

# GST FLOW (Index)

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## My Lovely Students

I look forward for you to love and enjoy the chartbook. I am confident that as your mentor & friend, I will succeed in simplifying concepts for you and making you fall in love with the subject.

## Some tricks and tips to score the best (Read before you jump inside exam hall)

1. In MCQs follow elimination method: Always eliminate 3 choices and then choose one. Reading all choices are must.
2. Quoting sections in an answer serves like a dessert to examiner, but quoting a wrong section might result in adding spaces to a burr.
3. Supporting every answer with adequate & suitable reasoning is very important, substantiate your answer adequately.
4. Always remember, writing 80 and Scoring 60 is good rather than trying to attempt 100 and fail.
5. Reminders: Drink some water & breath, it relaxes you.

All the best guys, lets rock GST & let rock the exams.



The chart book is meant for CA Ramesh Soni's classroom purpose only. The charts in this book are applicable for November 20/May 21 exams only.

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# GST in India - An Introduction

Article 366 (12A):

GST means any Tax on supply of goods/service/both except AL for HC

A compulsory payment → under an act → to govt → to provide public services

Direct tax	Indirect tax
<ul style="list-style-type: none"> <li>Imposed on Taxpayer</li> <li>Burden is on the person tax is imposed</li> <li>Example: Income tax</li> <li>Progressive in nature</li> </ul>	<ul style="list-style-type: none"> <li>Imposed on goods/services</li> <li>Burden is shifted to ultimate consumer</li> <li>GST Customs</li> <li>Regressive in nature</li> </ul>

## Deficiencies in existing tax system

- Cascading effect (tax on tax)
- No central credit to dealers/traders
- Non integration of VAT & ST causing double taxation

## Various features of GST

- It is a tax on supply of goods
- It is a consumption tax
- It is a destination based tax
- It is a value added tax

## Benefits of GST

- Creation of unified national market
- Boost to make in India initiative
- Enhanced investment & employment
- Mitigation of ill effects of cascading
- Elimination of multiple taxes
- Elimination of double taxation
- Reduction in prices of goods
- Increase in govt revenue
- Lower compliance cost to traders

## Central taxes subsumed

- Central Excise duty
- Service tax
- CVD & SPL CVD
- Central Sales tax
- Surcharges & cesses

## State taxes subsumed

- State surcharges & cesses
- Entertainment tax except →
- Tax on lottery, betting & gambling
- Entry tax, purchase tax
- VAT & Sales tax, luxury tax

## Taxes Not Subsumed into GST

- Basic Custom duty
- ET levied by local bodies
- Property tax & Stamp duty
- Electricity duty
- SED on AL for HC, CED on HPMAN

**Constitutional Provisions: Articles**

285: No tax shall be levied/collected except by authority of law

245: Parliament may make law for whole/any part of territory of India

246 (1st Schedule): Divides power to make law into 3 lists.

List I: Union list: Parliament (CJ), List II: State list: state legislature, List III: Concurrent list

246A: Provides power to Parliament and State legislature to levy GST simultaneously

Parliament has exclusive power to make GST law w.r.t. Interstate trade & Commerce

269A: IGST shall be levied & collected by CJ & apportioned b/w Union & State

279A: GST Council: Constituted on 15.09.16, 33 members → 2 UM + 31 SPM, Quorum 2/3

Weightage of votes - Centre - 1/3, State govt - 2/3rd, majority for decision → 3/4th of weighted votes

**GST Common Portal: www.gst.gov.in, www.ewaybillgst.gov.in**

Managed by GSTN Function of GSTN includes

- Facilitating Registration
- Forwarding Returns to Central & state authorities
- Computation & settlement of IGST
- Matching of tax payment details with Banking networks
- Providing MIS reports
- Providing analysis of tax payer's profile

**Grade & Commerce**

Intrastate Supply within same state/UT → CGST + SGST

Interstate Supply b/w different state/different UTs → CGST + IGST

b/w 1 state & 1 UT

b/w different Countries

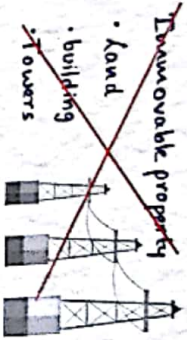
IGST

Various GIs	SED	CED	VAT/ST	GST
AL for HC	✓	×	✓	×
HPMAN	×	✓	✓	×
Tobacco	×	✓	×	✓
Others	×	×	×	✓

