



# Presentation on Salient Features of Model GST Law (MGL)

*By GST Policy Wing, CBEC*

**5<sup>th</sup> GST Council Meeting**

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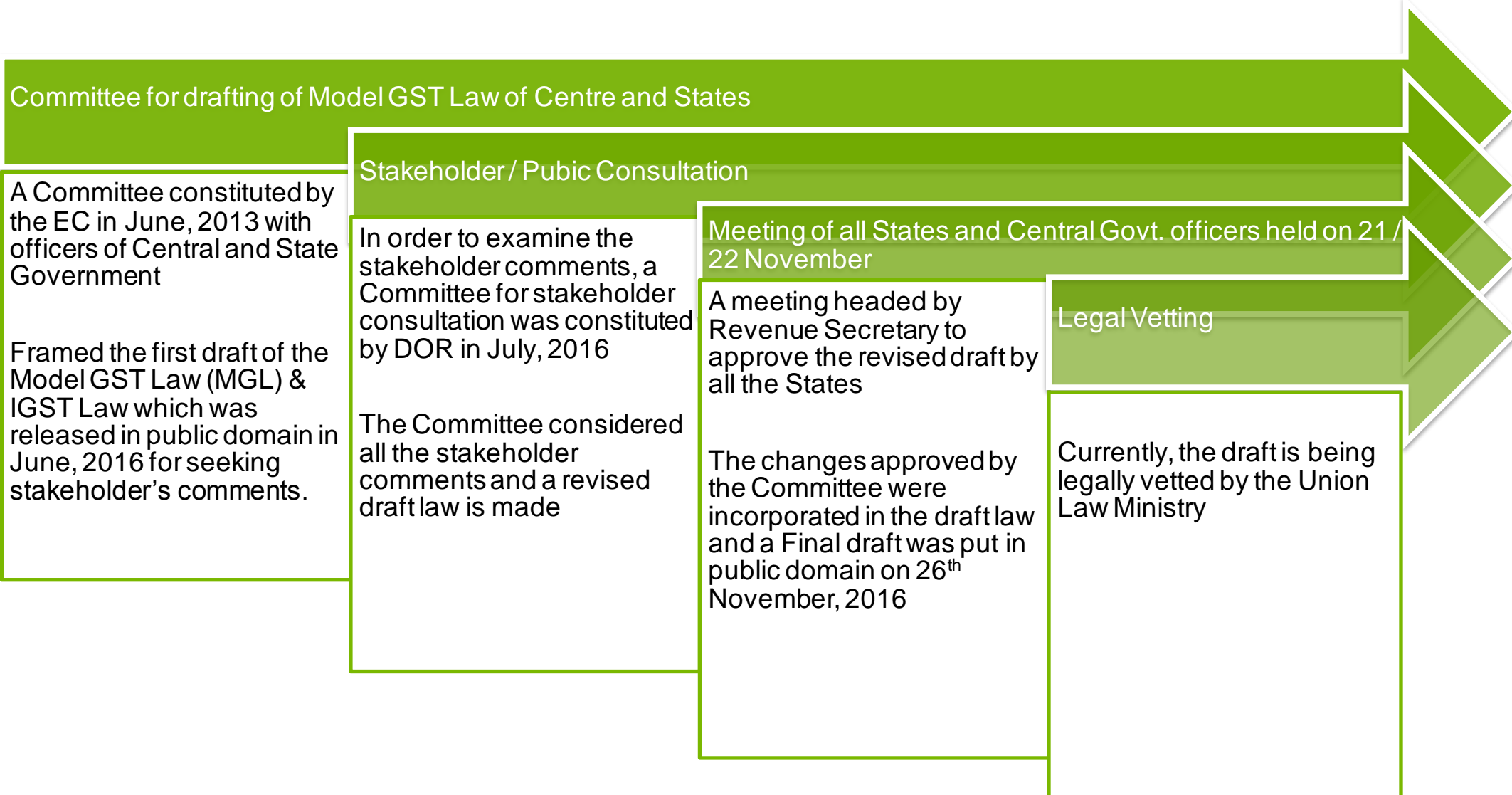
**Agenda 1 : Basic Features of MGL**

**Agenda 2 : Presentation on Draft Model GST Law (Slide 6 – Slide 50)**

**Agenda 3 : Presentation on Draft Model IGST Law (Slide 52 – Slide 66)**



# The Drafting Journey



# Basic Features

- The Model GST Law ( “MGL”) is divided into 28 Chapters, 197 Sections and 5 Schedules. It lays down provisions for taxability of intra-State supply of goods or services.
- The draft IGST Act contains 11 Chapters and 24 Sections. It lays down provisions for taxability of inter-State supply of goods or services.
- Draft has been jointly drafted by the tax officials of the Centre and States keeping in view following policy objectives:
  - clarity in laws
  - law should be easy to administer
  - law should be non-adversarial and tax payer-friendly
  - law should improve “ease of doing business”
- Section 2 of MGL contain 111 definitions of various terms used in MGL.
- Words and Expressions not defined but used under MGL have been adopted from the Integrated Goods and Services Tax Act.

## Basic Provisions

- ❑ taxable event
- ❑ taxable person
- ❑ time of supply
- ❑ place of supply
- ❑ valuation of supply
- ❑ input tax credit

## Procedural Provisions

- ❑ Registration
- ❑ Returns
- ❑ Payment & Refunds
- ❑ Audit
- ❑ Search & Seizure
- ❑ Appeals and Revision
- ❑ Transition Provisions



**Agenda 2 : Presentation on Draft Model GST Law (Slides 6 to 50)**



## Concept of Supply (Section 3):

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- Shift from present tax regime from levy of tax on manufacture / production of goods (Central Excise duty) or provision of services (Service Tax) or sale of goods (VAT / CST) to levy of tax on **supply of goods or services**.
- Supply **includes**:
  - all forms of supply of goods or services such as sale, transfer, barter, exchange, license, rental, lease or disposal made for a **consideration** in the **course** or **furtherance of business**;
  - **importation of services**, for a consideration whether or not in the course or furtherance of business, and
  - **Schedule I** provides for transactions which are treated as supply even if made **without consideration**
- Certain supplies have been declared as supply of goods or supply of services in Schedule II.
- Certain supplies by Central Government or State Government or a local authority specified in **Schedule IV to be treated as neither supply of goods nor supply of services**.
- Tax liability on a composite or a mixed supply is proposed as follows:
  - a **composite supply** comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply;
  - a **mixed supply** comprising two or more supplies shall be treated as supply of that particular supply which attracts the highest rate of tax.

