall be taken to be supplied to a computer if it is supplied thereto in any appropriate form and whether it is so supplied directly or (with or without human intervention) by means of any appropriate equipment;
- b) whether in the course of activities carried on by any official, information is supplied with a view to its being stored or processed for the purposes of those activities by a computer operated otherwise than in the course of those activities, that information, if duly supplied to that computer, shall be taken to be supplied to it in the course of those activities;
- c) a document shall be taken to have been produced by a computer whether it was produced by it directly or (with or without human intervention) by means of any appropriate equipment.

Explanation. — For the purposes of this section, —

- a) “computer” means any device that receives, stores and processes data, applying stipulated processes to the information and supplying results of these processes; and includes the hard disc thereof or a mirror image of hard disc thereof; and
- b) any reference to information being derived from other information shall be a reference to its being derived there from by calculation, comparison or any other process.

## CHAPTER– XXII

### LIABILITY TO PAY IN CERTAIN CASES

#### **108. Liability in case of transfer of business**

(1) Where a taxable person, liable to pay tax under this Act, transfers his business in whole or in part, by sale, gift, lease, leave and license, hire or in any other manner whatsoever, the taxable person and the person to whom the business is so transferred shall jointly and severally be liable wholly or, as the case may be, to the extent of such transfer, to pay the tax, interest or any penalty due from the taxable person up to the time of such transfer, whether such tax, interest or penalty has been determined before such transfer, but has remained unpaid or is determined thereafter.

(2) Where the transferee or the lessee of a business referred to in subsection (1) carries on such business either in his own name or in some other name, he shall be liable to pay tax on the supply of goods and/or services effected by him with effect from the date of such transfer and shall, if he is an existing taxable person, apply within the prescribed time for amendment of his certificate of registration.

#### **109. Liability in case of amalgamation /merger of companies**

(1) When two or more companies are amalgamated or merged by the order of court or of Tribunal or of the Central Government and the order is to take effect from a date earlier to the date of the order and any two or more of such companies have supplied or received any goods and/or services to or from each other during the period commencing on the date from which the order takes effect till the date of the order, then such transactions of supply and receipt shall be included in the turnover of supply or receipt of the respective companies and shall be liable to tax accordingly.

(2) Notwithstanding anything contained in the said order, for all purposes of this Act, the said two or more companies shall be treated as distinct companies for the period up to the date of the said order and the registration certificates of the said companies shall be cancelled, where necessary, with effect from the date of the said order.

Explanation - Words and expressions used in this section but not defined shall have the respective meanings assigned to them in the Companies Act, 2013 (18 of 2013).

#### **110. Liability in case of company in liquidation**

(1) When any company is being wound up whether under the orders of a court or Tribunal or otherwise, every person appointed as receiver of any assets of a company (hereinafter referred to as the "liquidator"), shall, within thirty days after his appointment, give intimation of his appointment to the Commissioner

(2) The Commissioner shall, after making such inquiry or calling for such information as he may deem fit, notify the liquidator within three months from the date on which he receives intimation of the appointment of the liquidator, the amount which in the opinion of the Commissioner would be sufficient to provide for any tax, interest or penalty which is then, or is likely thereafter to become, payable by the company.

(3) When any company is wound up and any tax, interest or penalty determined under this Act on the company for any period, whether before or in the course of or after its liquidation, cannot be recovered, then every person who was a director of such

company at any time during the period for which the tax was due, shall jointly and severally be liable for the payment of such tax, interest or penalty, unless he proves to the satisfaction of the Commissioner that such non-recovery is not attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

Explanation.- For the purposes of this section, the expressions "company" shall have the meaning respectively assigned to them under clause (20) and clause (68) of section 2 respectively of the Companies Act, 2013 (18 of 2013).

### **111. Liability of partners of firm to pay tax**

Notwithstanding any contract to the contrary, where any firm is liable to pay any tax, interest or penalty under this Act, the firm and each of the partners of the firm shall jointly and severally be liable for such payment:

Provided that where any partner retires from the firm, he or the firm, shall intimate the date of retirement of the said partner to the Commissioner by a notice in that behalf in writing and such partner shall be liable to pay tax, interest or penalty due up to the date of his retirement whether determined or not, on that date:

Provided further that if no such intimation is given within one month from the date of retirement, the liability of such partner under the first proviso shall continue until the date on which such intimation is received by the Commissioner.

### **112. Liability of guardians, trustees etc.**

Where the business in respect of which any tax, is payable under this Act is carried on by any guardian, trustee or agent of a minor or other incapacitated person on behalf of and for the benefit of such minor or other incapacitated person, the tax, interest or penalty shall be levied upon and recoverable from such guardian, trustee or agent, as the case may be, in like manner and to the same extent as it would be determined and recoverable from any such minor or other incapacitated person, as if he were a major or capacitated person and as if he were conducting the business himself, and all the provisions of this Act shall, so far as may be, apply accordingly.

### **113. Liability of Court of Wards etc.**

Where the estate or any portion of the estate of a taxable person owning a business in respect of which any tax, interest or penalty is payable under this Act is under the control of the Court of Wards, the Administrator General, the Official Trustee or any receiver or manager (including any person, whatever be his designation, who in fact manages the business) appointed by or under any order of a court, the tax, interest or penalty shall be levied upon and be recoverable from such Court of Wards, Administrator General, Official Trustee, receiver or manager, as the case may be, in like manner and to the same extent as it would be determined and be recoverable from the taxable person as if he were conducting the business himself, and all the provisions of this Act shall, so far as may be, apply accordingly.

### **114. Special provision regarding liability to pay tax in certain cases**

- (1) Where a person, liable to pay tax under this Act, dies, then-
- (a) if a business carried on by the person is continued after his death by his legal representative or any other person, such legal representative or other person, shall be liable to pay tax, interest or penalty due from such person under this Act, and
- (b) if the business carried on by the person is discontinued, whether before or after his death, his legal representative shall be liable to pay out of the estate of the deceased, to the extent to which the estate is capable of meeting the charge, the tax, penalty or interest due from such person under this Act,-
- whether such tax interest or penalty has been determined before his death but has remained unpaid or is determined after his death.
- (2) Where a taxable person, liable to pay tax under this Act, is a Hindu Undivided Family or an association of persons and the property of the Hindu Undivided Family or the association of persons, as the case may be, is partitioned amongst the various members or groups of members then each member or group of members shall jointly and severally be liable to pay the tax, interest or penalty due from the taxable person under this Act upto the time of the partition whether such tax, penalty or interest has been determined before partition but has remained unpaid or is determined after the partition.
- (3) Where a taxable person, liable to pay tax under this Act, is a firm, and the firm is dissolved, then every person who was a partner shall be jointly and severally liable to pay the tax, interest or penalty due from the firm under this Act, up to the time of dissolution whether such tax, interest or penalty has been determined before the dissolution, but has remained unpaid or is determined after dissolution.
- (4) Where a taxable person liable to pay tax under this Act,-
- (a) is the guardian of a ward on whose behalf the business is carried on by the guardian, or
- (b) is a trustee who carries on the business under a trust for a beneficiary.
- then if the guardianship or trust is terminated, the ward or, as the case may be, the beneficiary shall be liable to pay the tax, interest or penalty due from the taxable person upto the time of the termination of the guardianship or trust, whether such tax, interest or penalty has been determined before the termination of guardianship or trust but has remained unpaid or is determined thereafter.

### **115. Liability in other cases**

- (1) Where a taxable person is a firm or an association of persons or a Hindu Undivided Family and such firm, association or family has discontinued business-
- (a) the tax payable under this Act by such firm, association or family up to the date of such discontinuance may be determined as if no such discontinuance had taken place; and
- (b) every person who was at the time of such discontinuance, a partner of such firm, or a member of such association or family, shall, notwithstanding such discontinuance, be liable jointly and severally for the payment of tax and interest determined and penalty imposed and payable by such firm, association or family, whether such tax and interest has been determined or penalty imposed prior to or after such discontinuance and subject as aforesaid, the provisions of this Act shall, so far as may be, apply as if every such person or partner or member were himself a taxable person.
- (2) Where a change has occurred in the constitution of a firm or an association of persons, the partners of the firm or members of association, as it existed before and as it exists after the reconstitution, shall, without prejudice to the provisions of section

111, jointly and severally be liable to pay tax, interest and penalty due from such firm or association for any period before its reconstitution.

(3) The provisions of sub-section (1) shall, so far as may be, apply where the taxable person, being a firm or association of persons is dissolved or where the taxable person, being a Hindu Undivided Family, has effected partition with respect to the business carried on by it and accordingly references in that sub-section to discontinuance shall be construed as reference to dissolution or, as the case may be, to partition.

11. Explanation.- For the purpose of this chapter, a limited liability partnership formed and registered under the provisions of the Limited Liability Partnership Act, 2012 (743 of 2012) shall also be considered as a firm.

**CHAPTER– XXIII**  
**MISCELLANEOUS PROVISIONS**

**116. GST compliance rating**

- (1) Every taxable person shall be assigned a GST compliance rating score based on his record of compliance with the provisions of this Act.
- (2) The GST compliance rating score shall be determined on the basis of parameters to be prescribed in this behalf.
- (3) The GST compliance rating score shall be updated at periodic intervals and intimated to the taxable person and also placed in the public domain in the manner prescribed.

**117. Obligation to furnish information return**

- (1) Any person, being—
  - (a) a taxable person; or
  - (b) a local authority or other public body or association; or
  - (c) any authority of the State Government responsible for the collection of value added tax or sales tax or state excise duty or an authority of the Central Government responsible for the collection of Excise duty or Customs duty; or
  - (d) an income tax authority appointed under the provisions of the Income-tax Act, 1961 (43 of 1961); or
  - (e) a banking company within the meaning of clause (a) of section 45A of the Reserve Bank of India Act, 1934 (2 of 1934); or
  - (f) a State Electricity Board; or an electricity distribution or transmission licensee under the Electricity Act, 2003 (36 of 2003), or any other entity entrusted, as the case may be, with such functions by the Central Government or the State Government; or
  - (g) the Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908 (16 of 1908); or
  - (h) a Registrar within the meaning of the Companies Act, 2013 (18 of 2013); or
  - (i) the registering authority empowered to register motor vehicles under Chapter IV of the Motor Vehicles Act, 1988 (59 of 1988); or
  - (j) the Collector referred to in clause (c) of section 3 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013); or
  - (k) the recognised stock exchange referred to in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956); or
  - (l) a depository referred to in clause (e) of sub-section (1) of section 2 of the Depositories Act, 1996 (22 of 1996); or
  - (m) an officer of the Reserve Bank of India, constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934); or



## (n) Goods and Service Tax Network

who is responsible for maintaining record of registration or statement of accounts or any periodic return or document containing details of payment of tax and other details of transaction of goods or services or transactions related to a bank account or consumption of electricity or transaction of purchase, sale or exchange of goods or property or right or interest in a property, under any law for the time being in force, shall furnish an information return of the same in respect of such periods, within such time, in such form (including electronic form) and manner, to such authority or agency as may be prescribed.

(2) Where the prescribed authority considers that the information submitted in the information return is defective, he may intimate the defect to the person who has furnished such information return and give him an opportunity of rectifying the defect within a period of thirty days from the date of such intimation or within such further period which, on an application made in this behalf, the prescribed authority may allow and if the defect is not rectified within the said period of thirty days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this Act, such information return shall be treated as not submitted and the provisions of this Act shall apply.

(3) Where a person who is required to furnish information return has not furnished the same within the time specified in sub-section (1) or sub-section (2), the prescribed authority may serve upon him a notice requiring furnishing of such information return within a period not exceeding ninety days from the date of service of the notice and such person shall furnish the information return.

**118. Penalty for failure to furnish information return**

If a person who is required to furnish an information return under section 117 fails to do so within the period specified in the notice issued under sub-section (3) thereof, the prescribed authority may direct that such person shall pay, by way of penalty, a sum of one hundred rupees for each day of the period during which the failure to furnish such return continues.

**119. Power to collect statistics**

(1) The Board/Commissioner, if it considers that for the purposes of the better administration of the Act, it is necessary so to do, may by notification, direct that statistics be collected relating to any matter dealt with, by or in connection with the Act.

(2) Upon such notification being issued, the Commissioner, or any person authorised by the Commissioner in this behalf may call upon all concerned persons to furnish such information or returns as may be specified therein relating to any matter in respect of which statistics is to be collected.

(3) The form in which the persons to whom or, the authorities to which, such information or returns should be furnished, the particulars which they should contain, and the intervals in which such information or returns should be furnished, shall be as may be prescribed.

### **120. Disclosure of information required under section 119**

(1) No information of any individual return or part thereof, with respect to any matter given for the purposes of section 119 shall, without the previous consent in writing of the taxpayer or person or his authorised agent, be published in such manner as to enable any particulars to be identified as referring to a particular taxpayer and no such information shall be used for the purpose of any proceedings under the provisions of the Act.

(2) Except for the purposes of prosecution under the Act, or any other Act, no person who is not engaged in the collection of statistics under the Act or of compilation or computerization thereof for the purposes of the Act, shall be permitted to see or have access to any information or any individual return referred to in that section.

(3) If any person required to furnish any information or return under section 119,-

- (a) without reasonable cause fails to furnish such information or return as may be required, or
- (b) willfully furnishes or causes to furnish any information or return which he knows to be false,

he shall, on conviction, be punished with fine which may extend to one hundred rupees and in case of a continuing offence to a further fine which may extend to one hundred rupees for each day after the first day during which the offence continues subject to a maximum limit of one thousand rupees.

(4) If any person engaged in connection with the collection of statistics under section 119 or compilation or computerization thereof willfully discloses any information or the contents of any return given or made under that section, otherwise than in execution of his duties under that section or for the purposes of the prosecution of an offence under the Act or under any other Act, he shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both:

Provided that, no prosecution shall be instituted under the subsection, except with the previous sanction of the Central Government or State Government.

(5) Nothing in this section shall apply to the publication of any information relating to a class of dealers or class of transactions, if in the opinion of the competent authority, it is desirable in the public interest, to publish such information.

### **121. Test purchase of goods and/or services**

The [Commissioner] of CGST/SGST or an officer authorized by him may cause purchase of any goods and/or services by any person authorized by him from the business premises of any taxable person, to check issue of tax invoices or bills of supply by such taxable person, and on return of goods so purchased by such officer, such taxable person or any person in charge of the business premises shall refund the amount paid towards the goods after cancelling any tax invoice or bill of supply issued.

### **122. Drawal of samples**

The [Commissioner] of CGST/SGST or an officer authorized by him may take samples of goods from the possession of any taxable persons, where he considers it necessary, and provide a receipt for any samples so taken.