## Goods and Services

### Goods - 2(152)

Means: Every kind of Movable property → ~~Immovable property~~  
 Other than (Excludes)



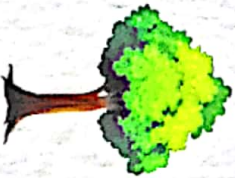
Money → Indian legal tender, Foreign Currency, Cheque, Pw, Bae  
 or any instrument recognised by RBI  
 but shall not include currency held for its numismatic value

Securities but includes → Shares, stock, bond, debenture, MF  
 Govt Securities  
 Rights/Interests in Securities



**Actionable claim:** means a claim to Unsecured debt  
 Right to receive a benefit/ Asset in future — Contingent  
 Eg: Betting, gambling, lottery, Insurance claims,  
 Right to recover arrears of rent, etc.

Growing Crops, Grass  
 Things attached to/forming part of the land  
 which are agreed to be Severed  
 before Supply/ Under a Contract of Supply



**Circulars:** PSUs are not securities & hence taxable as goods,  
 nature of supply - interstate (195T)

### Services - 2(102)

Means: Anything

Other than: Goods Money & Securities

But includes: Activities relating to

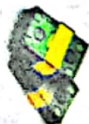
the use of Money/Its Conversion by Cash/  
 by any other mode

↓ draw  
 One form, Currency/ denomination

↓ to  
 Another form, Currency/ denomination

For which Separate Consideration is charged

**Explanation:**  
 Services includes facilitating/arranging transactions in  
 Securities



Section 1: Scope of Supply → Taxable event

T(1) → Includes  
↓  
Activities to be Considered Supply

↓  
For a Consideration  
↓  
Without a Consideration

(a) All forms of supply of goods

Such as: STB, EIR, LD

Made/Agreed to be made

In the course/jurisdiction of business

RP: SCOPE + Fidelity + Sole agent

(b) Importation of Services  
Exception: Gift to employee upto 50k

Business/Intra-Business purpose

(3) Supply b/w Principal & Agent (vice-versa)  
(Agent is issuing invoice in his name)

(4) SOS → R/O on establishment → Business

Sec 8: Taxability of:

(a) Composite supply: 2/more taxable supplies

⊕ Naturally bundled

⊕ Supplied Together in ordinary course

⊕ One is a Principal supply

Taxable ⊕ Principal supply

(b) Mixed supply: 2/more individual supplies

⊕ Supplied Together ⊕ for a single price

⊕ supply is not composite supply

Taxable ⊕ highest value

T(1A): SoG/SOS (Schedule II)

(1) Transfer of goods → SoG

(2) Right in goods/Undivided share → SOS

(3) Hire purchase → SoG

(4) Lease/tenancy/assignment → SoS

Building → (a) lease/letting out → SoS

(5) Treatment/Process - to another's goods → SoS

(6) T/R of BA → Permanent t/r → SoG

Temporary t/r → SoS

T/R on closure → SoG

Exception: Transfer as going concern

Business carried on by Representative (RP)

(7) Renting of immovable property

(8) Construction (Complex building)

(considered need before u/f/fole)

(9) Temporary t/r of IPR

(10) Customisation/upgrade of software

(11) Repair/maintenance/alteration to do on out

(12) T/R of right to use any goods

(13) Composite supply - always SoS

(14) WC services (UMP) (15) Restaurant/catering

(16) AOP/BOT → goods → Members - SoG

T(13) → C-RC - Notably → Transactions:

SoG & Not SoS, SoS & Not SoG

Notified: Activities in Article 243A & 243W

Grant of Alcoholic liquor licence against licence/application fees.