## Levy and collection of GST on intra-State supplies (Section 8):

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- Central Goods and Services Tax ( “CGST”) & State Goods and Services Tax ( “SGST”) to be levied by the Central and State Government respectively on all **intra-State supplies of goods or services or both**, at a rate **not exceeding 14%**, as recommended by the GST Council.
- Provision from IGST Act, 2016 to determine whether the supply is intra-State supply or inter-State supply.
- Value of supply would be determined under Section 15 of MGL.
- Tax would normally be paid by supplier of goods or services. However, in certain supplies, the recipient (instead of supplier) would be liable to pay tax (**reverse charge mechanism**);
- In certain categories of services, the tax would be paid by the **electronic commerce operator** (popularly called **Aggregators model**).

## Composition Levy (Section 9):

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- A registered taxable person, with aggregate turnover not exceeding **Rs. 50 lakhs** in a financial year will have an option to pay, a flat tax not less than **1% (2.5% in case of a manufacturer)** of the turnover during the year.
- The benefit of composition scheme **shall not be permitted** to a person who:
  - is supplier of services;
  - makes any supply of goods which are not leviable to tax under the Act;
  - makes any inter-State outward supplies of goods;
  - makes any supply of goods through an electronic commerce operator who is required to collect tax at source;
  - is a manufacturer of notified goods.
- The person shall **not be eligible for availment of credit of input tax**.
- The person shall **not collect tax** from the recipient of supplies.
- Permission for composition scheme to be granted to a taxable person only if all registered taxable persons having same PAN also opt for composition scheme concurrently.



## Taxable Person (Section 10):

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- A person who is **registered or liable to be registered** under this Act.
- **Schedule V** to specify who is liable to be registered.
- Person with same PAN registered in **two different States** to be treated as distinct persons.
- Two different **business verticals** of a person with the same PAN, registered in the **same State** to be treated as distinct persons.
- Liability to registration arises only when the turnover crosses the exemption threshold i.e. **Rs. 20 lacs (Rs. 10 lacs for special category States)**.
- Persons engaged in exclusive supply of exempted / non-taxable goods or services or those engaged in agricultural activities, as an agriculturist, are not required to take registration.
- Provisions for migration of existing registered persons.
- Central / State Government and local authorities are also regarded as taxable person **except for the activities specified in Schedule - IV**.

## Power to grant exemption from tax (Section 11):

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- Central and State Government, on the recommendation of GSTC, may grant **exemption to supply of any goods or services**.
- Exemption will have **prospective** effect only.
- Provision to insert a clarificatory explanation in any notification or order within one year from issue of such notification or order.

## Time of Supply (Section 12 to 14):

- Tax is required to be paid at the time of supply of goods or services.
- Specific provisions for determining the time of supply where there is a change in rate of tax.
- Time of supply, is to be determined as follows:

EVENT	TIME OF SUPPLY
Normal Supply of goods or services	Earlier of: <ul style="list-style-type: none"> <li>• date of issue of invoice by the supplier or the last date on which he is required to issue the invoice;</li> <li>• date on which supplier receives the payment.</li> </ul>
Supply of <b>goods</b> attracting <b>reverse charge</b>	Earliest of: <ul style="list-style-type: none"> <li>• date of receipt of goods;</li> <li>• date on which payment is made;</li> <li>• date immediately following <b>thirty days</b> from the date of invoice issued by the supplier.</li> </ul>
Supply of <b>services</b> attracting <b>reverse charge</b>	Earlier of: <ul style="list-style-type: none"> <li>• date on which payment is made;</li> <li>• date immediately following <b>sixty days</b> from the date of invoice issued by the supplier.</li> </ul> <p>In case of associated enterprises, the time of supply would be earlier of the date of entry in the books of accounts or date of payment.</p>

## Valuation (Section 15) :

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- Tax to be paid on **Transaction value** (TV) of supply generally i.e. the price actually paid or payable for supply of goods or services, with following conditions :-
  - supplier and recipient of supply are not related; and
  - price is sole consideration for supply.
- TV shall, inter-alia, include:
  - any taxes, duties, cesses, fees and charges levied under any statute other than CGST/SGST/IGST;
  - any amount that supplier is liable to pay in relation to such supply but which has been incurred by recipient;
  - incidental expenses such as commission, packing etc. charged by supplier to recipient;
  - interest or late fee or penalty for delayed payment of any consideration for any supply;
  - subsidies directly linked to the price excluding subsidies provided by Central or State Government.
- TV shall not include any discounts given by the supplier
- If TV not ascertainable, Value to be determined in accordance with **GST valuation Rules**

## Input Tax Credit ( “ITC”) (Section 16 to 20): contd.

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- ITC is available on taxes paid on any supply of goods or services used in the course or furtherance of business.
- **Conditions for allowing ITC:**
  - Possession of invoice / tax paying document;
  - Receipt of goods or services;
  - Tax actually paid to government by supplier;
  - Recipient has furnished return.
- **Proportionate credits** would be allowed in case inputs, etc. are partly used for:
  - taxable and non-taxable supplies
  - business and non-business purposes
- **Banking and Financial Institutions: Option** to avail either 50% of the eligible ITC or follow normal procedure
- **Blocked ITC:** ITC is not allowed for certain goods or services under conditions such as :
  - Motor vehicles;
  - Works contract;
  - Goods on which tax has been paid under composition scheme;
  - Goods or services used for personal consumption;
  - 13- Goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; etc.

## Input Tax Credit ( “ITC”) (Section 16 to 20): contd

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- ITC on capital goods, not admissible if depreciation claimed under Income Tax Act.
- ITC on capital goods (except pipelines & telecom towers) allowed in one installment.
- ITC allowed only upto the month of September of following financial year.
- ITC allowed for inputs or capital goods sent to **job-worker**.
- **ITC in special circumstances:** Following persons entitled to take ITC on inputs held in stock:
  - person obtaining fresh registration;
  - person obtaining voluntary registration;
  - person switching from composition scheme to normal scheme (ITC on capital goods also allowed);
  - person supplying exempted goods or services which become taxable (ITC on capital goods also allowed).
- **Provisional ITC :** ITC available on provisional basis for a period of two months until payment of tax and filing of valid return by supplier.
- **Invoice Matching for ITC:** Provisions for matching of supplier’s and recipient’s data. ITC would be confirmed only after matching of such data.
- **Refund of Unutilized ITC:** Unutilized ITC can be carried forward or can be claimed as refund in case of exports or in case of inverted duty structure.