### **123. Burden of Proof**

If any person claims that he is not liable to pay tax under the Act in respect of any supply of goods and/or services, or that he is eligible for input tax credit under section 16, the burden of proving such claim or claims shall lie on him.

### **124. Persons discharging functions under the Act shall be deemed to be public servants**

All persons discharging functions under the Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

### **125. Indemnity**

No legal proceedings shall lie against any goods and services tax officer, for anything which is done or intended to be done in good faith under the Act or the rules.

### **126. Disclosure of information by a public servant**

(1) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with the Act, or in any record of evidence given in the course of any proceedings under the Act (other than proceeding before a Criminal Court), or in any record of any proceedings under the Act shall, save as provided in sub-section (4), be treated as confidential;

(2) Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872), no Court shall save as aforesaid, be entitled to require any GST officer to produce before it or to give evidence before it in respect of particulars referred to in sub-section (1).

(3) Save as provided in sub-section (4), if any GST officer discloses any of the particulars referred to in sub-section (1), he shall, on conviction, be punished with imprisonment which may extend to six months or with fine or with both:

Provided that, no prosecution shall be instituted under this section except with the previous sanction of the Central Government or the State Government, as the case may be.

(4) Nothing contained in this section shall apply to the disclosure of,-

(a) any such particulars in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition, for the purpose of any prosecution under the Indian Penal Code (45 of 1860) or the Prevention of Corruption Act, 1988 (49 of 1988), or the Act, or any other law for the time being in force; or

(b) any such particulars to the Central Government or the State Government or to any person acting in the execution of this Act, for verification of such particulars or for the purpose of carrying out the object of the Act; or

(c) any such particulars when such disclosure is occasioned by the lawful employment under the Act of any process for the service of any notice or the recovery of any demand; or

- (d) any such particulars to a Civil Court or Tribunal constituted under any Central law in any suit or proceeding, to which the Government or any authority under the Act is a party, which relates to any matter arising out of any proceeding under the Act or under any other law for the time being in force authorising any such authority to exercise any powers thereunder; or
- (e) any such particulars to any officer appointed for the purpose of audit of tax receipts or refunds of the tax imposed by the Act; or
- (f) any such particulars where such particulars are relevant the purposes of any inquiry into the conduct of any GST officer, to any person or persons appointed as an inquiry officer under any relevant law; or
- (g) such facts to an officer of the Central Government or any State Government as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty imposed by it; or
- (h) any such particulars, when such disclosure is occasioned by the lawful exercise by a public servant or any other statutory authority, of his or its powers under any law for the time being in force; or
- (i) any such particulars relevant to any inquiry into a charge of misconduct in connection with any proceedings under the Act against a practising advocate, tax practitioner, a practising cost accountant, a practising chartered accountant, a practising company secretary to the authority empowered to take disciplinary action against the members practising the profession of a legal practitioner, cost accountant, chartered accountant or company secretary, as the case may be; or
- (j) any such particulars to any agency appointed for the purposes of data entry on any automated system or for the purpose of operating, upgrading or maintaining any automated system where such agency is contractually bound not to use or disclose such particulars except for the aforesaid purposes; or
- (k) any such particulars to an officer of the Central Government or any State Government as may be necessary for the purposes of any other law in force in India; and
- (l) any information relating to any class of taxpayers or class of transactions for publication, if, in the opinion of the Competent authority, it is desirable in the public interest, to publish such information.

### **127. Publication of information respecting persons in certain cases**

- (1) If the Competent Authority is of opinion that it is necessary or expedient in the public interest to publish the names of any person and any other particulars relating to any proceedings or prosecutions under the Act in respect of such person, it may cause to be published such names and particulars in such manner as it thinks fit.
- (2) No publication under this section shall be made in relation to any penalty imposed under the Act until the time for presenting an appeal to the First Appellate Authority under section 79 has expired without an appeal having been presented or the appeal, if presented, has been disposed of.

Explanation. – In the case of firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasures or managers of the company, or the members of the association, as the case may be, may also be published if, in the opinion of the Competent Authority, circumstances of the case justify it.

**128. Assessment proceedings, etc. not to be invalid on certain grounds**

(1) No assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings done, accepted, made, issued, initiated, or purported to have been done, accepted, made, issued, initiated in pursuance of any of the provisions of the Act shall be invalid or deemed to be invalid merely by reason of any mistake, defect or omission therein, if such assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings is/are in substance and effect in conformity with or according to the intents, purposes and requirements of the Act or any earlier law.

(2) The service of any notice, order or communication shall not be called in question if the notice, order or communication, as the case may be, has already been acted upon by the person to whom it is issued or where such service has not been called in question at or in the earliest proceedings commenced, continued or finalised pursuant to such notice, order or communication.

**129. Rectification of mistakes or errors apparent from record**

Without prejudice to the provisions of section 128, and notwithstanding anything contained in any other provisions of this Act, any authority, who has passed or issued any decision or order or summons or notice or certificate or any other document, may rectify any error or mistake which is apparent from record in such decision or order or summons or notice or certificate or any other document, either on its own motion or where such error or mistake is brought to its notice by any CGST / SGST officer or by the affected person within a period of three months from the date of issue of such decision or order or summons or notice or certificate or other document, as the case may be:

Provided that no such rectification shall be done after a period of six months from the date of issue of such decision or order or summons or notice or certificate or any other document:

Provided further that the period of six months referred to in the first proviso shall not apply in such cases where the rectification is purely in the nature of correction of a clerical or arithmetical error or mistake, arising from any accidental slip or omission:

Provided also that the principles of natural justice shall be followed by the authority carrying out such rectification if it adversely affects any person.

Explanation.— For the removal of doubts, it is hereby clarified that the authority shall not, while rectifying any mistake apparent from record, amend substantive part of its decision or order or summons or notice or certificate or any other document passed or, as the case may be, issued under the provisions of this Act.

**130. Bar of jurisdiction of civil courts**

Save as provided by section 87 and 88, no civil court shall have jurisdiction to deal with or decide any question arising from or relating to anything done or purported to be done under the Act;

### **131. Levy of fees**

Wherever a copy of any order or document is to be provided to any person on an application made by him for that purpose, there shall be paid such fee as may be prescribed, which may include a fee for such application also.

### **132. Power of Central (or State) Government to make rules**

(1) The Central Government (or the State Government) may, on the recommendation of the Council, make rules, including rules conferring the power to issue notifications with retrospective effect under those rules, to carry into effect the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may —

- (i) provide for the date for determination of rate of tax and the place of supply of goods or services or both;
- (ii) having regard to the normal practice in the supply of goods or services, define or specify the kinds of trade discount to be excluded from the value under section 15 including the circumstances in which and the conditions subject to which such discount is to be so excluded;
- (iii) provide for determining the value of taxable supplies in the situations mentioned under section 15;
- (iv) provide, subject to such conditions as may be prescribed, for the grant of input tax credit of tax paid on the input supplies of goods or services used in or in relation to the providing of the output taxable supplies of goods or services, and the manner of utilization of such credit;
- (v) provide for the lapsing of input tax credit lying unutilized, in the circumstances as may be specified in the rules;
- (vi) provide for withdrawal of facilities or imposition of restrictions (including restrictions on utilisation of input tax credit) on taxable person or suspension or revocation of registration of taxable person, for dealing with evasion of tax or misuse of input tax credit;
- (vii) provide, subject to such conditions as may be prescribed, for the carrying forward of the unutilized balances of cenvat credit of the duties of excise and the service tax, under the Cenvat Credit Rules 2004, (or of VAT credit under the state VAT credit rules) lying with the taxable persons on the date of their switching over to GST;
- (viii) provide for the remission of tax leviable on any taxable supplies, which due to any natural causes are found to be deficient in quantity, the limit or limits of percentage beyond which no such remission shall be allowed and the different limit or limits of percentage for different varieties of the same taxable supply or for different areas or for different seasons;
- (ix) specify the persons who shall get themselves registered under section 19 and the time, manner and form in which application for registration shall be made;
- (x) provide for the manner of verification of application and issue of registration under the Act and the fees, if any, to be charged therefor;

- (xi) provide for the situations and manner of grant of deemed registration under the Act;
- (xii) provide for the manner of migration, amendment, surrender, revocation, suspension, cancellation of registration under the Act;
- (xiii) provide for the assessment and collection of tax, the authorities by whom functions under the Act are to be discharged, the issue of notices requiring payment, the manner in which tax shall be payable, and the recovery of tax not paid;
- (xiv) impose on taxable persons or other persons as may be specified, the duty of furnishing information, maintaining records and filing returns, and may also prescribe the nature of such information and the form of such records and returns, the particulars to be contained therein, and the manner in which they shall be verified;
- (xv) provide for the form, manner and frequency of the returns to be furnished and the late fee for delayed furnishing of return under relevant section;
- (xvi) provide for charging or payment of interest under the various provisions of the Act;
- (xvii) provide for the detention or attachment of goods, plant, machinery or material and other movable or immovable properties for the purpose of exacting the tax on taxable supplies in respect of which breaches of the Act or rules made thereunder have been committed and the disposal of things so detained or attached or confiscated;
- (xviii) authorise and regulate the composition of offences against, or liabilities incurred under the Act or the rules made thereunder;
- (xix) provide for the amount to be paid for compounding and the manner of compounding of offences under section 78;
- (xx) provide for publication, subject to such conditions as may be specified, the names and other particulars of persons found guilty of contravention of any provision of the Act or of any rule made thereunder;
- (xxi) provide for the manner of recovery of any amount due to the Central Government (or state government) under section 54;
- (xxii) authorise and regulate the inspection and audit of business premises and provide for the taking of samples, and for the making of tests, of any substance produced therein, and for the inspection or search of any place or conveyance used for the production, storage, sale, supply or transport of goods, and so far as such inspection or search is essential for the proper levy and collection of the tax imposed by the Act, of any other taxable supply of goods or services;
- (xxiii) specify the form and manner in which application for refund shall be made under section 38;
- (xxiv) provide for the manner in which amounts shall be credited to the Consumer Welfare Fund, their utilization, and the form in which the accounts and records relating to the Fund shall be maintained;
- (xxv) specify the forms in which appeals, applications and memoranda of cross objections shall be filed and verified under Chapter XVIII of the Act;
- (xxvi) provide for the qualifications and the manner of appointment of the National President, the State President, and the Members of the Appellate Tribunal under section 81 of the Act, and other matters related or

- incidental thereto;
- ~~(xxvii) provide for the settlement of cases, in accordance with Chapter ..... of this Act;~~
- (xxviii) regulate in such manner as the Central Government / State Government thinks fit, the movement of supplies from any part of India to any other part thereof;
- (xxix) regulate the removal of taxable supplies of goods from the place where produced, stored or manufactured or subjected to any process of production or manufacture and their transport to or from the premises of a registered person, or a bonded warehouse, or to a market;
- (xxx) provide for the appointment, licensing, management and supervision of bonded warehouses and the procedure to be followed for entry of goods into such warehouses and clearance of goods therefrom;
- (xxxi) provide for the distinguishing of supply of goods which have been manufactured after registration, of materials which have been imported, and of supply of goods on which tax has been paid, or which are exempt from tax under this Act, or any other class of goods as may be specified in such rules;
- (xxxii) require that taxable supplies of specified goods shall not be made except in prescribed containers, bearing a banderol, stamp or label of such nature and affixed in such manner as may be prescribed;
- (xxxiii) provide for the grant of a rebate of the tax paid on supply of goods or services which are exported out of India or shipped for consumption on a voyage to any port outside India including interest thereon;
- (xxxiv) provide for rebate of tax paid or payable on the taxable supply of services used as input services in the supply of goods or services exported out of India under section 38;
- (xxxv) provide for the charging of fees for the examination of goods intended for export out of India and for rendering any other service by a GST Officer under this Act or the rules made thereunder;
- (xxxvi) authorise the Board (or competent authority) or officers of GST, as the case may be, appointed for the purposes of this Act to provide, by written instructions, for supplemental matters arising out of any rule made by the Central Government (or the State Government) under this section;
- (xxxvii) provide for the manner of provisional attachment of property under section 58;
- (xxxviii) make provisions for determining export of taxable supply of services;
- (xxxix) provide for grant of exemption to, or rebate of tax paid on, taxable supply of services which are exported out of India;
- (xl) provide for manner of administering of payment of taxes under the compounding of tax;
- (xli) provide for dealing with situations where goods are returned;
- (xlii) provide for specifying the details to be given in the invoices, the maintenance of accounts, the furnishing of audit reports, and matters related thereto;
- (xlili) provide for the qualifications and the manner of appointment of the Advance Ruling authority under section 95 of the Act, and other matters related to functioning of the authority;



- (xliv) provide for the qualifications of tax return preparers, tax practitioners and authorized representatives under various provisions of the Act, the manner of their selection or appointment or nomination, their codes of conduct, and other matters related or incidental thereto;
- (xlv) provide for matters relating to tax deducted at source;
- (xlvi) provide for matters covered by Chapter XXV;
- (xlvii) provide for the suspension of certain facilities admissible under this Act or the rules made thereunder in case of repeat violations of conditions and restrictions as may be prescribed; and
- (xlviii) any other matter related to administering or enforcing the provisions of the Act.

(3) The power to make rules conferred by this section shall on the first occasion of the exercise thereof include the power to give retrospective effect to the rules or any of them from a date not earlier than the date on which the provisions of this Chapter come into force.

(4) In making rules under this section, the Central Government (or State Government) may provide that any person committing a breach of any rule shall, where no other penalty is provided by the Act, be liable to a penalty not exceeding ten thousand rupees.

### **132A. General power to make Regulations**

(1) The Board or the Commissioner SGST may make regulations consistent with this Act and rules, generally to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such regulations may provide for all or any of the following matters namely-

- (a) .....
- (b) .....
- (c) .....

### **133. Delegation of powers**

The Competent Authority may, by notification in the Gazette direct that subject to such conditions, if any, as may be specified in the notification, any power exercisable by any authority or officer under the Act may be exercisable also by another authority or officer as may be specified in such notification.

### **134. Instructions to GST Officers**

The Competent Authority may, if it considers it necessary or expedient so to do for the purpose of uniformity in the implementation of the Act, issue such orders, instructions or directions to the GST Officers as it may deem fit, and thereupon all GST officers and all other persons employed in the execution of the Act shall observe and follow such orders, instructions or directions:

Provided that no such orders, instructions or directions shall be issued—

- a) so as to require any GST Officer to make a particular assessment or to dispose of a particular case in a particular manner; or

b) so as to interfere with the discretion of the First Appellate Authority in the exercise of his appellate functions.