Panday Municipal

## Nature of Supply (1951 act)

### Section 7 Interstate Supply

- (1) → Soq } LOS and POS are in
- (3) → SOS } → 2 different states  
→ 2 different UTs  
→ a state & a UT
- (2) → Import of goods
- (4) → Import of Services
- (5) → Soq/Sos/Both

- when: LOS (India), POS (IS)
- To/by a SEZ unit/developer
- In the TT, Not being intra state supply & not covered elsewhere

### Section 8 Intrastate Supply

- (1) Soq } where LOS & POS
- (2) SOS } in same state/UT

### Section-9 Supply to TWI

- LOS (TWI):  
LOS - nearest Coastal &/UT
- POS (TWI):  
POS - nearest Coastal &/UT

### Section 16 Zero Rated Supply

- (1) (a) Export of goods or
- (b) Supply of goods to SEZ unit/developer

(2) ITC available for making ZRS (even if such supply is ES)

(3) RP Supplying ZRS, 2 options:

- (a) Supply under bond/LUR  
→ without 1951 payment  
→ claim refund of unutilised ITC
- (b) Supply with 1951 payment  
(+) claim refund of such 1951

### Supply to/for EEZ

- EEZ - treated as other territory under UT
- Supply to/for an EEZ is interstate supply 1951 applicable

### Explanation 1: A person has

- (i) 1 establishment (India) - other of India → Distinct person (DP)
- (ii) 1 establishment in a state - other of state → Distinct person (DP)
- (iii) 1 establishment in a state - another reg within state → DP

Expl. 2: Person carrying on business through a branch/ an agency/ a representational office in any territory - be treated as having an est. in that territory.

**Circular:** Short term accommodation, bartering, conferencing services provided to SEZ unit/developer - Interstate Supply

Registration - who is liable and who not?



22: Person liable for Regn

- Who When
- (1) Supplier liable In ST/ur from where he makes TS  
→ ATO > 20L  
TS → SCS - 10L  
SCS: M<sup>2</sup>NT  
Exempt u/s 23(2): Exclusive Supplier of goods upto 40L\*
  - (2) Suppliers Reg Under on existing law (VAT/ST) → Appointmt date (02-06-17)
  - (3) Transferee/successor → from date of transfer/succession  
→ Transferee - Registered as going concern
  - (4) Transferee (in case of amalgamation/merger) → liable from date on which RoC issues CRT.

Aggregate: Panwise on all India basis  
Turnover: Taxable, Interstate, Exempt, Export Supplies  
Exclude: SS under RCM & GST

23: Person not liable

- (1) (a) Any Person exclusively engaged in supplying of gsts that are not liable to tax or wholly exempt.
- (b) An Agriculturist [E/W] (to the extent of supply of Produce out of cultivation of land)  
→ or by hired labour (personal/family supervision)  
Circular: Commission agent under APMC act making supplies on behalf of agriculturist [E/W]: Not liable for compulsory Registration
- (2) Notified Category of Person (exempt from Regn)  
• Interstate supplier of Services (upto A10 20/10)  
• Interstate supplier of handicraft goods (upto 20/10)  
• Interstate Sose to a RP by a Jobworker

- NA: I/W: (i) ATO > 20/10L, VR (ii) Making Sose in relation to Jewellery/goldsmiths/silversmiths wares
- CTP (Supplying handicraft/craftmen gds (upto 20/10))
  - Person making TS - tax payable under RCM
  - Person making Sose through ECO (upto A10 20/10)
  - Exclusive Supplier of goods upto ATO 40L
  - \* NA: if Person is (i) Regd CR (ii) Supplier of TIP (iii) exercising VR (iv) Interstate supplier in Uttarakhand, Meghalaya, Mizoram, Manipur, AP, Nagaland, Sikkim, Tripura, Telangana & Puducherry.

24: Compulsory Registration

- (1) Person making Interstate taxable supply  
Exempt: Sose + Handicraft/craftmen goods supplier
  - (ii) CTP making taxable supply  
Exempt: CTP (handicraft/craftmen gds: upto 20/10)
  - (iii) Person reqd to pay tax under RCM
  - (iv) Person reqd to pay tax under 9(5) → Aggregators
  - (v) N RTP making taxable supplies
  - (vi) TDS deductors u/s 51
  - (vii) Person making TS of gts on behalf of other TPs → Agents (supplying on behalf of Principals/CPD)
  - (viii) Input service distributor (ISD)
  - (ix) Person supplying, other than supplies u/s 9(5) through ECO who is reqd to deduct TCS u/s 52  
Exempt: Supplier of service through ECO (upto A10 20/10)
  - (x) ECO → who is required to collect TCS u/s 52
  - (xi) Overseas ODR services supplier - Supplying → To a person other than a RP
  - (xii) Such other Persons/class of Persons - NY-RC
- Note: Mnemonic for compulsory Registration  
CREATIONS: Marked in Purple