## Input Tax Credit ( “ITC”) (Section 16 to 20) :

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- **Manner of utilization of credit (Section 44):**
  - ITC of IGST can be utilized towards payment of IGST, CGST and SGST in that order;
  - ITC of CGST can be utilized towards payment of CGST and IGST in that order;
  - ITC of SGST can be utilized towards payment of SGST and IGST in that order;
  - No cross-utilization of CGST and SGST credits.
- **Recovery of ITC:** Recovery of wrongly taken ITC would be made in accordance with the provisions of this Act.

## Input Service Distributor “ISD” (Section 21 & 22):

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- ISD provision helps taxable person to distribute ITC on account of centralized procurement of services to its respective units.
- ISD can distribute ITC amongst its units located in different States or different business verticals within State, on the strength of a prescribed document, by utilising:
  - ITC of CGST as ITC of CGST or IGST;
  - ITC of SGST as ITC of SGST or IGST;
  - ITC of IGST as ITC of IGST or CGST.
- ITC would be distributed in ratio of turnover in different States.
- Where distribution has been done in excess, such excess credit shall be recovered from the supplier(s) (i.e. recipient of ITC) with interest.



## Registration (Section 23 to 27):contd.

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- Registration to be applied within 30 days from the date from which he becomes liable for registration.
- State wise **PAN based** registration.
- Person having multiple business verticals in a State may obtain separate registration for each business vertical.
- A person, though not liable to be registered, may take voluntary registration.
- Compulsory Registration (Schedule V):
  - Person making inter-State supply;
  - Casual/Non-resident taxable person;
  - Person liable to pay tax under reverse charge;
  - Persons liable to deduct/collect tax at source;
  - Persons working as an agent;
  - Input Service Distributor;
  - Persons supplying goods or services through an electronic commerce operator;
  - Electronic commerce operator;
  - Person supplying digital supplies from a place outside India.

## Registration (Section 23 to 27):

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- **Registration is not required** even though the turnover is beyond threshold:
  - Person engaged exclusively in exempted goods or services;
  - Agriculturist
- UN agencies, Embassies to be granted a **Unique Identity Number (UIN)** instead of registration.
- Any class of persons, other than suppliers, may be required to obtain UIN.
- Both Central and State Tax Authorities to **accept or reject registration** on the basis of a common e-application.
- Rejection of application by one tax authority means deemed rejection by other tax authority.
- Registration would be deemed to be granted within **three common working days** unless objections are raised.
- Special provisions for registration of casual or non-resident taxable persons.
- Amendment **on self-service basis** except for certain specified details of registration.
- Provision for surrender of registration and also for suo-motu cancellation under certain circumstances.
- Provisions for revocation of cancellation of registration.
- Cancellation of registration under CGST Act means cancellation of registration under SGST Act and vice-versa.
- Provision for **migration** of existing registrants.

## Tax Invoice (Section 28 to 31):

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- **Tax invoice** to be issued within specified time limits for supply of goods or services.
- A document, other than tax invoice, would be treated as invoice in certain situations.
- A **bill of supply** is to be issued in respect of exempted supplies.
- Special provisions for issuance of invoices in case of continuous supply of goods or services.
- **Amount of tax, value of goods etc.** to be indicated separately in tax invoice.
- Provision for issuance of **debit or credit note** in case of increase or decrease in value or tax charged respectively in respect of any supply.

## Returns (Section 32 to 43):contd.

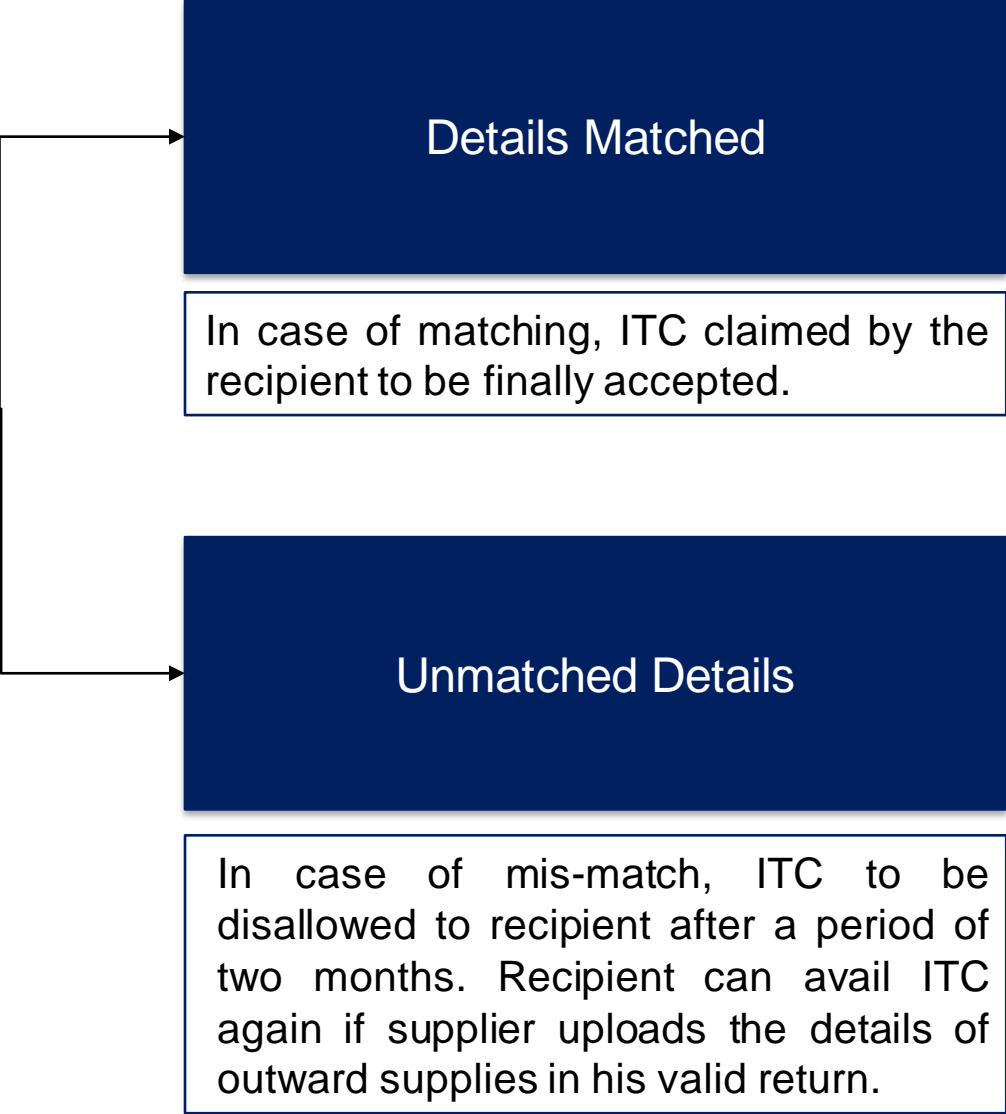
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- **Return by normal taxpayers:** Registered Taxpayer to furnish, electronically, monthly
  - **GSTR-1** (for outward supplies) by 10<sup>th</sup> of the following month,
  - **GSTR-2** (for inward supplies) by 15<sup>th</sup> of the following month,
  - **GSTR-3** (return) consisting of all details by 20<sup>th</sup> of the month.
  - GSTR-2 and GSTR-3 would be mostly auto-populated.
- **Return by compounding taxpayers:** Required to furnish quarterly returns by 18<sup>th</sup> of the month following the quarter.
- **Return by TDS Deductor:** Required to furnish a return by 10<sup>th</sup> of following month.
- **Return by Input Service Distributor (ISD):** Required to furnish a return by 13<sup>th</sup> of following month.
- Different dates proposed for supporting process of **auto-population of returns and matching requirements.**
- Returns filed without payment of full tax to be treated as a **invalid return.**
- ITC to be provisionally allowed on furnishing of return.
- **Annual return** to be furnished by 31<sup>st</sup> December along with audited **reconciliation statement.**