### **135. Removal of difficulties**

(1) If any difficulty arises in giving effect to any provision of the Act, the Central Government / State Government may, by general or special order published in the Gazette, do anything not inconsistent with the provisions of the Act which appears to it to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of effect of the provision giving rise to the difficulty.

(2) Every order made under this section shall be laid, as soon as may be, after it is made, before Parliament / State Legislature.

### **136. Service of notice in certain circumstances**

(1) Any decision, order, summons, notice or other communication under the Act or the rules made thereunder shall be served by any one of the following methods, namely: -

(a) by giving or tendering it directly or by a messenger including a courier to the addressee or the taxpayer or to his manager or to agent duly authorized or an advocate or a tax practitioner holding authority to appear in the proceeding on behalf of the taxpayer or to a person regularly employed by him in connection with the business, or to any adult member of family residing with the taxpayer, or

(b) by post or courier with acknowledgement due, to the person for whom it is intended or his authorised agent, if any at his last known place of business or residence, or

(c) by facsimile message, if such address is furnished, or

(d) by sending a communication to his e-mail address, or

(e) on dashboard of the taxpayer if available on the web-site, or

(f) by sending a message on his registered mobile number, or

(g) by publication in a newspaper circulating in the locality in which the taxpayer or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain, or

(h) if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence, or

(i) if the mode prescribed under (h) is also not practicable for any reason, then by affixing a copy thereof on the notice board of the officer or authority who or which passed such decision or order or issued such summons or notice.

(2) Every decision, order, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed in the manner provided in sub-section (1).

(3) When such decision, order, summons, notice or any communication is sent by registered post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by a registered letter in transit unless the contrary is proved.

### **137. Rounding off of tax etc.**

The amount of tax, interest, penalty, fine or any other sum payable, and the amount of refund or any other sum due, under the provisions of the Act shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise it shall be ignored.

### **138. Effect of amendments, etc., of rules, notifications or orders**

Where any rule, notification or order made or issued under the Act or any notification or order issued under such rule, is amended, repealed, superseded or rescinded, then, unless a different intention appears, such amendment, repeal, supersession or rescinding shall not -

- (a) revive anything not in force or existing at the time at which the amendment, repeal, supersession or rescinding takes effect; or
- (b) affect the previous operation of any rule, notification or order so amended, repealed, superseded or rescinded or anything duly done or suffered thereunder; or
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any rule, notification or order so amended, repealed, superseded or rescinded; or
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed under or in violation of any rule, notification or order so amended, repealed, superseded or rescinded; or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the rule, notification or order, as the case may be, had not been amended, repealed, superseded or rescinded.

### **139. Publication of rules and notifications and laying of rules before Parliament / State Legislature**

(1) All rules made and notifications issued under the Act shall be published in the Official Gazette.

(2) Every rule made under the Act, every notification issued under section -----, section ----, section ----- and section ----- (*depending on the final full draft*) and every order made under section -----, section ----, section ----- and section ----- (*depending on the final full draft*), other than an order relating to goods or services or both of strategic, secret, individual or personal nature, shall be laid, as soon as may be after it is made or issued, before Parliament / State Legislature, while it is in session, for a total period of thirty days which may be comprised in one session, or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, Parliament / State Legislature agree in making any modification in the rule or notification or order, or Parliament / State Legislature agree that the rule should not be made or notification or order should not be issued or made, the rule or notification or order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification or order.

**CHAPTER– XXIV**  
**REPEAL AND SAVING**

**140. Repeal and saving**

(1) From the date of commencement of the Act, the (State) General Sales Tax/Value Added Tax Act, the Central Excise Act 1944, and the Central Excise Tariff Act 1985 shall apply only in respect of goods included in the entry 84 and entry 54 of the Union List and the State List respectively, of the Schedule VII to the Constitution of India.

Provided that the aforesaid restriction of the application of the statutes referred above shall not—

- (a) Revive anything not in force or existing at the time at which the restriction takes effect; or
- (b) Affect the previous operation of the unrestricted Acts or anything duly done or suffered thereunder; or
- (c) Affect any right, privilege, obligation, or liability acquired, accrued or incurred under the unrestricted Acts; or
- (d) Affect any tax, surcharge, penalty, interest as are due or may become due or any forfeiture or punishment incurred or inflicted in respect of any offence or violation committed under the provisions of the unrestricted Acts; or
- (e) Affect any investigation, enquiry, assessment proceeding, any other legal proceeding or remedy in respect of any such tax, surcharge, penalty, interest, right, privilege, obligation, liability, forfeiture or punishment, as aforesaid, and any such investigation, enquiry, assessment proceeding, other legal proceeding or remedy may be instituted, continued or enforced, and any such tax, surcharge, penalty, interest, forfeiture or punishment may be levied or imposed as if these Acts had not been so restricted.
- (f) Affect any proceeding including that relating to an appeal, revision, review or reference, instituted before the appointed day under the earlier law and such proceeding shall be continued under the earlier law as if this Act had not come into force and the said law had not been repealed.

(2) The following Acts are hereby repealed, to the extent mentioned hereunder, namely:- (*as per the taxes subsumed under GST .....*)

- (a) The Entry Tax Act,.....
- (b) The Entertainment Tax, .....
- (c) The Luxury Tax Act, .....
- (d) Duty of Excise on Medicinal and Toilet Preparation Act, .....
- (e) Chapter V of the Finance Act, 1994.

(3) The repeals referred to in sub-section (2) shall not—

- (a) Revive anything not in force or existing at the time at which the repeal takes effect; or
- (b) Affect the previous operation of the repealed Acts or anything duly done or suffered thereunder; or
- (c) Affect any right, privilege, obligation, or liability acquired, accrued or incurred under the repealed Acts; or

(d) Affect any tax, surcharge, penalty, interest as are due or may become due or any forfeiture or punishment incurred or inflicted in respect of any offence or violation committed under the provisions of the repealed Acts; or

(e) Affect any investigation, enquiry, assessment proceeding, any other legal proceeding or remedy in respect of any such tax, surcharge, penalty, interest, right, privilege, obligation, liability, forfeiture or punishment, as aforesaid, and any such investigation, enquiry, assessment proceeding, other legal proceeding or remedy may be instituted, continued or enforced, and any such tax, surcharge, penalty, interest, forfeiture or punishment may be levied or imposed as if these Acts had not been enacted.

## **CHAPTER XXV**

### **TRANSITIONAL PROVISIONS**

#### **141. General provisions**

Notwithstanding anything contained elsewhere in the Act and until specifically so or otherwise prescribed or notified or done in accordance with the provisions of the Act,

(a) All persons appointed by the respective Governments for discharging various functions under the Central/State laws relating to taxes on goods or services (which are being subsumed in GST) and continuing in office on the appointed day, shall be deemed to have been appointed as GST officers/Competent Authorities under the respective provisions of the Act.

(b) The Central Government (or the State Government) may issue orders or make rules consistent with the need for smooth transition to GST including the need to take care of matters not specifically covered hereinbefore so long as such matters are not in conflict with the purposes of the Act.

#### **142. Migration of existing taxpayers to GST**

(1) On the appointed day, every person registered under any of the earlier laws shall be issued a certificate of registration on a provisional basis in such form and manner as may be prescribed.

(2) The certificate of registration issued under sub-section (1) shall be valid for a period of six months from the date of its issue:

Provided that the said validity period may be extended for such further period as the Central/State Government may, on the recommendation of the Council, notify.

(3) Every person to whom a certificate of registration has been issued under sub-section (1) shall, within the period specified under sub-section (2), furnish such information as may be prescribed.

(4) On furnishing of such information, the certificate of registration issued under sub-section (1) shall, subject to the provisions of section 19, be granted on a final basis by the Central/State Government.

(5) The certificate of registration issued to a person under sub-section (1) may be cancelled if such person fails to furnish, within the time specified under sub-section (2), the information prescribed under sub-section (3).

(6) The certificate of registration issued to a person under sub-section (1) shall be deemed to have not been issued if the said registration is cancelled in pursuance of an application filed by such person that he was not liable to registration under section 19.

**143. Amount of CENVAT credit carried forward in a return to be allowed as input tax credit**

(1) A registered taxable person shall be entitled to take, in his electronic credit ledger, credit of the amount of cenvat credit carried forward in a return, furnished under the earlier law by him, in respect of the period ending with the day immediately preceding the appointed day in such manner as may be prescribed:

Provided that the taxable person shall not be allowed to take credit unless the said amount was admissible as cenvat credit under the earlier law and is also admissible as input tax credit under this Act.

(2) The amount taken as credit under sub-section (1) shall be recovered as an arrear of tax under this Act from the taxable person if the said amount is found to be recoverable as a result of any proceeding instituted, whether before or after the appointed day, against such person under the earlier law.

**(CGST Law)**

(1) A registered taxable person shall be entitled to take, in his electronic credit ledger, credit of the amount of Value Added Tax carried forward in a return, furnished under the earlier law by him, in respect of the period ending with the day immediately preceding the appointed day in such manner as may be prescribed:

Provided that the taxable person shall not be allowed to take credit unless the said amount was admissible as credit of input tax under the earlier law and is so admissible under this Act.

(2) The amount taken as credit under sub-section (1) shall be recovered as an arrear of tax under this Act from the taxable person if the said amount is found to be recoverable as a result of any proceeding instituted, whether before or after the appointed day, against such person under the earlier law.

**(SGST Law)****144. Unavailed cenvat credit on capital goods, not carried forward in a return, to be allowed in certain situations**

(1) A registered taxable person shall be entitled to take, in his electronic credit ledger, credit of the unavailed cenvat credit in respect of capital goods, not carried forward in a return, furnished under the earlier law by him, for the period ending with the day immediately preceding the appointed day in such manner as may be prescribed:

Provided that the taxable person shall not be allowed to take credit unless the said credit was admissible as cenvat credit under the earlier law and is also admissible as input tax credit under this Act:

Explanation 1.- For the purposes of this section, the expression "unavailed cenvat credit" means the amount that remains after subtracting the amount of cenvat credit already availed in respect of capital goods by the taxable person under the earlier law from the aggregate amount of cenvat credit to which the said person was entitled in respect of the said capital goods under the earlier law.

Explanation 2.- Capital goods means the goods as defined under clause (a) of rule 2 of CENVAT Credit Rules, 2004.

(2) The amount taken as credit under sub-section (1) shall be recovered as an arrear of tax under this Act from the taxable person if the said amount is found to be recoverable as a result of any proceeding instituted, whether before or after the appointed day, against such person under the earlier law.

#### **(CGST Law)**

(1) A registered taxable person shall be entitled to take, in his electronic credit ledger, credit of the unavailed input tax credit in respect of capital goods, not carried forward in a return, furnished under the earlier law by him, for the period ending with the day immediately preceding the appointed day in such manner as may be prescribed :

Provided that the taxable person shall not be allowed to take credit unless the said credit was admissible as input tax credit under the earlier law and is so admissible under this Act:

Explanation.- For the purposes of this section, the expression "unavailed input tax credit" means the amount that remains after subtracting the amount of input tax credit already availed in respect of capital goods by the taxable person under the earlier law from the aggregate amount of input tax credit to which the said person was entitled in respect of the said capital goods under the earlier law.

(2) The amount taken as credit under sub-section (1) shall be recovered as an arrear of tax under this Act from the taxable person if the said amount is found to be recoverable as a result of any proceeding instituted, whether before or after the appointed day, against such person under the earlier law.

#### **(SGST Law)**

### **145. Credit of eligible duties and taxes in respect of inputs held in stock to be allowed in certain situations**

(1) A registered taxable person, who was not liable to be registered under the earlier law or who was engaged in the manufacture of exempted goods under the earlier law but which are liable to tax under this Act, shall be entitled to take, in his electronic credit ledger, credit of eligible duties and taxes in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions:



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

(ii) the said taxable person was eligible for cenvat credit on receipt of such inputs and/or goods under the earlier law but for his not being liable for registration or the goods remaining exempt under the said law;

(iii) the said taxable person is eligible for input tax credit under this Act;

(iv) the said taxable person is in possession of invoice and/or other prescribed documents evidencing payment of duty / tax under the earlier law in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day; and

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

(2) The amount of credit under sub-section (1) shall be calculated in accordance with generally accepted accounting principles in such manner as may be prescribed.

(3) The amount taken as credit under sub-section (1) shall be recovered as an arrear of tax under this Act from the taxable person if the said amount is found to be recoverable as a result of any proceeding instituted, whether before or after the appointed day, against such person under the earlier law.

Explanation.— For the purpose of this section and section 146, the expression “eligible duties and taxes” means-

(i) the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985(5 of 1986);

(ii) the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985(5 of 1986);

(iii) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978 (40 of 1978);

(iv) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957(58 of 1957);

(v) the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001(14 of 2001);

(vi) the additional duty leviable under sub-section (1) of section 3 of the Customs Tariff Act, 1975 (51 of 1975);

(vii) the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, 1975 (51 of 1975); and

(viii) the service tax leviable under section 66B of the Finance Act, 1994 (32 of 1994);—

in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day.

**(CGST Law)**

(1) A registered taxable person, who was not liable to be registered under the earlier law or who was engaged in the sale of exempted goods under the earlier law but which are liable to tax under this Act, shall be entitled to take, in his electronic credit ledger, credit of the Value Added Tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions:

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

(ii) the said taxable person was eligible for input tax credit on purchase of such inputs and/or goods under the earlier law but for his not being liable for registration or the goods remaining exempt under the said law;

(iii) the said taxable person is eligible for input tax credit under this Act;

(iv) the said taxable person is in possession of invoice and/or other prescribed documents evidencing payment of tax under the earlier law in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day; and

(v) such invoice and /or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day.

(2) The amount of credit under sub-section (1) shall be calculated in accordance with generally accepted accounting principles in such manner as may be prescribed.

(3) The amount taken as credit under sub-section (1) shall be recovered as an arrear of tax under this Act from the taxable person if the said amount is found to be recoverable as a result of any proceeding instituted, whether before or after the appointed day, against such person under the earlier law.

**(SGST Law)**

**146. Credit of eligible duties and taxes on inputs held in stock to be allowed to a taxable person switching over from composition scheme**

(1) A registered taxable person, who was either paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the earlier law (hereinafter referred to in this section as a "composition taxpayer"), shall be entitled to take, in his electronic credit ledger, credit of eligible duties and taxes in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed date subject to the following conditions:

- (i) such inputs and / or goods are used or intended to be used for making taxable supplies under this Act;
- (ii) the said person is not paying tax under section 8;
- (iii) the said taxable person was eligible for cenvat credit on receipt of such inputs and/or goods under the earlier law but for his being a composition taxpayer under the said law;
- (iv) the said taxable person is eligible for input tax credit under this Act;
- (v) the said taxable person is in possession of invoice and/or other prescribed documents evidencing payment of duty / tax under the earlier law in respect of inputs held in stock and inputs contained in semi- finished or finished goods held in stock on the appointed day; and
- (vi) such invoices and /or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day.