## Section 25: Procedures for Registration

1. Person liable = Apply within 30 days

CTP/NATP - 5 days prior, Sec - Stp Regn  
Supplier (in Tw) → Reg<sup>n</sup> nearest Coastal S/UT

R-8 - applicatn (Reg 01), Reg - Verif<sup>n</sup> - 31 days  
R-10 - Issue of RC (15 digit QRIN), PPOB, AP08

Appln within 30 days of becoming liable?

Re effective: From date of becoming liable From date of grant

R-25: Fo may get physical verifn of PPOB done before/after grant of registration & upload verification report (Reg 30) within 15 wds.

R-10a: RP to furnish Bank ac details within 45 days (RC/DO+TR:G)

2. Multiple P0B in st/UT, may apply for Reg: Reg (R-11)

3. VR even if not liable, take ITC charge qsr (no lock in)

4. 1 person - multiple reg. in same/multiple state: DP

5. 1 person - Reg in one state & est in other state: DP

6. PAN is mandatory for Reg<sup>n</sup> TDS ded. may use TAN

R+12: Appln (Reg 07), Grant in 3 wds

(6A) RP shall undergo authentication/for nish proof of Aadhaar w/  
Furnish alternate & viable means of identification (6B) Individual (6C) others

- all types of Auth. Signatory, managing & Auth. partners, Karta from 1-4-20

(6D) GA, G, C) NA to Non Indian citizens & Persons other than IANM.

7. NATP → Reg 03 + Self attested Copy of Passport, 5 days prior, adv. ton

8. Person fails to obtain Reg: Fo may reg. him suo moto (R-16)

Fo may reg. on temp basis - issue order in Reg 12

RP (within 30 days) - Submit appln for reg<sup>n</sup>/appeal

AA upheld Order - Submit appln for Reg in 30 days

9. UNO/NATP/Consulate - granted UN - Appln - Reg 13

## Registration Part II

Section 26: Deemed Reg<sup>n</sup>

RC/UN under EGST Deemed Reg under EGST

Section 27: Special provisions for CTP/NATP

- Re value for Period Specified/30 days (earlier)
- Further Extension - 90 days

- While applying deposit - Net est tax liability

- Additional net estimated tax liability (extension)

- Avail credited to E-Castl ledger

- Appln - Reg 01, Extn appln - Reg 11 (before orig. expires)

- Extn beyond 180 days - not possible

- Obtain normal Reg<sup>n</sup> - Surrender while leaving

## Section 28: Amendment of Registration

Cover field	Non cover field	PAN change
Legal name	(approval not reqd)	Fresh
Address	Submit - Reg 14	Reg <sup>n</sup>
Add/deleteion	RC stands amended	(Reg 01)
(Partner/director)		

Appln - Reg 14 (within 15 days of change)

Verification - in 15 wds/7 wds of Service of notice

Order - Reg 15 Amendment prospective from appln

(except: by Comm. Order)

Section 30: Revocation of Cancellation (R-23)

Appln within 30 days of Service of Cancellation order

Reg Cancelled for failure to furnish return →

First file returns, make payments of dues then apply

## Section 29: Cancellation/Suspension of Reg<sup>n</sup>

Suo moto by P0

Cancel by P0/RP/Legal heirs

a. Contravenon - Act/Rules

(c) Business discontinued/terminated

- No business from declared P0B (a) Change in Constitution

- Issue Inv/Ret in Contravenon (c) TP no longer liable U/ 2219

- violates anti-profiteering provisions

- violates provision of rule 10A

b. Compo - no ret<sup>n</sup> - 3 tax period c. NP - No Return - 6 months

d. VR - business not commenced in 6 months

e. Reg<sup>n</sup> obtained by fraud/wilful misstatement

R-20: RP to apply - within 30 days of occurrence of event

Application → Reg 16 + Details of Inputs in 5TH/5FG/FGS + CQ

(on the date of Cancellation)

→ Liability + Payment details (I omg) + Payment docs

R-22: Fo may suo moto Cancel → Issue SCN - RP to reply in 7 days

Fo to issue cancellation order within 30 days of appln/reply

29(S): Tax payable by RP on Cancellation w.r.t.