# Invoice Matching :

## Automatic Matching of Inward and Outward Supplies

Inward supplies details in GSTR-2 to be matched with corresponding outward supplies details declared by the corresponding supplier in his GSTR-1.



## Returns (Section 32 to 43):

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- **Final return:** Every registered taxable person who applies for cancellation of registration is required to furnish a final return within three months of the date of cancellation or date of cancellation order, whichever is later.
- **Rectification of errors:** Omission/incorrect particulars in return can be self-rectified upto due date for furnishing of return for the month of September or actual date of filing of annual return of relevant financial year whichever is earlier.
- Provision to extend the time limits for furnishing the return in special circumstances.
- A scheme of **Tax Return Preparers** provided to assist the taxable persons in filing the returns.

## Payment of tax (Section 44 to 46):

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- Tax can be deposited by using **internet banking, debit/ credit card, Over the counter and NEFT / RTGS.**
- **Electronic Cash Ledger:** Every cash deposit made by a taxable person will be credited to electronic cash ledger.
- **Electronic Credit Ledger:** Self assessed valid ITC to be credited to electronic credit ledger.
- **Electronic liability Register:** All liabilities of a taxable person maintained in electronic liability register.
- Tax liability can be paid either through the **Electronic Cash Ledger** or **Electronic Credit Ledger.**
- Interest, penalty, fees or any other amount can be paid through **Electronic Cash Ledger.**
- Tax and other dues are required to be discharged in the following order:
  - self-assessed tax, related to returns of the previous tax period;
  - self-assessed tax, related to returns of the current tax period;
  - any other amount payable under the Act including the demand determined post issuance of show cause notice.
- The delayed payment of self-assessed or determined tax would require **payment of interest** at specified rates.

## Tax Deduction at source (TDS) (Section 46):

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- Certain persons including government departments, local authorities and government agencies to deduct tax @ 1% from the payment made or credited to the supplier in case total value of supply, under a contract, exceeds Rs. 5 lakhs.
- Deductor would deposit the amount so deducted to the credit of government within ten days after the end of the month in which such deduction has been made and file a return.
- Deductor would furnish a certificate to the deductee about the TDS.
- On the basis of return of deductor, the deductee's electronic cash ledger would be credited with the amount so deducted and the same may be used to discharge his tax liability by deductee.



## Refund (Section 48 to 52): contd.

- Application for claiming refund of tax or interest can be filed **within two years** from the relevant date.
- Refund of balance in electronic cash ledger can be claimed through return itself.
- **Relevant Date:** Different relevant dates have been provided for different refund scenarios:

REFUND SCENARIO	RELEVANT DATE
Refund on account of export of goods	<ul style="list-style-type: none"><li>• 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</li><li>• if the goods are exported by land, the date on which such goods pass the frontier</li></ul>
Refund on account of deemed exports of goods	<ul style="list-style-type: none"><li>• date on which the return relating to such deemed exports is filed</li></ul>
Refund on account of export of services	<ul style="list-style-type: none"><li>• date of receipt of payment in convertible foreign exchange</li><li>• date of issue of invoice if payment received in advance.</li></ul>
Refund as a consequence of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any Court	<ul style="list-style-type: none"><li>• date of communication of such judgment, decree, order or direction.</li></ul>
Refund of unutilized ITC	<ul style="list-style-type: none"><li>• end of the financial year in which such claim for refund arises.</li></ul>
Refund of tax paid provisionally	<ul style="list-style-type: none"><li>• date of adjustment of tax after the final assessment thereof.</li></ul>
Refund claimed by a person, other than the supplier	<ul style="list-style-type: none"><li>• date of receipt of goods or services by such person.</li></ul>
Refund in any other case	<ul style="list-style-type: none"><li>• date of payment of tax.</li></ul>

## Refund (Section 48 to 52):

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- **Refund of unutilized ITC** is allowed in case of exports or on account of inverted duty structure.
- Refund to be granted within **sixty days** from date of receipt of complete application.
- Interest is payable after sixty days from the date of receipt of application till date of refund.
- **Provisional Refund:** On account of exports, 90% of the amount of refund claim would be given on a provisional basis within 7 days.
- **Unjust Enrichment:** Applicant to produce documentary evidence to satisfy that incidence of tax has not been passed on to any other person.
  - Self –certification if refund claim is for an amount less than Rs. 5 lacs.
  - In other cases, certificate by Chartered Accountant.
- Refund to be granted to applicant if incidence of tax not been passed on to any other person.
- If incidence of tax passed on refund to be credited to Consumer Welfare Fund.
- Provision for withholding of refund in specified circumstances.