(2) The amount of credit under sub-section (1) shall be calculated in accordance with generally accepted accounting principles in such manner as may be prescribed.

(3) The amount taken as credit under sub-section (1) shall be recovered as an arrear of tax under this Act from the taxable person if the said amount is found to be recoverable as a result of any proceeding instituted, whether before or after the appointed day, against such person under the earlier law.

#### **(CGST Law)**

(1) A registered taxable person, who was either paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the earlier law (hereinafter referred to in this section as a "composition taxpayer"), shall be entitled to take, in his electronic credit ledger, credit of Value Added Tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed date subject to the following conditions:

- (i) such inputs and / or goods are used or intended to be used for making taxable supplies under this Act;
- (ii) the said person is not paying tax under section 8;
- (iii) the said taxable person was eligible to claim input tax credit on purchase of such inputs and/or goods under the earlier law but for his being a composition taxpayer under the said law;
- (iv) the said taxable person is eligible for input tax credit under this Act;
- (v) the said taxable person is in possession of invoice and/or other prescribed documents evidencing payment of tax under the earlier law in respect of inputs held in stock and inputs contained in semi- finished or finished goods held in stock on the appointed day; and

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

(2) The amount of credit under sub-section (1) shall be calculated in accordance with generally accepted accounting principles in such manner as may be prescribed.

(3) The amount taken as credit under sub-section (1) shall be recovered as an arrear of tax under this Act from the taxable person if the said amount is found to be recoverable as a result of any proceeding instituted, whether before or after the appointed day, against such person under the earlier law.

**(SGST Law)**

**147. Amount payable in the event of a taxable person switching over to composition scheme**

(1) Where a taxable person who has carried forward the amount of eligible credit in a return, furnished under the earlier law, in respect of the period ending with the day immediately preceding the appointed day, switches over to the composition scheme under section 8, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of such switch over:

Provided that after payment of such amount, the balance of input tax credit, if any lying in his electronic credit ledger shall lapse.

**(CGST Law)**

(1) Where a taxable person who has carried forward the amount of eligible credit on account of Value Added Tax in a return, furnished under the earlier law, in respect of the period ending with the day immediately preceding the appointed day, switches over to the composition scheme under section 8, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of such switch over:

Provided that after payment of such amount, the balance of input tax credit, if any lying in his electronic credit ledger shall lapse.

**(SGST Law)**

**148. Exempted goods returned to the place of business on or after the appointed day**

Where any goods on which duty had been exempt under the earlier law at the time of removal thereof, not being earlier than six months prior to the appointed day, are returned to any place of business on or after the appointed day, no tax shall be payable thereon if such goods are returned to the said place of business within a period of six months from the appointed day and such goods are identifiable to the satisfaction of the proper officer:

Provided that tax shall be payable by the person returning the goods if the said goods are liable to tax under this Act and are returned after a period of six months from the appointed day.

**(CGST Law)**

Where any goods on which tax had been exempt under the earlier law at the time of sale thereof, not being earlier than six months prior to the appointed day, are returned to any place of business on or after the appointed day, no tax shall be payable thereon if such goods are returned to the said place of business within a period of six months from the appointed day and such goods are identifiable to the satisfaction of the proper officer:

Provided that tax shall be payable by the person returning the goods if the said goods are liable to tax under this Act and are returned after a period of six months from the appointed day.

**149. Duty paid goods returned to the place of business on or after the appointed day**

(1) Where any goods on which duty had been paid under the earlier law at the time of removal thereof, not being earlier than six months prior to the appointed day, are returned to any place of business on or after the appointed day, no tax shall be payable thereon if such goods are returned to the said place of business within a period of six months from the appointed day and such goods are identifiable to the satisfaction of the proper officer:

Provided that tax shall be payable by the taxable person returning the goods if the said goods are liable to tax under this Act and are returned after a period of six months from the appointed day.

(2) Every taxable person who receives such goods within a period of six months shall be entitled to take credit of the duty paid earlier at the time of removal.

**(CGST Law)**

(1) Where any goods on which tax had been paid under the earlier law at the time of sale thereof, not being earlier than six months prior to the appointed day, are returned to the supplier thereof on or after the appointed day, no tax shall be payable thereon if such goods are returned to the said supplier within a period of six months from the appointed day and such goods are identifiable to the satisfaction of the proper officer:

Provided that tax shall be payable by the person returning the goods if the said goods are liable to tax under this Act and are returned after a period of six months from the appointed day.

(2) Every taxable person who receives such goods within a period of six months shall be entitled to take credit of the tax paid earlier at the time of sale.

**(SGST Law)**

**150. Inputs removed for job work and returned on or after the appointed day**

(1) Where any inputs received in a factory had been removed as such or removed after being partially processed to a job worker for further processing, testing, repair, reconditioning or any other purpose in accordance with the provisions of earlier law prior to the appointed day and such inputs, after completion of the job work, are returned to the said factory on or after the appointed day, no tax shall be payable if such inputs are returned to the said factory within six months from the appointed day:

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

Provided further that tax shall be payable by the job worker if such inputs are liable to tax under this Act, and are returned after a period of six months or the extended period, as the case may be, from the appointed day:

Provided also that tax shall be payable by the manufacturer if such inputs are liable to tax under this Act, and are not returned within a period of six months or the extended period, as the case may be, from the appointed day.

(2) The provisions of sub-section (1) shall apply only if the manufacturer and the job worker declare the details of the inputs held in stock by the job worker on behalf of the manufacturer on the appointed day in such form and manner and within such time as may be prescribed.

**(CGST Law)**

(1) Where any inputs received at a place of business had been despatched as such or despatched after being partially processed to a job worker for further processing, testing, repair, reconditioning or any other purpose in accordance with the provisions of earlier law prior to the appointed day and such inputs, after completion of the job work, are returned to the said place of business on or after the appointed day, no tax shall be payable if such inputs are returned to the said place of business within six months from the appointed day:

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

Provided further that tax shall be payable by the job worker if such inputs are liable to tax under this Act, and are returned after a period of six months or the extended period, as the case may be, from the appointed day:

Provided also that tax shall be payable by the person despatching the inputs if such inputs are liable to tax under this Act, and are not returned within a period of six months or the extended period, as the case may be, from the appointed day.

(2) The provisions of sub-section (1) shall apply only if the person despatching the inputs and the job worker declare the details of the goods held in stock by the job worker on behalf of the said person on the appointed day in such form and manner and within such time as may be prescribed.

**(SGST Law)**

**151. Semi-finished goods removed for job work and returned on or after the appointed day**

(1) Where any semi-finished goods had been removed from the factory to any other premises for carrying out certain manufacturing processes in accordance with the provisions of earlier law prior to the appointed day and such goods after undergoing manufacturing processes (herein after referred to as "the said goods") are returned to the said factory on or after the appointed day, no tax shall be payable if the said goods are returned to the said factory within six months from the appointed day:

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

Provided further that tax shall be payable by the person returning the said goods if such goods are liable to tax under this Act and are returned after a period of six months or the extended period, as the case may be, from the appointed day:

Provided also that tax shall be payable by the manufacturer if such goods are liable to tax under this Act, and are not returned within a period of six months or the extended period, as the case may be, from the appointed day:

Provided also that the manufacturer may, in accordance with the provisions of the earlier law, transfer the said goods to the premises of any registered taxable person for the purpose of supplying therefrom on payment of tax in India or without payment of tax for exports within six months or the extended period, as the case may be, from the appointed day.

(2) The provisions of sub-section (1) shall apply only if the manufacturer and the job-worker declare the details of the goods held in stock by the job-worker on behalf of the manufacturer on the appointed day in such form and manner and within such time as may be prescribed.

**(CGST Law)**

(1) Where any semi-finished goods had been despatched from the place of business to any other premises for carrying out certain manufacturing processes in accordance with the provisions of earlier law prior to the appointed day and such goods after undergoing manufacturing processes (herein after referred to as the "said goods") are returned to the said place of business on or after the appointed day, no tax shall be payable if the said goods are returned to such place within six months from the appointed day:

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

Provided further that tax shall be payable by the person returning the said goods if such goods are liable to tax under this Act and are returned after a period of six months or the extended period, as the case may be, from the appointed day:

Provided also that tax shall be payable by the person despatching the goods if such goods are liable to tax under this Act, and are not returned to him within a period of six months or the extended period, as the case may be, from the appointed day:

Provided also that the person despatching the goods may, in accordance with the provisions of the earlier law, transfer the said goods to the premises of any registered taxable person for the purpose of supplying therefrom on payment of tax in India or without payment of tax for exports within six months or the extended period, as the case may be, from the appointed day.

(2) The provisions of sub-section (1) shall apply only if the person despatching the goods and the job worker declare the details of the goods held in stock by the job worker on behalf of the said person on the appointed day in such form and manner and within such time as may be prescribed.

**(SGST Law)**

### **152. Finished goods removed for carrying out certain processes and returned on or after the appointed day**

Where any excisable goods manufactured in a factory had been removed without payment of duty for carrying out tests or any other process not amounting to manufacture, to any other premises, whether registered or not, in accordance with the provisions of earlier law prior to the appointed day and such goods, after undergoing tests or any other process (herein after referred to as the "said goods") are returned to the said factory on or after the appointed day, no tax shall be payable if the said goods are returned to the said factory within six months from the appointed day:

Provided that the aforesaid period of six months may, on sufficient cause being shown, be extended by the competent authority for a further period of two months:



Provided further that tax shall be payable by the person returning the said goods if such goods are liable to tax under this Act and are returned after a period of six months or the extended period, as the case may be, from the appointed day:

Provided also that the manufacturer may, in accordance with the provisions of the earlier law, transfer the said goods from the said other premises on payment of tax in India or without payment of tax for exports within six months or the extended period, as the case may be, from the appointed day.

**(CGST Law)**

Where any goods had been despatched from the place of business without payment of tax for carrying out tests or any other process, to any other premises, whether registered or not, in accordance with the provisions of earlier law prior to the appointed day and such goods, after undergoing tests or any other process (herein after referred to as the "said goods") are returned to the said place of business on or after the appointed day, no tax shall be payable if the said goods are returned to such place within six months from the appointed day:

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

Provided further that tax shall be payable by the person returning the said goods if such goods are liable to tax under this Act and are returned after a period of six months or the extended period, as the case may be, from the appointed day:

Provided also that the person despatching the goods may, in accordance with the provisions of the earlier law, transfer the said goods from the said other premises on payment of tax in India or without payment of tax for exports within six months or the extended period, as the case may be, from the appointed day.

**(SGST Law)**

**153. Issue of supplementary invoices, debit or credit notes where price is revised in pursuance of a contract**

(1) Where, in pursuance of a contract entered into prior to the appointed day, the price of any goods and/or services is revised upwards on or after the appointed day, the taxable person who had removed / provided such goods and/or services may issue to the recipient a supplementary invoice or debit note, containing such particulars as may be prescribed, within thirty days of such price revision and for the purposes of this Act such supplementary invoice or debit note shall be deemed to have been issued in respect of an outward supply made under this Act.

**(CGST Law)**

(1) Where, in pursuance of a contract entered into prior to the appointed day, the price of any goods is revised upwards on or after the appointed day, the taxable person who had sold such goods may issue to the recipient a supplementary

invoice or debit note, containing such particulars as may be prescribed, within thirty days of such price revision and for the purposes of this Act such supplementary invoice or debit note shall be deemed to have been issued in respect of an outward supply made under this Act.

**(SGST Law)**

(2) Where, in pursuance of a contract entered into prior to the appointed day, the price of any goods and/or services is revised downwards on or after the appointed day, the taxable person who had removed / provided such goods and/or services may issue to the recipient a supplementary invoice or credit note, containing such particulars as may be prescribed, within thirty days of such price revision and for the purposes of this Act such supplementary invoice or credit note shall be deemed to have been issued in respect of an outward supply made under this Act:

Provided that the taxable person shall be allowed to reduce his tax liability on account of issue of the said invoice or credit note only if the recipient of the invoice or credit note has reduced his input tax credit corresponding to such reduction of tax liability.

**(CGST Law)**

(2) Where, in pursuance of a contract entered into prior to the appointed day, the price of any goods is revised downwards on or after the appointed day, the taxable person who had sold such goods may issue to the recipient a supplementary invoice or credit note, containing such particulars as may be prescribed, within thirty days of such price revision and for the purposes of this Act such supplementary invoice or credit note shall be deemed to have been issued in respect of an outward supply made under this Act:

Provided that the taxable person shall be allowed to reduce his tax liability on account of issue of the said invoice or credit note only if the recipient of the invoice or credit note has reduced his input tax credit corresponding to such reduction of tax liability.

**(SGST Law)**

#### **154. Pending refund claims to be disposed of under earlier law**

Every claim for refund of any duty/tax and interest, if any, paid on such duty/tax or any other amount, filed by any person before the appointed day, shall be disposed of in accordance with the provisions of earlier law and any amount eventually accruing to him shall be paid in cash, notwithstanding anything to the contrary contained under the provisions of earlier law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 (1 of 1944):

Provided that where any claim for refund is fully or partially rejected, the amount so rejected shall lapse.

**(CGST Law)**

Every claim for refund of any tax and interest, if any, paid on such tax or any other amount, filed by any person before the appointed day, shall be disposed of in accordance with the provisions of earlier law and any amount eventually accruing to him shall be refunded to him in accordance with the provisions of the said law:

Provided that where any claim for refund is fully or partially rejected, the amount so rejected shall lapse.

**(SGST Law)**

**155. Claim of cenvat credit to be disposed of under the earlier law**

(1) Every proceeding of appeal, revision, review or reference relating to a claim for CENVAT credit under the earlier law shall be disposed of in accordance with the provisions of earlier law, and any amount of credit found to be admissible to the claimant shall be refunded to him in cash, notwithstanding anything to the contrary contained under the provisions of earlier law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 and shall not be admissible as input tax credit under this Act.

**(CGST Law)**

(2) Every proceeding of appeal, revision, review or reference relating to recovery of CENVAT credit under the earlier law shall be disposed of in accordance with the provisions of earlier law, and if any amount of credit becomes recoverable as a result of appeal, revision, review or reference, the same shall be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

**(CGST Law)**

(1) Every proceeding of appeal, revision, review or reference relating to a claim for input tax credit under the earlier law shall be disposed of in accordance with the provisions of earlier law, and any amount of credit found to be admissible to the claimant shall be refunded to him in accordance with the provisions of the earlier law and shall not be admissible as input tax credit under this Act.