Inputs (3TH/5FG/FGS) → higher of - Capital goods or PZH

5TH computed proportionately on Reduced ITC (for remaining

the basis of corresponding invoices U/ - taking ITC 5 yrs (60

OT) OT payable on such goods (OT) tax on TV (U/ 15)

Suspension

→ During pendency of Cancellation proceedings i.e

From date of Submission of appln/Date from which Cancellation sought (later)

during Suspension → No Returns u/s 39, No taxable supply →

Means he shall not issue TI, & if Reg<sup>n</sup> revived (i.e. Suspension revoked)

→ issue RTI & file first return w.r.t. Supplies during Suspension





# Key & Collection (Sec 9 of CGST/Sec 5 of IGST)

Dept of C&I/S&I/L&I/GA  
Registered as TDS and - Exempt

9(1) - Normal Levy → 9(2): HPMAN → 9(3) - RCM (Services) → 9(4): URP - RP → 9(5): ECO

- CGST Levied on Intra state
- Supply of
- Except: All for HC
- On Value v/s IS
- @ Maximum rate 20%
- N-G, R-C
- Collected in manner prescribed
- Paid by TP

HPMAN

To be Levied from Date N-G-RC

9(3) - RCM (Services)

9(4): URP - RP

9(5): ECO

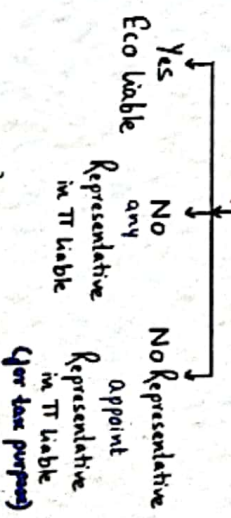
1. GTA (5%) → FOSCOPE + RP + ACRP
2. Advocate/SA → BE (TT) + ATO's Reg. Limit
3. Arbitral Tribunal → BE (TT) + (")
4. Sponsorship → BC/P.Firm (TT)
5. C&I/S&I/L&I end. part → B.E (TT)
- 5A. C&I/S&I/L&I [Renting Imp] → Reg. BE
- 5B. Any Person (TLG of DR/FSI) → Promoter
- 5C. Any Person (Long term lease) → Promoter
6. Director → Co/Body Corp (TT)
7. Insurance agent → Ins. Co (TT)
8. Recovery agent → Bank/FI/NBFC (TT)
9. Music Composer → Music Co (TT)
- Photographer/artist/like → Producer (TT) (by permitting use/enjoyment of copyright)
- 9A. Author (unregistered) → Publisher (TT)
10. Overseeing Committee → RBI
11. Direct Selling agent (Ind) → Bank/NBFC (TT)
12. Business facilitator → Banking Co (TT)
13. Agent of B. Correspondent → B. Correspondent
14. Security Services (AP) → RP (TT)
- NA: C&I/S&I/L&I/GA (Reg. as TDS deductor) & Comp. dealer
15. Renting of MV by Any Person (BC), does not issue invoice charging GST @ 12% → BC (TT)
16. Services of lending of Securities → Borrower (under Securities lending Scheme of SEBI)

## Notified Category of Services (NAT)

1. Transportation of Passengers (OLA)
  2. Accommodation Services (Goibibo)
  3. House Keeping Services (Urbanclap)
- If Supplier is Reg - Supplier liable (ECO)
- If Supplier is Unregistered - Eco liable



Eco has presence in TT?