## Maintenance of Accounts and Records (Section 53-54):

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- Registered taxable person to keep and maintain correct account of supply of goods and/or services, **input tax credit**, **output tax payable** and paid etc.
- Every registered taxable person whose turnover exceeds the prescribed limit is required to get his accounts audited and submit a copy of audited annual accounts and reconciliation statement.
- Failure to account for goods or services will be considered as a supply and demand to be raised.
- Every owner or operator of warehouse or godown, etc. used for storage of goods shall maintain records of consignor, consignee, etc. of goods.
- Records to be retained for a period of **sixty months** from the due date of filing of Annual return.
- In case of any pending proceedings, records to be retained for a period of one year after the final disposal of proceedings or the period specified earlier, whichever is later.

## Job Work (Section 55):

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- A registered person (principal) can send inputs or capital goods for job work without payment of tax.
- Principal can bring back inputs, after completion of job work or capital goods to any of his place of business without payment of tax.
- Provision for supply of inputs (after completion of job work) and capital goods directly from premises of job worker.
- Time limit for return from job-worker or clearance from job-workers' premises has been kept as one year for inputs and three years in case of capital goods (other than moulds and dies, jigs and fixtures or tools).

## Tax Collection at Source for E-Commerce Companies (Section 56):

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- **Tax collection at Source (TCS):** E-Commerce Operator is required to collect 'tax at source' @ 1% out of the payment collected by it on behalf of the supplier.
- Operators are required to submit a monthly electronic statement containing details of supplies effected through it, supplies returned and the amount collected by 10<sup>th</sup> of following month.
- Supplier, on whose account, the tax has been collected would claim the credit of the amount so collected in his electronic cash ledger on the basis of return filed by the operator.
- Details contained in the return filed by the operator and actual supplier would be matched.
- In case of mis-match suppliers' output tax liability to be increased.

## Assessment (Section 57 to 62):

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- **Self – Assessment:** Registered Taxable person should self-assess the taxes payable by him and furnish his return.
- **Provisional Assessment:** Registered Taxable person may request for provisional assessment in cases where he is unable to determine the value or rate of tax subject to following conditions:
  - Taxable person will have to furnish bond and security for availing this facility;
  - Provisional assessment is to be finalized within 6 months;
  - After final assessment, the taxable person may have to pay additional tax or may claim refund.
- **Scrutiny of Returns:** Provision for scrutiny of returns by the proper officer.
- **Assessment in certain cases:**
  - Provision for best judgement assessment in case of non-filer of returns.
  - Provision for best judgement assessment in case of unregistered persons.
  - Provision for summary assessment in certain cases.

## Audit (Section 63 to 65) :

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- Tax authorities may conduct audit at the place of business of the taxable person or at their office.
- Taxable person shall be informed sufficiently in advance, prior to the conduct of audit.
- **Time Bound Audit:** Audit is required to be completed within a period of 3 months, which can be extended by a further period of 6 months.
- On conclusion of audit, the proper officer shall within a period of 30 days inform the taxable person of the findings, the taxable person's rights and obligations and reasons for the findings.
- **Issuance of Notice:** Demand to be raised if any short levy, etc. is detected during audit.
- **Special Audit:** With prior approval of the Commissioner, special audit by Chartered Accountants or Cost Accountants can be ordered in certain special circumstances.
- **Powers of CAG:** GST officer, on request by the office of CAG, shall provide information, records and returns required for conduct of audit under CAG Act.

## Demand and Recovery Proceedings (Section 66 to 78):

- **Normal period for demand proceedings:** In cases of **short levy, etc.** for reasons **other than fraud or suppression of facts**, the adjudication order will be issued within **three years** from the due date of filing of annual return for the year in respect of which the discrepancy is noticed. Further, show cause notice (SCN) is required to be issued at least **three months** prior to such order.
- **Extended period for demand proceedings:** In cases of short levy, etc. for reasons of fraud or suppression of facts, the adjudication order will be issued within **five years** from the due date of filing of annual return for the year in respect of which the discrepancy is noticed. Further, SCN is required to be issued at least **six months** prior to such order.
  - SCN need not be issued if tax along with interest and penalty equal to 15% is paid before issue of SCN.
- Time period during which appeal is pending in any appellate forum to be excluded while calculating the time period for issuance of SCN or passing of order.
- Direct Recovery Proceedings for unpaid self-assessed tax as per return and interest thereon.
- **Principles of Natural Justice:** For establishing a fair and just process for passing adjudication orders:
  - Adequate opportunities (maximum three) for personal hearing.
  - Speaking order.
  - No demand shall be confirmed on grounds other than the grounds specified in the notice.
  - Bar on recovery proceedings till ninety days from the date of order.



## Differential Penalty amount:

EVENT	AMOUNT OF PENALTY
<b>In normal cases:</b>	
Person chargeable with tax, before service of notice, pays tax along with interest payable thereon on the basis of his own ascertainment or as ascertained by the proper officer	NIL
Person chargeable with tax, pays tax along with interest within thirty days of issue of SCN	NIL
Person chargeable with tax, pays tax along with interest after issue of order	10% or Rs. 10000/- whichever is higher
<b>In fraud cases:</b>	
Person chargeable with tax, before service of notice, pays tax along with interest payable thereon on the basis of his own ascertainment or as ascertained by the proper officer	15%
Person chargeable with tax, pays the said tax along with interest within thirty days of issue of SCN	25%
Person served with an order pays tax along with interest payable within thirty days of the communication of order	50%
Person chargeable with tax, pays tax along with interest after 30 days of issue of order	100%

## Recovery Proceedings:

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- **Recovery of tax from the person in default:**
  - Debit such amount against amount owed by the Government to such person as Refunds.
  - By detaining and selling goods or moveable or immovable property.
  - Require any other person from whom money is due by the defaulter.
  - Inform the District Collector, who shall recover the amount as if it were an arrear of land revenue.
- Provision to provide facility to tax payer to pay arrears in maximum twenty-four (24) installments.
- Power to provisionally attach properties for protection of revenue.

## Incorrect classification of Intra-State and Inter-State Supply (Section 70):

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- In case, any supply, which was earlier, treated as intra-State supply by the taxable person but which is later on treated as inter-State supply by the tax authority:
  - IGST would be payable;
  - Refund of CGST / SGST paid earlier would be granted;
  - No interest to be charged on IGST now paid.