**(SGST Law)**

(2) Every proceeding of appeal, revision, review or reference relating to recovery of input tax credit under the earlier law shall be disposed of in accordance with the provisions of earlier law, and if any amount of credit becomes recoverable as a result of appeal, revision, review or reference, the same shall be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

**(SGST Law)**

**156. Finalization of proceedings relating to output duty liability**

(1) Every proceeding of appeal, revision, review or reference relating to any output duty liability initiated before the appointed day, shall be disposed of in

accordance with the provisions of the earlier law, and if any amount becomes recoverable as a result of such appeal, revision, review or reference, the same shall be recovered as an arrear of tax under this Act and amount so recovered shall not be admissible as input tax credit under this Act.

(2) Every proceeding of appeal, revision, review or reference relating to any output duty liability initiated before the appointed day, shall be disposed of in accordance with the provisions of the earlier law, and any amount found to be admissible to the claimant shall be refunded to him in cash, notwithstanding anything to the contrary contained under the provisions of earlier law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 and shall not be admissible as input tax credit under this Act.

**(CGST Law)**

(1) Every proceeding of appeal, revision, review or reference relating to any output tax liability initiated before the appointed day, shall be disposed of in accordance with the provisions of the earlier law, and if any amount becomes recoverable as a result of such appeal, revision, review or reference, the same shall be recovered as an arrear of tax under this Act and amount so recovered shall not be admissible as input tax credit under this Act.

(2) Every proceeding of appeal, revision, review or reference relating to any output tax liability initiated before the appointed day, shall be disposed of in accordance with the provisions of the earlier law, and any amount found to be admissible to the claimant shall be refunded to him in accordance with the provisions of the earlier law and shall not be admissible as input tax credit under this Act.

**(SGST Law)**

**157. Treatment of the amount recovered or refunded in pursuance of assessment or adjudication proceedings**

(1) Where in pursuance of an assessment or adjudication proceedings instituted, whether before or after the appointed day, under the earlier law, any amount of tax, interest, fine or penalty becomes recoverable from the taxable person, the same shall be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

**(CGST Law)**

(1) Where in pursuance of an assessment proceedings instituted, whether before or after the appointed day, under the earlier law, any amount of tax, interest, fine or penalty becomes recoverable from the taxable person, the same shall be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

**(SGST Law)**

(2) Where in pursuance of an assessment or adjudication proceedings instituted, whether before or after the appointed day, under the earlier law, any amount of tax, interest, fine or penalty becomes refundable to the taxable person,

the same shall be refunded to him in cash under the earlier law, notwithstanding anything to the contrary contained in the said law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944.

**(CGST Law)**

(2) Where in pursuance of an assessment proceedings instituted, whether before or after the appointed day, under the earlier law, any amount of tax, interest, fine or penalty becomes refundable to the taxable person, the same shall be refunded to him in accordance with the provisions of earlier law.

**(SGST Law)**

### **158. Treatment of the amount recovered or refunded pursuant to revision of returns**

(1) Where any return, furnished under the earlier law, is revised and if, pursuant to such revision, any amount is found to be recoverable from the taxable person, the same shall be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

**(CGST Law)**

(1) Where any return, furnished under the earlier law, is revised and if, pursuant to such revision, any amount is found to be recoverable from the taxable person, the same shall be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

**(SGST Law)**

(2) Where any return, furnished under the earlier law, is revised and if, pursuant to such revision, any amount is found to be refundable to any taxable person, the same shall be refunded to him in cash under the earlier law, notwithstanding anything to the contrary contained in the said law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944.

**(CGST Law)**

(2) Where any return, furnished under the earlier law, is revised and if, pursuant to such revision, any amount is found to be refundable to any taxable person, the amount shall be refunded to the said person in accordance with the provisions of the earlier law.

**(SGST Law)**

### **159. Treatment of long term construction / works contracts**

The goods and/or services supplied on or after the appointed day in pursuance of a contract entered into prior to the appointed day shall be liable to tax under the provisions of this Act.

**(CGST Law)**

The goods and/or services supplied on or after the appointed day in pursuance of a contract entered into prior to the appointed day shall be liable to tax under the provisions of this Act.

**(SGST Law)**

**160. Progressive or periodic supply of goods or services**

Notwithstanding anything contained in section 12 and 13, no tax shall be payable on the supply of goods and/or services made on or after the appointed day if the consideration for the said supply has been received prior to the appointed day and the duty or tax payable thereon has already been paid under the earlier law.

**(CGST Law)**

Notwithstanding anything contained in section 12 and 13, no tax shall be payable on the supply of goods and/or services made on or after the appointed day if the consideration for the said supply has been received prior to the appointed day and the duty or tax payable thereon has already been paid under the earlier law.

**(SGST Law)**

**161. Treatment of retention payments**

Notwithstanding anything contained in section 12 and 13, no tax shall be payable on the supply of goods and/or services made before the appointed day where a part consideration for the said supply is received on or after the appointed day, but the full duty or tax payable on such supply has already been paid under the earlier law.

**(CGST Law)**

Notwithstanding anything contained in section 12 and 13, no tax shall be payable on the supply of goods and/or services made before the appointed day where a part consideration for the said supply is received on or after the appointed day, but the full duty or tax payable on such supply has already been paid under the earlier law.

**(SGST Law)**



**162. Credit distribution of service tax by ISD**

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

**(CGST Law)**

**162A. Tax paid on goods lying with agents to be allowed as credit**

Where any goods belonging to the principal are lying at the premises of the agent on the appointed day, the agent shall be entitled to take credit of the tax paid on such goods subject to fulfilment of the following conditions:

- (i) the agent is a registered taxable person under this Act;
- (ii) both the principal and the agent declare the details of stock of goods lying with such agent on the date immediately preceding the appointed day in such form and manner and within such time as may be prescribed in this behalf;
- (iii) the invoices for such goods had been issued not earlier than twelve months immediately preceding the appointed day; and
- (iv) the principal has either reversed or not availed of the input tax credit in respect of such goods.

**(Only in SGST Law)**

**162B. Tax paid on capital goods lying with agents to be allowed as credit**

Where any capital goods belonging to the principal are lying at the premises of the agent on the appointed day, the agent shall be entitled to take credit of the tax paid on such capital goods subject to fulfilment of the following conditions:

- (i) the agent is a registered taxable person under this Act;
- (ii) both the principal and the agent declare the details of the stock of capital goods lying with such agent on the date immediately preceding the appointed day in such form and manner and within such time as may be prescribed in this behalf;
- (iii) the invoices for such capital goods had been issued not earlier than twelve months immediately preceding the appointed day; and
- (iv) the principal has either not availed of the input tax credit in respect of such capital goods or, having availed of such credit, has reversed the said credit, to the extent availed of by him.

**(Only in SGST Law)**

**162C. Treatment of branch transfers**

Notwithstanding anything to the contrary contained in this Act, any amount of input tax credit reversed prior to the appointed day shall not be admissible as credit of input tax under this Act.

**(Only in SGST Law)**

**162D. Goods sent on approval basis returned on or after the appointed day**

Where any goods sent on approval basis, not earlier than six months before the appointed day, are rejected or not approved by the buyer and returned to the

seller on or after the appointed day, no tax shall be payable thereon if such goods are returned within six months from the appointed day:

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

Provided further that the tax shall be payable by the person returning the goods if such goods are liable to tax under this Act, and are returned after a period of six months or the extended period, as the case may be, from the appointed day:

Provided also that tax shall be payable by the person who has sent the goods on approval basis if such goods are liable to tax under this Act, and are not returned within a period of six months or the extended period , as the case may be, from the appointed day.

**(SGST Law)**

#### **162 E. Deduction of tax source**

Where a supplier has made any sale of goods in respect of which tax was required to be deducted at source under the earlier law and has also issued an invoice for the same before the appointed day, no deduction of tax at source under section 37 shall be made by the deductor under the said section where payment to the said supplier is made on or after the appointed day.





## **SCHEDULE I**

### **MATTERS TO BE TREATED AS SUPPLY WITHOUT CONSIDERATION**

1. Permanent transfer/disposal of business assets.
2. Temporary application of business assets to a private or non-business use.
3. Services put to a private or non-business use.
4. Assets retained after deregistration.
5. Supply of goods and / or services by a taxable person to another taxable or non-taxable person in the course or furtherance of business.

Provided that the supply of goods by a registered taxable person to a job-worker in terms of section 43A shall not be treated as supply of goods.

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## **SCHEDULE II**

### **MATTERS TO BE TREATED AS SUPPLY OF GOODS OR SERVICES**

1. Transfer
  - (1) Any transfer of the title in goods is a supply of goods.
  - (2) Any transfer of goods or of right in goods or of undivided share in goods without the transfer of title thereof, is a supply of services.
  - (3) Any transfer of title in goods under an agreement which stipulates that property in goods will pass at a future date upon payment of full consideration as agreed, is a supply of goods.
  
2. Land and Building
  - (1) Any lease, tenancy, easement, licence to occupy land is a supply of services.
  - (2) Any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of services.
  
3. Treatment or process  
Any treatment or process which is being applied to another person's goods is a supply of services.
  
4. Transfer of business assets
  - (1) Where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration, such transfer or disposal is a supply of goods by the person.
  - (2) Where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for a consideration, the usage or making available of such goods is a supply of services.
  - (3) Where any goods, forming part of the business assets of a taxable person, are sold by any other person who has the power to do so to recover any debt owed by the taxable person, the goods shall be deemed to be supplied by the taxable person in the course or furtherance of his business.
  - (4) Where any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless—
    - (a) the business is transferred as a going concern to another person; or
    - (b) the business is carried on by a personal representative who is deemed to be a taxable person.
  
5. The following shall be treated as "supply of service"
  - (a) renting of immovable property;
  - (b) construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the

entire consideration has been received after issuance of completion certificate, where required, by the competent authority or before its first occupation, whichever is earlier.

Explanation.- For the purposes of this clause-

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

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

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

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

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

(c) temporary transfer or permitting the use or enjoyment of any intellectual property right;

(d) development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software;

(e) agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act;

(f) works contract including transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;

(g) transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration; and

(h) supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.

6. The following shall be treated as supply of goods

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

### **SCHEDULE III**

#### **LIABILITY TO BE REGISTERED**

1. Every supplier shall be liable to be registered under this Act in the State from where he makes a taxable supply of goods and/or services if his aggregate turnover in a financial year exceeds [Rs nine lakh]:

1. Every supplier shall be liable to be registered under this Act in the State from where he makes a taxable supply of goods and/or services if his aggregate turnover in a financial year exceeds [Rs. four lakh]:

[This threshold of four lakh will apply only if the taxable person conducts his business in any of the NE States including Sikkim.]

Provided that the supplier shall not be liable to registration if his aggregate turnover consists of only goods and/or services which are not liable to tax under this Act.

Explanation 1.- The taxable threshold shall include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals.

Explanation 2.- The supply of goods, after completion of job-work, by a registered job-worker shall be treated as the supply of goods by the "principal" referred to in section 43A, and the value of such goods shall not be included in the aggregate turnover of the registered job worker.

2. Subject to the provisions of paragraph 1, every person who, on the day immediately preceding the appointed day, is registered or holds a license under an earlier law, shall be liable to be registered under this Act with effect from the appointed day.

3. Where a business carried on by a taxable person registered under this Act is transferred, whether on account of succession or otherwise, to another person as a going concern, the transferee, or the successor, as the case may be, shall be liable to be registered with effect from the date of such transfer or succession.

4. Notwithstanding anything contained in paragraph 1 and 2 above, in a case of transfer pursuant to sanction of a scheme or an arrangement for amalgamation or, as the case may be, de-merger of two or more companies by an order of a High Court, the transferee shall be liable to be registered, where required, with effect from the date on which the Registrar of Companies issues a certificate of incorporation giving effect to such order of the High Court.

5. Notwithstanding anything contained in paragraph 1 and 2 above, the following categories of persons shall be required to be registered under this Act:

- (i) persons making any inter-State taxable supply, irrespective of the threshold specified under paragraph 1;
- (ii) casual taxable persons, irrespective of the threshold specified under paragraph 1;
- (iii) persons who are required to pay tax under reverse charge, irrespective of the threshold specified under paragraph 1;

- (iv) non-resident taxable persons, irrespective of the threshold specified under paragraph 1;
- (v) persons who are required to deduct tax under section 37;
- (vi) persons who supply goods and/or services on behalf of other registered taxable persons whether as an agent or otherwise, irrespective of the threshold specified under paragraph 1;
- (vii) input service distributor;
- (viii) persons who supply goods and/or services, other than branded services, through electronic commerce operator, irrespective of the threshold specified in paragraph 1;
- (ix) every electronic commerce operator, irrespective of the threshold specified in paragraph 1;
- (x) an aggregator who supplies services under his brand name or his trade name, irrespective of the threshold specified in paragraph 1; and
- (xi) such other person or class of persons as may be notified by the Central Government or a State Government on the recommendations of the Council.

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## SCHEDULE IV

### Activities or transactions in respect of which the Central Government, a State Government or any Local Authority shall not be regarded as a taxable person

#### (Indicative List)

1. Services provided by a Government or local authority to another Government or local authority excluding the following services:
  - (i) services by the Department of Posts by way of speed post, express parcel post, life insurance and agency services;
  - (ii) services in relation to an aircraft or a vessel , inside or outside the precincts of a port or an aircraft; or
  - (iii) transport of goods or passengers.
  
2. Services provided by a Government or local authority to individuals in discharge of its statutory powers or functions such as-
  - (i) issuance of passport, visa, driving licence, birth certificate or death certificate; and
  - (ii) assignment of right to use natural resources to an individual farmer for the purpose of agriculture.
  
3. Services provided by a Government or local authority or a governmental authority by way of:
  - (i) any activity in relation to any function entrusted to a municipality under article 243 W of the Constitution;
  - (ii) any activity in relation to any function entrusted to a Panchayat under article 243 G of the Constitution;
  - (iii) health care; and
  - (iv) education.
  
4. Services provided by Government towards-
  - (i) diplomatic or consular activities;
  - (ii) citizenship, naturalization and aliens;
  - (iii) admission into , and emigration and expulsion from India;
  - (iv) currency , coinage and legal tender , foreign exchange;
  - (v) trade and commerce with foreign countries , import and export across customs frontiers , interstate trade and commerce; or
  - (vi) maintenance of public order.
  
5. Any services provided by a Government or a local authority in the course of discharging any liability on account of any tax levied by such Government or authority.
  