## Inspection, Search, Seizure and Arrest (Section 79 to 84): contd.

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- **Power to Inspect:** Power to inspect any place of business, or warehouse or godown with prior permission from Joint Commissioner and above.
- **Power to confiscate / search & seizure:** Power to search and seize any goods, documents or books or things liable to confiscation with prior permission from Joint Commissioner and above.
- **Release of Goods :**
  - goods so seized to be released, on a provisional basis, upon execution of a bond and furnishing of a security or on payment of applicable tax, interest and penalty payable;
  - after seizure of goods, if notice not given within six months;
  - Early disposal of perishable or hazardous goods.
- **Inspection of goods in Movement:**
  - Transporter to carry prescribed documents (Meta- permits) or devices during transportation;
  - GST officers may intercept and inspect conveyances for verification of documents and devices.

## Inspection, Search, Seizure and Arrest (Section 79 to 84):

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- **Power to Arrest:**
  - Power to order arrest has been provided at the level of Commissioner
  - Procedure for arrest is as per Code of Criminal Procedure, 1973 (2 of 1974);
  - Bail can be granted by DC or AC in case of non-cognizable or non-bailable offences.
- **Power to summon:** Provision for summoning any person whose attendance is considered necessary either to give evidence or to produce a document or any other thing.
- **Access to business premises:** Any GST officer authorized by Additional/Joint Commissioner to have access to any place of business of a registered taxable person for inspection.
- **Officers required to assist GST Officers:** All officers of Police, Railways, Customs and those of State or Central Government engaged in collection of goods and services tax and all officers of State or Central Government engaged in the collection of land revenue, and all village officers may be required to assist the CGST or SGST officers.

## Offences and Penalties (Section 85 to 87):

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- Penalty of Rs. 10000/- or amount of tax involved whichever is higher provided in case of 21 listed offences.
- Taxable persons involved in **repeated short payment** of self-assessed tax (three returns during any six consecutive tax periods) liable to a penalty of Rs. 10000/- or 10% of the tax short paid, whichever is higher.
- **Penalty of Rs. 25000/-** has been provided in case of five listed offences.
- **General Penalty** of Rs. 25,000/- has been provided for any contravention for which no penalty specified.
- No substantial penalty is to be imposed for minor breaches.
- No penalty shall be imposed without issue of SCN and without giving an opportunity of being heard.
- Speaking order to be passed for imposing penalty.

## Detention or confiscation of goods or conveyances in transit (Section 89 and 90): contd.

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- **Detention of Goods or conveyances in transit:** Provisions for detention or seizure of goods and conveyances carrying such goods if they are being transported or stored in contravention of provisions.
- Such detained or seized goods or conveyances to be released:
  - on payment of applicable tax and penalty equal to **100% of the tax** payable on such goods, with identification of the owner;
  - on payment of the applicable tax and penalty equal to **50% of the value** of the goods reduced by the tax amount paid thereon, without identification of the owner.
- Notice to be issued for such detention.
- If tax and penalty not deposited within seven days of detention, proceedings for confiscation to be initiated.

## Detention or confiscation of goods or conveyances in transit (Section 89 and 90):

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- **Confiscation of goods or conveyances:** Goods or conveyances are liable to confiscation in following scenarios:
  - Supply or receipt of any goods in contravention of any of the provisions of this Act;
  - Non – accountal of goods on which tax is liable to be paid under this Act;
  - Supply of goods liable to tax under this Act without registration;
  - Any conveyance used as a means of transport for carriage of non duty paid goods taxable goods.
- Confiscated Goods to be released on payment of **redemption fine**.
- Such fine shall not exceed the market value of the goods confiscated, less the tax chargeable thereon.
- Provision for disposal of goods or conveyance if fine in lieu of confiscation not paid within three months.



## Prosecution (Section 92 to 97):

- A list of [13 offences](#) have been outlined in the law, which are punishable as per the following limits:-

OFFENCES	PUNISHMENT
Amount of tax evaded exceeds Rs. 250 lacs	5 years imprisonment plus fine
Amount of tax evaded exceeds Rs. 100 lacs but does not exceed Rs. 250 lacs	3 years imprisonment plus fine
Amount of tax evaded exceeds Rs.50 lacs but does not exceed Rs.100 lacs	1 year imprisonment plus fine
Repeat offences	5 years imprisonment plus fine

- Certain class of offences where the amount of tax evaded Rs. 100 lacs shall be cognizable and non-bailable.
- Any offence, either before or after institution of prosecution, can be **compounded** by Competent Authority.
- **Compounding amount:**
  - Minimum amount is greater of Rs. 10000/- or 50% of tax involved;
  - Maximum amount is greater of Rs. 30000/- or 150% of tax involved.
- Compounding is allowed only after making payment of tax, interest and penalty involved in such offences.

## Appeals and Revision (Section 98 to 112): contd.

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- **First Appellate Authority** : First appeal, by the taxpayer, against any order passed by an adjudicating authority shall lie before the FAA.
  - Pre-Deposit of 10% and grant of automatic stay.
- **Review of Original Order**: Commissioner, to suo-motu or on request of the Commissioner of SGST / CGST, **review** and direct a subordinate officer to file an appeal to the FAA within a period of 6 months.
- **Revision Powers**: Commissioner / Chief Commissioner may **revise** the order passed by any officer subordinate to him. Order cannot be reviewed if:
  - same has been appealed against;
  - same has already been taken up for revision at any earlier stage;
  - Time period for filing appeal (six months) has expired;
  - More than three years have expired.
- **National Appellate Tribunal**:
  - There would be a National Appellate Tribunal headed by a National President.
  - State Appellate Tribunals would be constituted.

## Appeals and Revision (Section 98 to 112): contd.

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- **Appeal Mechanism:**
  - Appeals against orders of FAA or revisional orders can be filed within three months before Tribunal.
  - Appeals against orders of Tribunal would generally lie before HC except in few cases.
- Appeal would lie **directly before SC** in following cases:
  - where two or more States or a State and the Centre have difference of views regarding place of supply; or
  - where two or more States or a State and Centre have difference of views regarding treatment of supply being intra-State or inter-State.
- **Pre-deposit for filing of an appeal:** No appeal to be filed unless the appellant has deposited:
  - in full, admitted tax liability, interest, fine, fee and penalty arising from impugned order; and
  - 10% of the remaining amount in dispute.
  - Commissioner can request FAA / Tribunal for higher amount of pre-deposit not exceeding 25% in serious cases.
- **Time Bound orders:** FAA /Tribunal to dispose off appeal within a period of one year, where it is possible to do so.