6. Services provided by a Government or a local authority by way of -

- (i) tolerating non-performance of a contract for which consideration in the form of fines or liquidated damages is payable to the Government or the local authority under such contract; or
- (ii) assignment of right to use any natural resource where such right to use was assigned by the Government or the local authority before the 1st April, 2016:

Provided that the exemption shall apply only to service tax payable on one time charge payable, in full upfront or in installments, for assignment of right to use such natural resource:

Explanation.- Periodic payment required to be made not exempt.

- 7. Services provided by Government by way of deputing officers after office hours or on holidays for inspection or container stuffing or such other duties in relation to import or export of cargo on payment of Merchant Overtime Charges (MOT).
- 8. Services provided by Government or a local authority by way of-
  - (i) registration required under any law for the time being in force; or
  - (ii) testing, calibration, safety check or certification relating to protection or safety of workers, consumers or public at large, required under any law for the time being in force.

#### **Definitions:**

1. Governmental Authority means a board, or an authority or any other body established with 90% or more participation by way of equity or control by Government and set up by an Act of the Parliament or a State Legislature to carry out any function entrusted to a municipality under article 243W or a Panchayat under article 243G of the Constitution.

2. Health care services means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India and includes services by way of transportation of the patient to and from a clinical establishment, but does not include hair transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.

3. Education services means services by way of—

- i) pre-school education and education up to higher secondary school or equivalent;
- ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force; or
- iii) education as a part of an approved vocational education course.



## **GST Valuation (Determination of the Value of Supply of Goods and Services) Rules, 2016**

### **1. Short title, commencement and application.**

- (1) These rules may be called the GST Valuation (Determination of Value of Supply of Goods and Services) Rules, 2016.
- (2) These Rules shall come into force on the day the Act comes into force.
- (3) They shall apply to the supply of goods and/or services under the IGST/CGST/SGST Act.

### **2. Definitions**

- (1) In these rules, unless the context otherwise requires:
  - (a) "Act" means the IGST Act or the CGST Act or, as the case may be, the SGST Act;
  - (b) "goods of like kind and quality" means goods which are identical or similar in physical characteristics, quality and reputation as the goods being valued, and perform the same functions or are commercially interchangeable with the goods being valued and supplied by the same person or by a different person;
  - (c) "services of like kind and quality" means services which are identical or similar in nature, quality and reputation as the services being valued and supplied by the same person or by a different person; and
  - (d) "transaction value" means the value of goods and/or services within the meaning of section 15 of the CGST Act.
- (2) Words, expressions and terms not defined in these Rules shall have the same meaning as is assigned to them in the Act.

### **3. Methods of determination of value**

- (1) Subject to rule 7, the value of goods and/or services shall be the transaction value.
- (2) The "transaction value" shall be the value determined in monetary terms.
- (3) Where the supply consists of both taxable and non-taxable supply, the taxable supply shall be deemed to be for such part of the monetary consideration as is attributable thereto.
- (4) The transaction value shall be accepted even where the supplier and recipient of supply are related, provided that the relationship has not influenced the price.
- (5) Where goods are transferred from—
  - (a) one place of business to another place of the same business,
  - (b) the principal to an agent or from an agent to the principal,
 whether or not situated in the same State, the value of such supply shall be the transaction value.
- (6) The value of supplies specified in sub-section (4) of section 15 of the Act shall be determined by proceeding sequentially through rules 4 to 6.

### **4. Determination of value of supply by comparison**

- (1) Where the value of a supply cannot be determined under rule 3, the value shall be determined on the basis of the transaction value of goods and/or services of like kind

and quality supplied at or about the same time to other customers, adjusted in accordance with the provisions of sub-rule (2).

(2) In determining the value of goods and/or services under sub-rule (1), the proper officer shall make such adjustments as appear to him reasonable, taking into consideration the relevant factors, including-

- (a) difference in the dates of supply,
- (b) difference in commercial levels and quantity levels,
- (c) difference in composition, quality and design between the goods and/or services being valued and the goods and/or services with which they are compared,
- (d) difference in freight and insurance charges depending on the place of supply.

### **5. Computed value method**

If the value cannot be determined under rule 4, it shall be based on a computed value which shall include the following:-

- (a) the cost of production, manufacture or processing of the goods or, the cost of provision of the services;
- (b) charges, if any, for the design or brand;
- (c) an amount towards profit and general expenses equal to that usually reflected in supply of goods and/or services of the same class or kind as the goods and/or services being valued which are made by other suppliers.

### **6. Residual method**

Where the value of the goods and/or services cannot be determined under the provisions of rule 5, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules.

### **7. Rejection of declared value**

(1)(a) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any goods and/or services, he may ask the supplier to furnish further information, including documents or other evidence and if, after receiving such further information, or in the absence of any response from such supplier, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the transaction value of such goods and/or services cannot be determined under the provisions of sub-rule (1) of rule 3.

(b) The reasons to doubt the truth or accuracy of the value of the supply declared by the supplier shall include, but not be limited to the following:

- (i) the significantly higher value at which goods and/or services of like kind or quality supplied at or about the same time in comparable quantities in a comparable commercial transaction were assessed;
- (ii) the significantly lower or higher value of the supply of goods and/or services compared to the market value of goods and/or services of like kind and quality at the time of supply; or
- (iii) any mis-declaration of goods and/or services in parameters such as description, quality, quantity, year of manufacture or production.

(2) The proper officer shall intimate the supplier in writing the grounds for doubting the truth or accuracy of the value declared in relation to the supply of goods and/or services by such supplier and provide a reasonable opportunity of being heard, before taking a final decision under sub-rule (1).

(3) If after hearing the supplier as aforesaid, the proper officer is, for reasons to be recorded in writing, not satisfied with the value declared, he shall proceed to determine the value in accordance with the provisions of rule 4 or rule 5 or rule 6, proceeding sequentially.

Explanation.- For removal of doubts, it is hereby declared that this rule by itself does not provide a method for determination of value. It provides a mechanism and procedure for rejection of declared value in cases where there is reasonable doubt that the declared value does not represent the transaction value.

## **8. Valuation in certain cases**

(1) Pure Agent

(a) Notwithstanding anything contained in these rules, the expenditure or costs incurred by the service provider as a pure agent of the recipient of service, shall be excluded from the value of the taxable service if all the following conditions are satisfied, namely: -

(i) the service provider acts as a pure agent of the recipient of service when he makes payment to third party for the goods and/or services procured;

(ii) the recipient of service receives and uses the goods and/or services so procured by the service provider in his capacity as pure agent of the recipient of service;

(iii) the recipient of service is liable to make payment to the third party;

(iv) the recipient of service authorises the service provider to make payment on his behalf;

(v) the recipient of service knows that the goods and/or services for which payment has been made by the service provider shall be provided by the third party;

(vi) the payment made by the service provider on behalf of the recipient of service has been separately indicated in the invoice issued by the service provider to the recipient of service;

(vii) the service provider recovers from the recipient of service only such amount as has been paid by him to the third party; and

(viii) the goods and/or services procured by the service provider from the third party as a pure agent of the recipient of service are in addition to the services he provides on his own account.

Explanation.- For the purposes of this sub-rule, "pure agent" means a person who-

(a) enters into a contractual agreement with the recipient of service to act as his pure agent to incur expenditure or costs in the course of providing taxable service;

(b) neither intends to hold nor holds any title to the goods and/or services so procured or provided as pure agent of the recipient of service;

(c) does not use such goods and/or services so procured; and

(d) receives only the actual amount incurred to procure such goods and/or services.

(2) Money Changer

The value of taxable service provided for the services in so far as it pertains to purchase or sale of foreign currency, including money changing, shall be determined by the service provider in the following manner:-

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

Provided that in case where the RBI reference rate for a currency is not available, the value shall be 1% of the gross amount of Indian Rupees provided or received, by the person changing the money:

Provided further that in case where neither of the currencies exchanged is Indian Rupee, the value shall be equal to 1% of the lesser of the two amounts the person changing the money would have received by converting any of the two currencies into Indian Rupee on that day at the reference rate provided by RBI.

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## **THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016**

### **CHAPTER- I PRELIMINARY**

1. Short title, extent and commencement
2. Definitions

### **CHAPTER- II PRINCIPLES FOR DETERMINING SUPPLY OF GOODS AND/OR SERVICES IN THE COURSE OF INTER-STATE TRADE OR COMMERCE**

3. Supplies of goods and/or services in the course of inter-State trade or commerce

### **CHAPTER- III LEVY AND COLLECTION OF TAX**

4. Levy and collection of Integrated Goods and Services Tax

### **CHAPTER- IV PLACE OF SUPPLY OF GOODS AND/OR SERVICES**

5. Place of supply of goods
6. Place of supply of services

### **CHAPTER-V PAYMENT OF TAX**

7. Payment of tax, interest, penalty and other amounts

### **CHAPTER- VI INPUT TAX CREDIT**

8. Claim of input tax credit and provisional acceptance, matching, reversal and re-claim thereof
9. Transfer of input tax credit

## **CHAPTER– VII**

### **APPORTIONMENT OF TAX AND SETTLEMENT OF FUNDS**

10. Apportionment of tax collected under the Act and settlement of funds

## **CHAPTER - VIII**

### **SETTLEMENT OF CASES**

11. Definitions
12. Constitution of National Goods and Services Tax Settlement Commission
13. Jurisdiction and powers of Settlement Commission
14. Decisions to be by majority
15. Application for settlement of cases
16. Procedure for settlement on receipt of an application under section 15
17. Power of Settlement Commission to order provisional attachment to protect revenue
18. Power of Settlement Commission to reopen completed proceedings
19. Inspection, etc. of reports
20. Power of Settlement Commission to grant immunity from prosecution and penalty
21. Power of Settlement Commission to send a case back to the IGST officer
22. Order of settlement to be conclusive
23. Bar on subsequent application for settlement in certain cases
24. Rectification of mistakes by Settlement Commission
25. Powers of Settlement Commission
26. Procedure of Settlement Commission

## **CHAPTER– IX**

### **MISCELLANEOUS**

27. Application of certain provisions of the CGST Act, 2016
28. Power to make rules
29. Interest on delayed payment of tax
30. Tax wrongfully collected and deposited with the Central or a State Government

## **CHAPTER– X**

### **TRANSITIONAL PROVISIONS**

31. Import of services or inter-state supply of goods and/or services made on or after the appointed day

**CHAPTER– XI**  
**ADMINISTRATION**

32. Classes of officers under the Integrated Goods and Services Tax Act, 2016
33. Appointment of officers under the Integrated Goods and Services Tax Act, 2016

## THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016

### CHAPTER- I

#### PRELIMINARY

#### 1. Short title, extent and commencement

- (1) This Act may be called the Integrated Goods and Services Tax Act, 2016.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

#### 2. Definitions

- (1) In this Act, unless the context otherwise requires,-

(a) **"appropriate State"**, in relation to a taxable person, means that State where he is registered or liable to be registered under section 19 of the Central Goods and Services Tax Act, 2016.

Explanation: For the purpose of this Act, "State" includes Union Territory with Legislature.

(b) **"Government"** means the Central Government;

(c) **"Integrated Goods and Services Tax" (IGST)** means tax levied under this Act on the supply of any goods and/or services in the course of inter-State trade or commerce.

Explanation 1.- A supply of goods and/or services in the course of import into the territory of India shall be deemed to be a supply of goods and/or services in the course of inter-State trade or commerce.

Explanation 2.- An export of goods and/or services shall be deemed to be a supply of goods and/or services in the course of inter-State trade or commerce.

(d) **"input tax"** in relation to a taxable person, means the Integrated Goods and Services Tax, Central Goods and Services Tax or State Goods and Services Tax, as the case may be, charged on any supply of goods and/or services to him which are used, or are intended to be used, in the course or furtherance of his business and includes the tax payable under sub-section (3) of section 4;

(e) **"input tax credit"** means credit of 'input tax' as defined in clause (d) of sub-section (1) of section 2;

(f) **"supply"** has the same meaning as assigned to it in section 3 of the CGST Act, 2016;

(g) **"output tax"** in relation to a taxable person, means the IGST chargeable under the Act on taxable supply of goods and/or services by him or his agent and excludes tax payable by him on reverse charge basis;



(2) Words and expressions not defined in this Act shall have the meaning assigned to them in the Central Goods and Service Tax Act, 2016.

## **CHAPTER- II**

### **PRINCIPLES FOR DETERMINING SUPPLY OF GOODS AND/OR SERVICES IN THE COURSE OF INTER-STATE TRADE OR COMMERCE**

#### **3. Supplies of goods and/or services in the course of inter-State trade or commerce**

(1) Subject to the provisions of section 5, supply of goods in the course of inter-State trade or commerce means any supply where the location of the supplier and the place of supply are in different States.

(2) Subject to the provisions of section 6, supply of services in the course of inter-State trade or commerce means any supply where the location of the supplier and the place of supply are in different States.

#### **3A. Supplies of goods and/or services in the course of intra-State trade or commerce**

(1) Subject to the provisions of section 5, intra-state supply of goods means any supply where the location of the supplier and the place of supply are in the same State.

(2) Subject to the provisions of section 6, intra-state supply of services means any supply where the location of the supplier and the place of supply are in the same State.

## **CHAPTER– III**

### **LEVY AND COLLECTION OF TAX**

#### **4. Levy and collection of Integrated Goods and Services Tax**

(1) There shall be levied a tax called the Integrated Goods and Services Tax on all supplies of goods and/or services made in the course of inter-State trade or commerce at the rate specified in the Schedule to this Act and collected in such manner as may be prescribed.

(2) The Integrated Goods and Services Tax shall be paid by every taxable person in accordance with the provisions of this Act.

(3) Notwithstanding anything contained in sub-section (2), the Central Government may, on recommendation of the Council, by notification, specify categories of supply of goods and/or services the tax on which is payable on reverse charge basis and the tax thereon shall be paid by the person receiving such goods and/or services and all the provisions of this Act shall apply to such person as if he is the person liable for paying the tax in relation to such goods and/or services.

(4) Notwithstanding anything contained in sub-section (1) but subject to such conditions as may be notified in this behalf, no tax under this Act shall be payable by any taxable person in respect of such supplies of goods and/or services as are specified in Schedule . . . to the Act.

## **CHAPTER– IV**

### **PLACE OF SUPPLY OF GOODS AND/OR SERVICES**

#### **5. Place of supply of goods**

(1) The provisions of this section shall apply to determine the place of supply of goods.

(2) Where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient.

(2A) Where the goods are delivered by the supplier to a recipient or any other person, on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such person.

(3) Where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient.

(4) Where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly.

(5) Where the goods are supplied on board a conveyance, such as a vessel, an aircraft, a train or a motor vehicle, the place of supply shall be the location at which such goods are taken on board.

(6) Where the place of supply of goods cannot be determined in terms of sub-section (2), (3), (4) and (5), the same shall be determined by law made by the Parliament in accordance with the recommendation of the Council.

#### **6. Place of supply of services**

(1) The provisions of this section shall apply to determine the place of supply of services.

(2) The place of supply of services, except the services specified in sub-sections (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14) and (15), made to a registered person shall be the location of such person.

(3) The place of supply of services, except the services specified in sub-sections (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14) and (15), made to any person other than a registered person shall be

- (i) the location of the recipient where the address on record exists, and
- (ii) the location of the supplier of services in other cases.

(4) The place of supply of services, -

(a) in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work, or

(b) by way of lodging accommodation by a hotel, inn, guest house, homestay, club or campsite, by whatever name called and including a house boat or any other vessel, or

(c) by way of accommodation in any immovable property for organizing any marriage or reception or matters related therewith, official, social, cultural, religious or business function including services provided in relation to such function at such property, or

(d) any services ancillary to the services referred to in clause (a), (b) and (c),

shall be the location at which the immovable property or boat or vessel is located or intended to be located.

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

(5) The place of supply of restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery shall be the location where the services are actually performed.

(6) The place of supply of services in relation to training and performance appraisal to

(a) a registered person, shall be the location of such person;

(b) a person other than a registered person, shall be the location where the services are actually performed.

(7) The place of supply of services provided by way of admission to a cultural, artistic, sporting, scientific, educational, or entertainment event or amusement park or any other place and services ancillary thereto, shall be the place where the event is actually held or where the park or such other place is located.

(8) The place of supply of services provided by way of—

(a) organization of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of service in relation to a conference, fair, exhibition, celebration or similar events, or

(b) services ancillary to organization of any of the above events or services, or assigning of sponsorship of any of the above events,

to

(i) a registered person, shall be the location of such person;

(ii) a person other than a registered person, shall be the place where the event is actually held.

Explanation.- Where the event is held in more than one State and a consolidated amount is charged for supply of services relating to such event, the place of supply of such services shall be taken as being in the each of the States in proportion to the value of services so provided in each State as ascertained from the terms of the contract or agreement entered into in this regard or, in absence of such contract or agreement, on such other reasonable basis as may be prescribed in this behalf.

(9) The place of supply of services by way of transportation of goods, including by mail or courier to,

(a) a registered person, shall be the location of such person;

(b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation.

(10) The place of supply of passenger transportation service to

(a) a registered person, shall be the location of such person;

(b) a person other than a registered person, shall be the place where the passenger embarks on the conveyance for a continuous journey:

Provided that where the right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage, the place of supply of such service shall be determined in the manner specified in sub-sections (2) or (3), as the case may be.

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

(11) The place of supply of services on board a conveyance such as vessel, aircraft, train or motor vehicle, shall be the location of the first scheduled point of departure of that conveyance for the journey.

(12) The place of supply of telecommunication services including data transfer, broadcasting, cable and direct to home television services to any person shall—

(a) in case of services by way of fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna, be the location where the telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of services;

(b) in case of mobile connection for telecommunication and internet services provided on post-paid basis, be the location of billing address of the recipient of services on record of the supplier of services;

(c) in cases where mobile connection for telecommunication and internet service are provided on pre-payment through a voucher or any other means, be the location where such pre-payment is received or such vouchers are sold:

Provided that if such pre-paid service is availed or the recharge is made through internet banking or other electronic mode of payment, the location of the recipient of services on record of the supplier of services shall be the place of supply of such service.

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

Provided that if the service is not linked to the account of the recipient of services, the place of supply shall be location of the supplier of services.

(14) The place of supply of insurance services shall:

(a) to a registered person, be the location of such person;

(b) to a person other than a registered person, be the location of the recipient of services on the records of the supplier of services.

(15) The place of supply of advertisement services to the Central Government, a State Government, a statutory body or a local authority meant for identifiable States, shall be taken as located in each of such States and the value of such supplies specific to each

State shall be in proportion to amount attributable to service provided by way of dissemination in the respective States as may be determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other reasonable basis as may be prescribed in this behalf.

## CHAPTER-V

### PAYMENT OF TAX

#### 7. Payment of tax, interest, penalty and other amounts

(1) Every deposit made towards tax, interest, penalty, fee or any other amount by a taxable person by internet banking or by using credit/debit cards or National Electronic Fund Transfer or Real Time Gross Settlement or by any other mode, subject to such conditions and restrictions as may be prescribed in this behalf, shall be credited to the electronic cash ledger of such person to be maintained in the manner as may be prescribed.

Explanation.- The date of credit to the account of the appropriate Government in the authorized bank shall be deemed to be the date of deposit.

(2) The input tax credit as self-assessed in the return of a taxable person shall be credited to his electronic credit ledger to be maintained in the manner as may be prescribed.

(3) The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of the Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.

(4) The amount available in the electronic credit ledger may be used for making any payment towards tax payable under the provisions of the Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.

(5)(a) The amount of input tax credit on account of IGST available in the electronic credit ledger shall first be utilized towards payment of IGST and the amount remaining, if any, may be utilized towards the payment of CGST and SGST, in that order.

(b) The amount of input tax credit on account of CGST available in the electronic credit ledger shall first be utilized towards payment of CGST and the amount remaining, if any, may be utilized towards the payment of IGST.

(c) The amount of input tax credit on account of SGST available in the electronic credit ledger shall first be utilized towards payment of SGST and the amount remaining, if any, may be utilized towards the payment of IGST.

(6) The balance in the cash or credit ledger after payment of tax, interest, penalty, fee or any other amount payable under the Act or the rules made thereunder may be refunded in accordance with the provisions of section 38 of the CGST Act and the amount collected as IGST shall stand reduced to that extent.

(7) All liabilities of a taxable person under this Act shall be recorded and maintained in an electronic register as may be prescribed.

(8) Every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in the following order:

(a) self-assessed tax, and other dues related to returns of previous tax periods;



- (b) self-assessed tax, and other dues related to the return of the current tax period;
  - (c) any other amount payable under the Act or the rules made thereunder including the demand determined under section 51 of the CGST Act.
- (9) Every person who has paid the tax on goods and/or services under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods and/or services.

**CHAPTER– VI**  
**INPUT TAX CREDIT**

**8. Claim of input tax credit, provisional acceptance, matching, reversal and reclaim thereof**

(1) Every registered taxable person shall, subject to such conditions and restrictions as may be prescribed in this behalf, be entitled to take credit of input tax, as self-assessed, in his return and such amount shall be credited, on a provisional basis, to his electronic credit ledger to be maintained in the manner as may be prescribed.

(2) The provisions of section 29 of the CGST Act, 2016 relating to matching, reversal and reclaim of input tax credit shall apply *mutatis mutandis* to the matching, reversal and reclaim of input tax credit under this section.

**9. Transfer of input tax credit**

(1) On utilization of input tax credit availed under this Act for payment of tax dues under the CGST Act as per sub-section (5) of section 7, the amount collected as IGST shall stand reduced by an amount equal to the credit so utilized and the Central Government shall transfer an amount equal to the amount so reduced from the IGST account to the CGST account in the manner and time as may be prescribed.

(2) On utilization of input tax credit availed under this Act for payment of tax dues under the SGST Act as per sub-section (5) of section 7, the amount collected as IGST shall stand reduced by an amount equal to the credit so utilized and the Central Government shall transfer an amount equal to the amount so reduced from the IGST account to the SGST account of the appropriate State Government in the manner and time as may be prescribed.

## CHAPTER- VII

### APPORTIONMENT OF TAX AND SETTLEMENT OF FUNDS

#### 10. Apportionment of tax collected under the Act and settlement of funds

(1) Out of the IGST paid to the Central Government in respect of inter-State supply of goods and/or services to an unregistered person or to a taxable person paying tax under section 8 of the CGST Act, the amount of tax calculated at the rate equivalent to the CGST on similar intra-state supply shall be apportioned to the Central Government.

(2) Out of the IGST paid to the Central Government in respect of inter-State supply of goods and/or services made in a year to a registered taxable person, where such taxable person is either not eligible for input tax credit or where he does not avail of the said credit within the specified period and thus remains in the IGST account after expiry of the due date for filing of annual return for such year in which the supply was made, the amount of tax calculated at the rate equivalent to the CGST on similar intra-state supply shall be apportioned to the Central Government.

(3) Out of the IGST paid to the Central Government in respect of import of goods and / or services by an unregistered person or by a taxable person paying tax under section 8 of the CGST Act, the amount of tax calculated at the rate equivalent to the CGST on similar intra-state supply shall be apportioned to the Central Government.

(4) Out of the IGST paid to the Central Government in respect of import of goods and / or services made in a year by a registered taxable person, where the such taxable person is either not eligible for input tax credit or where he does not avail of the said credit within the specified period and thus remains in the IGST account after expiry of the due date for filing of annual return for such year in which the supply was received, the amount of tax calculated at the rate equivalent to the CGST on similar intra-state supply shall be apportioned to the Central Government.

(5) The balance amount of tax remaining in the IGST account in respect of the supply for which an apportionment to the Central Government has been done under sub-section (1), (2) or (3) shall be apportioned, in the manner and time as may be prescribed, to the State where such supply takes place as per section 9 5 or 6.

(6) The provisions of sub-sections (1), (2), (3), (4) and (5) relating to apportionment of tax shall *mutatis mutandis* apply to the apportionment of interest and penalty realized in connection with the tax so apportioned.

(7) Where an amount has been apportioned to the Central Government or a State Government under sub-sections (1), (2), (3), (4), (5) and (6), the amount collected as IGST shall stand reduced by an amount equal to the amount so apportioned and the Central Government shall transfer to the CGST account an amount equal to an amount apportioned to the Central Government and shall transfer to the SGST account of the State an amount equal to an amount apportioned to that State, in the manner and time as may be prescribed.

## **CHAPTER - VIII**

### **SETTLEMENT OF CASES**

#### **11. Definitions**

- (a) "Bench" means a Bench of the Settlement Commission;
- (b) "case" means any proceeding under this Act for the levy, assessment and collection of IGST before an IGST officer, or before a First Appellate Authority in connection with such levy, assessment or collection of IGST pending on the date on which an application under sub-section (1) of section 15 is made:

Provided that where an order is passed by an adjudicating authority and for which the appeal period has not expired shall also be deemed to be a proceeding pending within the meaning of this clause:

Provided further that where any appeal has been preferred after expiry of the period specified for filing such appeal under this Act and which has not been admitted, such appeal shall not be deemed to be a proceeding pending within the meaning of this clause:

Provided also that where any Court or Appellate Tribunal or the First Appellate Authority refers a case back to the original adjudicating authority or the First Appellate Authority, as the case may be, for a fresh adjudication or decision, such proceeding shall not be deemed to be a proceeding pending within the meaning of this clause;

- (c) "Designated Officer" means an officer of the IGST appointed in the Settlement Commission to conduct inquiry or investigation for the purpose of this Chapter;
- (d) "Member" means a Member of the Settlement Commission and includes the National/State Chairman;
- (e) "Settlement Commission" means the National Goods and Services Tax Settlement Commission constituted under section 12.

#### **12. Constitution of National Goods and Services Tax Settlement Commission**

- (1) The Central Government shall on the recommendation of the Council constitute a National Goods and Services Tax Settlement Commission for settlement of cases under this Act.
- (2) The Settlement Commission shall be headed by a National Chairman.
- (3) The Settlement Commission shall have one bench for one or more states, which shall be called the State Settlement Commission.
- (4) Every State Settlement Commission shall be headed by a State Chairman.
- (5) Every State Settlement Commission shall consist of a Chairman and as many Members (Technical –IGST) as may be prescribed, to exercise the powers and discharge the functions conferred on the Settlement Commission by this Act.

(6) The National Chairman/State Chairman shall be a person who is or has been a judge of the High Court.

(7) The qualifications, eligibility conditions and the manner of selection and appointment of the National Chairman, the State Chairman, and the Members shall be such as may be prescribed on the recommendations of the Council.

(8) The National Chairman and the State Chairman shall exercise such powers and discharge such functions as may be prescribed on the recommendations of the Council.

### **13. Jurisdiction and powers of Settlement Commission**

(1) The jurisdiction of the State Settlement Commission constituted under this Act shall extend to the ..... (name(s) of States).

(2) Each Bench shall be presided over by the State Chairman and shall consist of two other Members.

(3) Notwithstanding anything contained in the foregoing provisions of this section, and subject to any rules that may be made in this behalf, when one of the persons constituting a Bench (whether such person is the presiding officer or other Member of the Bench) is unable to discharge his functions owing to absence, illness or any other cause or in the event of the occurrence of any vacancy either in the office of the presiding officer or in the office of one or the other Members of the Bench, the remaining Members may function as the Bench and if the presiding officer of the Bench is not one of the remaining Members, the senior among the remaining Members shall act as the presiding officer of the Bench.

### **14. Decisions to be by majority**

(1) If the Members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority.

(2) In a case where the decision is taken by a two member Bench as provided under sub-section (3) of section 13 and Members are equally divided, the matter will be referred to the third Member and the decision will be according to the opinion of the majority.

### **15. Application for settlement of cases**

(1) A taxable person may, in respect of a case or identical cases involving periodical show cause notices relating to him and pending before the adjudicating authority or the First Appellate Authority under the Act, make an application, in such form and in such manner as may be prescribed, containing a full and true disclosure of his tax liability which has not been disclosed before the jurisdictional IGST officer, the manner in which such liability has been derived, the additional amount of tax accepted to be payable by him and such other particulars as may be prescribed, to the Settlement Commission to

have the case(s) settled and any such application shall be disposed of in the manner hereinafter provided:

Provided that no such application shall be made unless,-

- (a) the applicant has furnished the return(s), which he is or was required to furnish under the provisions of this Act;
- (b) a show cause notice for demand of tax issued by the IGST officer has been received by the applicant or an order confirming the demand of tax has been issued by the IGST officer and the same is pending before the First Appellate Authority;
- (c) the additional amount of tax accepted by the applicant in his application exceeds five lakh rupees; and
- (d) the applicant has paid the additional amount of tax accepted by him along with interest due thereon under section 36 of the CGST Act:

Provided further that the Settlement Commission, if it is satisfied that the circumstances exist for not filing the return(s) referred to in clause (a) of the first proviso to sub-section (1), may, after recording the reasons thereof, allow the applicant to make such application.

(2) No application shall be entertained by the Settlement Commission under sub-section (1) in cases which are pending with the Appellate Tribunal or any Court.

(3) No application under sub-section (1) shall be made for determination of any question having a bearing on the rate of tax or determination of liability to pay tax on goods and/or services under the Act.