## Appeals and Revision (Section 98 to 112):

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- Certain category of persons have been specified as **Authorized Representative (AR)** to appear before Tribunal.
- **Appeal not to be filed in certain cases:** Government may, on recommendation of GSTC, fix monetary limits below which appeals may not be filed.
- Certain administrative decisions are Non-Appealable decisions.

## Advance Ruling Mechanism (Section 113 to 124):

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- Advance Ruling to enable the taxpayer to seek a clarification (binding in nature) from the department.
- Brings certainty in tax planning and tax administration.
- **Advance Ruling Authority** would be established in every State having SGST / CGST members.
- Advance ruling **may be sought** in respect of :
  - classification of any goods or services under the Act;
  - applicability of notification having a bearing on the rate of tax;
  - the principles to be adopted for the purposes of determination of value of the goods or services under the provisions of the Act;
  - admissibility of input tax credit;
  - determination of the liability to pay tax on any goods or services under the Act;
  - liability to be registered under the Act;
  - whether the transaction is 'supply' or not.
- Advance ruling order is to be issued within 90 days of receipt of application.
- Advance ruling shall be binding only on the applicant and jurisdictional tax authorities.
- Advance ruling can be appealed against before the Appellate Authority by the applicant or the tax Authority.

## Liability to pay in certain cases (Section 127 to 136):

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- Elaborate provisions made to provide for circumstances under which certain persons would be liable to pay tax dues.

## **GST Compliance Rating (Section 138):**

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- Every taxable person shall be assigned a GST compliance rating score based on his record of compliance with the provisions of GST Act.
- Parameters for determining the score would be prescribed.
- Scores shall be updated at periodic intervals and also placed in public domain to enable person to take informed decisions while dealing with them.

## Obligation to file information return (Section 139):

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- Large number of persons (not registered as supplier in GST regime) are proposed to be mandated to furnish information return.



## Anti-profiteering Measure (Section 163):

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- Provision for constituting an Authority, or entrusting an existing Authority constituted under any law, to examine whether ITC availed or whether the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the said goods or services supplied by the taxable person.

## Transitional Provisions (Section 165 to 197):

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- Elaborate provisions for smooth transition of existing taxpayers to GST regime.
- **Registration:** All existing taxpayers having valid PAN to be migrated to GST.
- **Input Tax Credit:** Input Tax Credit of Cenvat/ Value Added Tax available to tax payers to be allowed in GST regime:
  - ITC to be **carried forward** in returns filed by the taxpayers under the earlier laws;
  - **Unavailed credit** on capital goods, not carried forward in a return to be allowed;
  - ITC of eligible duties & taxes in respect of **inputs held in stock by manufacturer of exempted goods**, provider of exempted services, first or second stage dealer;
  - ITC in respect of inputs in case of switching in or out of **composition scheme** respectively on appointed day;
  - ITC in respect of **inputs or input services during transit**.
- Provisions made for treatment of goods lying with agents, goods sent on approval basis, goods returned, goods sent for job work, branch transfers, etc.
- Provisions for **revision of prices in pursuance of a contract**.
- Provisions for handling pending **refund applications, assessment and adjudication cases** as per earlier law.
- Provisions for treatment of long-term contracts entered before appointed day.



**Agenda 3 : Presentation on Draft Model IGST Law (Slide 52 – Slide 66)**



## Definitions and Applicability of Provisions of CGST Act (Section 2 & 17):

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- Section 2 contains 29 definitions of various terms used in draft IGST Act.
- Definitions contained in draft MGL have been adopted.
- Draft IGST Act is not a self-contained law and following provisions of the MGL (provisions in CGST & SGST Act would be same and based on recommendation of the GST Council) have been adopted.
  - **Definitions, registration, valuation, time of supply of goods or services, input tax credit, job work, accounts and records, tax deduction at source, returns, tax collection at source, compliance verification, payment of interest, appeals, advance rulings, etc.**

## Inter-State & Intra-State Supply (Section 3 & 4):

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- **Inter-State supplies:**

- Where **location of supplier** of goods or services and **place of supply** are in **different States**.
- Supply of goods in the course of **imports** till they cross customs frontiers of India.
- Supply of services in the course of **imports**.
- Supply of goods or services when the **supplier is located in India** and **place of supply is outside India**.
- Supply of goods or services to or by a **developer of SEZ or a unit in SEZ**.
- Any supply of goods or services, in the taxable territory, not being an intra-State supply and not covered elsewhere.

- **Intra-State supplies:**

- Where **location of supplier** of goods or services and **place of supply** are in same State.

## Levy of IGST (Section 5):

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- IGST would be **levied and collected on inter-State supply** of goods or services **except in case of import** of goods.
- Taxable value would be determined under Section 15 of MGL.
- **IGST rate, not exceeding 28%**, would be notified on the recommendation of GSTC.
- **Generally** IGST would be payable by **supplier** of goods or services.
- In certain cases, on the recommendation of GST Council, liability to pay IGST may be casted on recipient of goods or services (**Reverse charge mechanism**) or on **electronic commerce operator (aggregator of services)**.

## Exemptions (Section 6):

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- Exemptions as per MGL would be applicable under IGST Act also.
- Central Government may grant absolute or conditional exemptions, on the recommendation of GSTC, in **certain other cases** also.

## Place of Supply of Goods (other than Import or Export) (Section 7):

Sno.	Scenarios - Goods	Place of Supply
1.	Where the supply involves movement of goods	Location of the goods at the time at which the movement of goods terminates for delivery to the recipient
2.	Where the goods are delivered by the supplier to a recipient or any other person, on the direction of a third person	Location of principal place of business of such third person
3.	Where the supply does not involve movement of goods	Location of such goods at the time of the delivery to the recipient
4.	Where the goods are assembled or installed at site	Place of installation or assembly
5.	Where the goods are supplied on board a conveyance	Location at which such goods are taken on board of such conveyance
6.	Where the place of supply cannot be determined in terms of above provisions	Location to be determined in a manner prescribed by Central Government on recommendation of the Council



## Place of Supply of Services (other than Import or Export) (Section 9):

Sno.	Scenarios - Services	Place of Supply
1.	Place of supply of services, except the specified services, made to a registered person	Location of registered person
2.	Place of supply of services, except the specified services, made to any person other than a registered person	(i) Location of the recipient where the address is on record; (ii) Location of the supplier of services in other cases
3.	Place of supply directly in relation to an immovable property	Location of immovable property
4.	Place of supply by way of lodging accommodation by a hotel, inn, guest house, homestay, club or campsite	Location of immovable property (hotel, inn, guest house, etc.)
5.	Where immovable property is located in more than one State, the supply would be deemed to have been made in each of the State in proportion of the value of services determined in terms of contract or on reasonable basis if the contract is not available	