(4) Every application made under sub-section (1) shall be accompanied by such fees as may be prescribed.

(5) An application made under sub-section (1) shall not be allowed to be withdrawn by the applicant.

#### **16. Procedure for settlement on receipt of an application under section 15**

(1) On receipt of an application under sub-section (1) of section 15, the Settlement Commission shall, within seven days from the date of receipt of the application, issue a notice to the applicant to explain in writing as to why the application made by him should be allowed to be proceeded with, and after taking into consideration the explanation provided by the applicant, it shall, within a period of forty five days from the date of the notice, by an order, allow the application to be proceeded with, or reject the application as the case may be, and the proceedings before the Settlement Commission shall abate on the date of rejection :

Provided that an application shall not be rejected unless an opportunity has been given to the applicant of being heard;

Provided further that where no notice has been issued or no order has been passed within the aforesaid period by the Settlement Commission, the application shall be deemed to have been allowed to be proceeded with.

(2) A copy of every order under sub-section (1), shall be sent to the applicant and to the jurisdictional IGST officer.

(3) Where an application is allowed under sub-section (1), the Settlement Commission shall, within seven days from the date of order under sub-section (1), call for a report along with the relevant records from the jurisdictional IGST officer and such officer shall furnish the report within a period of sixty days of the receipt of communication from the Settlement Commission:

Provided that where the jurisdictional IGST officer does not furnish the report within the aforesaid period of sixty days, the Settlement Commission shall proceed further in the matter without the report of the said officer.

(4) After examination of the report of the jurisdictional IGST officer received under sub-section (3), if the Settlement Commission is of the opinion that any further enquiry or investigation in the matter is necessary, it may, within 15 days of the receipt of the report, direct, for reasons to be recorded in writing, the Designated Officer to make such further enquiry or investigation and furnish a report within a period of ninety days of the receipt of such direction, on the matters covered by the application and any other matter relating to the case :

Provided that where the Designated Officer does not furnish the report within the aforesaid period, the Settlement Commission shall proceed to pass an order under sub-section (5) without such report.

(5) After examination of the records and the report of the jurisdictional IGST officer received under sub-section (3), and the report, if any, of the Designated Officer under sub-section (4), and after giving an opportunity to the applicant and to the jurisdictional IGST officer to be heard, either in person or through an authorised representative, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Commission may pass such order as it thinks fit on the matters covered by the application and any other matter relating to the case not covered by the application, but referred to in the report of the jurisdictional IGST officer and Designated Officer under sub-section (3) or sub-section (4), as the case may be.

Explanation.- For the purposes of this sub-section, "authorised representative" shall have the meaning assigned to it in section 86 of the CGST Act.

(6) An order under sub-section (5) shall not be passed in respect of an application after twelve months from the last day of the month in which the application was made, failing which the settlement proceedings shall abate, and the adjudicating authority or the First Appellate Authority, as the case may be, before whom the proceeding at the time of making the application was pending, shall dispose of the case in accordance with the provisions of this Act as if no application under section 15 had been made.

Provided that the period specified under this sub-section may, for reasons to be recorded in writing, be extended by the Settlement Commission for a further period not exceeding three months.

(7) For the purposes of the time limit under section 51 or section 79, as the case may be, of the CGST Act and for the purposes of interest under section 36 of the said Act, in a case referred to in sub-section (1) or sub-section (6), as the case may be, the period commencing on and from the date of the application to the Settlement Commission under section 15 and ending with the date of abatement, shall be excluded.

(8) The order passed under sub-section (5) shall provide for the terms of settlement including any demand by way of tax, interest, fine or penalty, the manner in which any sums due under the settlement shall be paid and all other matters to make the settlement effective and in case of rejection contain the reasons therefor:

Provided that the amount of settlement ordered by the Settlement Commission shall not be less than the tax liability admitted by the applicant under section 15.

(9) Settlement arrived under sub-section (5) shall be void if it is subsequently found by the Settlement Commission that it has been obtained by fraud or misrepresentation of facts.

(10) Where any tax, interest, fine and penalty payable in pursuance of an order under sub-section (5) is not paid by the taxpayer within thirty days of receipt of a copy of the order by him, or within such period as extended by the Settlement Commission not exceeding three months, the amount which remains unpaid, shall be recovered along with interest due thereon at the rate prescribed under section 36 of the CGST Act, as the sums due to the Central/ State Government by the jurisdictional IGST officer in accordance with the provisions of section 54 of the CGST Act.

(11) Where a settlement becomes void as provided under sub-section (9), the proceedings with respect to the matters covered by the settlement shall be deemed to have been revived from the stage at which the application was allowed to be proceeded with by the Settlement Commission and the jurisdictional IGST officer or the First Appellate Authority, as the case may be, may, notwithstanding anything contained in any other provision of this Act, complete such proceedings before the expiry of two years from the date of the receipt of communication that the settlement became void.



### **17. Power of Settlement Commission to order provisional attachment to protect revenue**

(1) Where during the pendency of any proceeding before it, the Settlement Commission is of the opinion that for the purpose of protecting the interests of revenue it is necessary so to do, it may, by order, attach provisionally any property belonging to the applicant in the manner as may be prescribed.

(2) Every provisional attachment made by the Settlement Commission under subsection (1) shall cease to have effect from the date, the sums due to the Central Government / the State Government for which such attachment is made are discharged by the applicant and evidence to that effect is submitted to the Settlement Commission.

### **18. Power of Settlement Commission to reopen completed proceedings**

If the Settlement Commission is of the opinion (the reasons for such opinion to be recorded by it in writing) that, for the proper disposal of the case pending before it, it is necessary or expedient to reopen any proceeding connected with the case but which has been completed under this Act before application for settlement under section 15 was made, it may, with the concurrence of the applicant, reopen such proceeding and pass such order thereon as it thinks fit, as if the case in relation to which the application for settlement had been made by the applicant under that section covered such proceeding also :

Provided that no proceeding shall be reopened by the Settlement Commission under this section after the expiry of five years from the date of application.

### **19. Inspection, etc. of reports**

The Settlement Commission shall, on an application made in this behalf, and on payment of the prescribed fee by the applicant, for the purpose of rebutting any evidence brought on record against him in any report made by any IGST Officer or Designated officer, furnish to him a certified copy of any such report or part thereof relevant for the purpose.

### **20. Power of Settlement Commission to grant immunity from prosecution and penalty**

(1) The Settlement Commission may, if it is satisfied that any person who made the application for settlement under section 15 has co-operated with the Settlement Commission in the proceedings before it and has made a full and true disclosure of his tax liability, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act and also either wholly

or in part from the imposition of any penalty and fine under this Act, with respect to the case covered by the settlement :

Provided that no such immunity shall be granted by the Settlement Commission in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of the application under section 15.

(2) An immunity granted to a person under sub-section (1) shall stand withdrawn if such person fails to pay any sum specified in the order of the settlement passed under sub-section (5) of section 16 within the time specified in such order or within such extended period as permitted by the Settlement Commission or fails to comply with any other condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted.

(3) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Settlement Commission, if it is satisfied that such person had, in the course of the settlement proceedings, concealed any particular material to the settlement or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the settlement and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had no such immunity been granted.

## **21. Power of Settlement Commission to send a case back to the IGST officer**

(1) The Settlement Commission may, if it is of opinion that any person who made an application for settlement under section 15 has not co-operated with the Settlement Commission in the proceedings before it, send the case back to the jurisdictional IGST officer or the First Appellate Authority, as the case may be, who shall thereupon dispose of the case in accordance with the provisions of this Act as if no application under section 15 had been made.

(2) For the purpose of sub-section (1), the jurisdictional IGST Officer or the First Appellate Authority, as the case may be, shall be entitled to use all the materials and other information produced by the taxable person before the Settlement Commission or the results of the inquiry held or evidence recorded by the Settlement Commission in the course of the proceedings before it as if such materials, information, inquiry and evidence had been produced before such IGST Officer or the First Appellate Authority, as the case may be, or held or recorded by him in the course of the proceedings before him.

(3) For the purposes of the time limit under section 51 or section 79, as the case may be, of the CGST Act and for the purposes of interest under section 36 of the said Act, in a case referred to in sub-section (1), the period commencing on and from the date of the application to the Settlement Commission under section 15 and ending with the date of receipt by the jurisdictional IGST Officer or the First Appellate Authority, as the case may be, of the order of the Settlement Commission sending the case back to the jurisdictional IGST officer or the First Appellate Authority, as the case may be, shall be excluded.

## **22. Order of settlement to be conclusive**

Every order of settlement passed under sub-section (5) of section 16 shall be conclusive as to the matters stated therein and no matter covered by such order shall, save as otherwise provided in this Chapter, be reopened in any proceeding under this Act or under any other law for the time being in force.

## **23. Bar on subsequent application for settlement in certain cases**

(1) Where-

(i) after the passing of an order of settlement under sub-section (5) of section 16, in relation to a case, such person is convicted of any offence under this Act in relation to that case; or

(ii) the case of such person is sent back to the jurisdictional IGST Officer or the First Appellate Authority, as the case may be, by the Settlement Commission under section 21;

then, he shall not be entitled to apply for settlement under section 15 in relation to any other matter.

(2) No person shall be allowed to avail of the facility of settlement under this Chapter more than twice.

## **24. Rectification of mistakes by Settlement Commission**

The Settlement Commission may amend any order passed by it under section 16 so as to rectify any mistake apparent from the record, if such mistake is noticed by the Settlement Commission on its own accord, or is brought to its notice by the jurisdictional IGST officer or the applicant within a period of three months from the date of the order:

Provided that no rectification, which has the effect of enhancing the liability of the applicant, shall be made under this section, unless the Settlement Commission has given notice to the applicant and the jurisdictional IGST officer of its intention to do so and has allowed the applicant and the jurisdictional IGST officer a reasonable opportunity of being heard.

## **25. Powers of Settlement Commission**

(1) The Settlement Commission shall, for the purpose of exercising its powers regarding discovery and inspection, enforcing the attendance of any person and examining him on oath, issuing commissions and compelling production of books of account and other records, have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908).

(2) The Settlement Commission shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974), and every proceeding before the Settlement Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code (45 of 1860).

## **26. Procedure of Settlement Commission**

The Settlement Commission shall, subject to the provisions of this Chapter, have power to regulate its own procedure in all matters arising out of the exercise of its powers under the Act.

## **CHAPTER– IX MISCELLANEOUS**

### **27. Application of certain provisions of the CGST Act, 2016**

The provisions relating to registration, valuation, time of supply of goods, time of supply of services, change in rate of tax in respect of supply of services, exemption from payment of tax, input tax credit and utilization thereof, accounts and records, payment, return, audit, assessment, adjudication, demands, refunds, interest, recovery of tax, offences and penalties, inspection, search and seizure, prosecution and power to arrest, appeals, review, advance ruling and compounding shall apply, so far as may be, in relation to the levy of tax under this Act as they apply in relation to levy of tax under the CGST Act, 2016.

### **28. Power to make rules**

(1) The Central Government may, on the recommendation of the Council, by notification, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may

(i) provide for settlement of cases in accordance with Chapter VIIA of this Act;

(ii) provide for all or any of the matters which under any provision of this Act are required to be prescribed or to be provided for by rules.

### **29. Interest on delayed payment of tax**

(1) Every person liable to pay tax in accordance with the provisions of this Act or rules made there under, who fails to pay the tax or any part thereof to the account of the Central Government within the period prescribed, shall, on his own, for the period for which the tax or any part thereof remains unpaid, pay interest at such rate as may be notified, on the recommendation of the Council, by the Central Government.

(2) The interest under sub-section (1) shall be calculated from the first day such tax was due to be paid.

(3) In case a taxable person makes an undue or excess claim of input tax credit under sub-section (10) of section 29 of the CGST Act, he shall be liable to pay interest on such undue or excess claim at the prescribed rate for the period computed in the manner prescribed.

### **30. Tax wrongfully collected and deposited with the Central or a State Government**

A taxable person who has paid IGST on a transaction considered by him to be an inter-state supply, but which is subsequently held to be an intra-state supply, shall, upon payment of CGST and SGST in the appropriate State, be allowed to take the amount of IGST so paid as refund subject to the provisions of section 38 of the CGST Act, 2016 and such other conditions as may be prescribed.

**CHAPTER- X**  
**TRANSITIONAL PROVISIONS**

**31. Import of services or inter-state supply of goods and/or services made on or after the appointed day**

Notwithstanding anything contained in section 12 and 13 of the CGST Act, import of services or inter-state supply of goods and/or services made after the appointed day shall be liable to tax under the provisions of this Act regardless of whether the transactions for such import of services or inter-state supply had been initiated before the appointed day:

Provided that if the tax on such import or inter-state supply had been paid in full under the earlier law, no tax shall be payable on such import or inter-state supply under this Act:

Provided further that if the tax on such import of services had been paid in part under the earlier law, balance amount of tax shall be payable on such import or inter-state supply under this Act.

Explanation.- For the purpose of this section, a transaction shall be deemed to have been initiated before the appointed day if either the invoice relating to such supply or payment, either in full or in part, has been received or made before the appointed day.

**CHAPTER- XI**  
**ADMINISTRATION**

**32. Classes of officers under the Integrated Goods and Services Tax Act, 2016**

- (1) There shall be the following classes of officers under the Integrated Goods and Services Tax Act, 2016 namely;
  - (a) Principal Chief Commissioners of IGST or Principal Directors General of IGST,
  - (b) Chief Commissioners of IGST or Directors General of IGST,
  - (c) Principal Commissioners of IGST or Principal Additional Directors General of IGST,
  - (d) Commissioners of IGST or Additional Directors General of IGST,
  - (e) First Appellate Authority
  - (f) Additional Commissioners of IGST or Additional Directors of IGST,
  - (g) Joint Commissioners of IGST or Joint Directors of IGST,
  - (h) Deputy Commissioners of IGST or Deputy Directors of IGST,
  - (i) Assistant Commissioners of IGST or Assistant Directors of IGST, and
  - (j) such other class of officers as may be appointed for the purposes of this Act.

**33. Appointment of officers under the Integrated Goods and Services Tax Act, 2016**

- (1) The Board may appoint such persons as it may think fit to be officers under the Integrated Goods and Services Tax Act, 2016.
- (2) Without prejudice to the provisions of sub-section (1), the Board may authorize a Principal Chief Commissioner/Chief Commissioner of Central Goods and Services Tax or a Principal Commissioner/Commissioner of Central Goods and Services Tax or an Additional/Joint or Deputy/Assistant Commissioner of Central Goods and Service Tax to appoint officers of Integrated Goods and Services Tax below the rank of Assistant Commissioner of Integrated Goods and Services Tax Act, 2016.

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