**Comprehensive Place of supply rules for specific services such as insurance, advertisement, banking, transportation of goods, transportation of services, telecommunication services, etc.**

## Place of supply of goods (in case of export or import) (Section 8):

Sno.	Scenarios	Place of Supply
1.	Imported into India	Location of the importer in India
2.	Exported from India	Location outside India

## Place of supply of services (in case of export or import) (Section 10):

Sno.	Scenarios	Place of Supply
1.	Place of supply of services, except the specified services	(i) Location of recipient of service; (ii) where location is not available in ordinary course of business, place of supply would be location of supplier of service
2.	Place of supply of services which are supplied in respect of goods which are required to be made available by the recipient to the supplier	(i) Location where services are actually performed i.e. location of goods; (ii) Location of goods at the time of supply of services, where services are provided from a remote location by electronic means
3.	Place of supply of services given to an individual or his representative which require physical presence of recipient	Location where services are actually performed i.e. location of recipient
4.	Place of supply directly in relation to an immovable property or supply of hotel accommodation	Location at which the immovable property is located
5.	Place of supply of services, except the specified services	(i) Location of recipient of service; (ii) where location is not available in ordinary course of business, place of supply would be location of supplier of service

**Comprehensive Place of supply rules for specific services such as insurance, advertisement, banking, transportation of goods, transportation of services, telecommunication services, intermediary services, etc.**

## Payment of tax, interest, penalty etc. (Section 11):

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- Identical provisions as contained in MGL ( Refer [Slide 23](#))

## Special provision for supply of online information and database access or retrieval services (Section 12):

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- A person located in a non-taxable territory will pay IGST on supplies of online information and database access or retrieval services to a non-taxable recipient in India.
- Such person would be registered a simplified registration scheme. If the person has a representative or agent in India, such representative or agent may take registration on behalf the person located in a non-taxable territory.

## Transfer of Input Tax Credit (ITC) (Section 13 & 14):

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- A registered taxable person can take Input Tax Credit, on **self-assessment basis**, in his return and such amount shall be credited, on a **provisional** basis, to his **electronic credit ledger**.
- The said ITC shall be utilized only for payment of **self-assessed tax** liability as per the return.
- The provisions of MGL relating to matching, reversal and reclaim of input tax credit or reduction in output tax liability shall apply to the IGST Act.
- On utilization of IGST credit for payment of CGST, the amount of IGST so utilized shall stand reduced and the amount of IGST so reduced shall be transferred to CGST account.
- On utilization of IGST credit for payment of SGST, the amount of IGST so utilized shall stand reduced and the amount of IGST so reduced shall be transferred to the account of the appropriate State government.

## Apportionment of tax and settlement of funds (Section 15): contd.

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- Out of IGST paid on an inter-State supply of goods or services, the amount of tax calculated at the CGST rate on similar intra-State supply shall be apportioned to the Central Government in following situations:
  - supply to an unregistered person;
  - supply to a composition taxpayer;
  - supply to a registered taxable person where such person is not eligible to claim ITC;
  - supply to a registered taxable person where such person does not avail of ITC within the specified period and thus IGST remains in the account even after expiry of due date of filing of annual return for the year in which supply was made.
- Out of IGST paid on import of goods or services, the amount of tax calculated at the CGST rate on similar intra-State supply shall be apportioned to the Central Government in following situations:
  - import by an unregistered person;
  - import by a composition taxpayer;
  - import by a registered taxable person where such person is not eligible to claim ITC;
  - import by a registered taxable person where such person does not avail of ITC within the specified period and thus IGST remains in the account even after expiry of due date of filing of annual return for the year in which supply was made.

## Apportionment of tax and settlement of funds (Section 15):

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- **Balance amount** of tax in IGST on such supply or imports shall be **apportioned to the State** where supply take place as per **Place of Supply provisions**.
- Where **place of supply** made by a taxable person **cannot be determined** separately, the **balance** amount of tax in IGST account shall be **apportioned to the States** to which taxable person has made supplies during the financial year **in the proportion** of total supplies made to each of States.
- Where taxable person making supplies cannot be determined, the balance amount shall be apportioned to all States as per order made by the **President under clause (2) of Article 270 of the Constitution**.
- The methodology used for apportionment of tax shall be used for apportionment of interest, penalty and compounding amount.



## Zero rated supply (Section 16):

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- Zero rated supplies:
  - **Export** of goods and services;
  - Supply of goods or services to a **SEZ developer or a SEZ unit**.
- Provision has been made to **allow ITC** on goods or services used for making zero rated supplies.
- Exporter of goods or services would be eligible to claim refund of **unutilized ITC** or to **claim refund of IGST** paid, if any at the time of exports.
- **SEZ Developer or a unit in SEZ** would be eligible to claim refund of IGST paid by the supplier.

## Transition provisions (Section 21):

---

- Transitional provisions contained in MGL would be applicable.
- **Import of services and inter-State supply of goods or services** made after the appointed day shall be liable to tax under IGST Act, irrespective of the fact that invoice was issued or payment was made before the appointed day.
  - If payment has been made before this day, tax on the balance amount shall be payable under IGST Act.

Thank You



## Supplies without consideration (Schedule I):

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- Permanent transfer/disposal of business assets where input tax credit has been availed on such assets.
- Supply of goods or services between related persons, or between distinct persons as specified in section 10, when made in the course or furtherance of business.
- Supply of goods—
  - by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal, or
  - by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.
- Importation of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business.



## List of Offences liable for Prosecution (Section 92)

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- (a) supplies any goods and/or services without issue of any invoice or grossly mis-declares the description of the supply on invoice, in violation of the provisions of this Act, to intentionally evade tax;
- (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 leading to wrongful availment of credit or refund of duty;
- (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) evades tax, fraudulently avails input tax credit or obtains refund-by an offence not covered under clause (a) to (e);
- (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;

## List of Offences liable for Prosecution (Section 92) contd.

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(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) tampers with or destroys any material evidence or documents;

(l) 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

(m) attempts to commit, or abets the commission of, any of the offences mentioned in clauses (a) to (l) of this section;