## IGST - Sec 5: Difference

- Intra → Inter, Govt. → 40%
- IGST on Imports - Levied, Collected, valued as per CTA
- Paid with custom duties
- 5(a): Services by
  1. Person in NT → Any person (TT)
  - Other than NTOR
  - Govt./LA/GA/5nd/URP
  - Receiving order for Non business
- 2. Person in NT → Importer (Transp. of goods by vessel from o/s India)

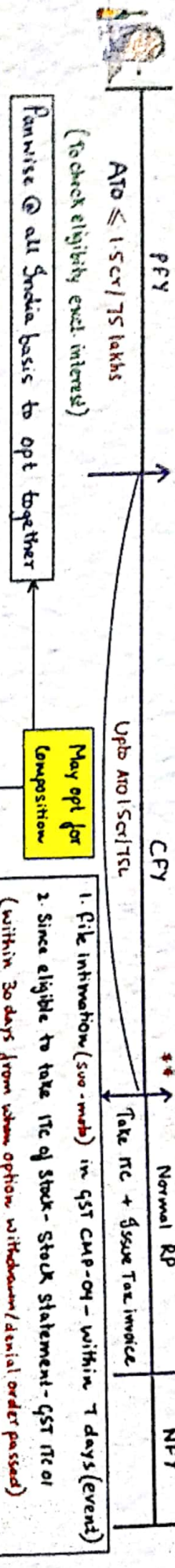
TP obtaining New Reg: Exercise option at the time of Regn  
 v/s 22 (in Part B of GST Reg-1)

**Composition Levy**  
 Section 10 of CGST

• MANTUS → 75 lacs  
 • HOJA → 1.5 cr

2. RP Switching to Compso: File intimation prior to commencement of FY → GST CMP 02

(+) GST ITCs - within 60 days of commencement of FY (Rule 41B)  
 (ITC to be reversed on STK + CGS)



1. File intimation (suo-moto) in GST CMP-04 - within 7 days (event)
2. Since eligible to take ITC of Stock - Stock Statement - GST ITC or (within 30 days from when option withdrawal/denial order passed)

ineligible if:

- Manufacturer of Panmasala (POM), Aerated water (AW), ice cream, Tobacco.
- Interstate outward Supplier of goods (TS/ES + Not even branch t/b)
- Supplier of Non-taxable goods (HPPAN + AL per HC)
- Supplying goods through ECO (liable to deduct TCS)
- Note: No restriction on supplying through own portal
- Service providers + CTR/NRRP
- Note: No limit on interstate procurement of goods (ie inward)

It has 2B then RP not eligible under Compso

Issue order	RP ready within	Reversal order within 30 days
errors	is any (in case)	of receipt of reply (CMP 02)

\* Accounting/Supplying see 10

- NTR allowed to supply services upto 10% of TA in a state/UT (incl. inter-state) in PFY or STAG (IN)
- For determining tax payable ITC in state/UT shall exclude: Supplies from 1st April upto date of becoming liable
- A exempt supply of services provided by way of extending loan & advances in respect of the contract is inter-state
- Pay time quarterly by 15th (even odd) and file GSTR 9 annually by 30th April [AR - GSTR 9A]
- Plushen in bill - CTR, not eligible to collect tax on supplies
- Mention "Composition Taxable person" on invoice/signboards at PPO & APOB
- RP paying tax v/s 101 may not file fresh intimation every year to continue under Compso.

- Applicability of Compso - Panwise A10
- Payment of Composition - state wise To
- Cannot opt for Compso in middle of a FY (except New Registration)

# Charitable & Religious activities

## Entity Registered Under 12AA



Charitable activities relating to:

Public health by way of:

Care/Counselling of terminally ill/severely physical/mental disabled

HIV/AIDS infected/drugs/alcohol addicts

Public awareness of: Preventive health Family Planning

Prevention of HIV infection.

Advancement of: Religion Spirituality Yoga

Advancement of: Educational programmes/skill development relating to

(a) Abandoned/orphaned/homeless children.

(b) Physically/mentally abused/tramaatized persons

(c) Prisoners

(d) Persons > 65 yrs - residing in rural area

Reservation of: Environment waterroads Forests wildlife

Circulars: GST on Residential programmes/camps

→ If Primary & predominant objective & purpose is advancement of Religion, Spirituality, Yoga → it shall be exempt.

→ If charitable/religious trust merely provides accommodation/serves food & drinks against consideration in any form including donation - such activity will be taxable.

→ Activities such as holding fitness camps/classes, aerobics, dance, music, etc. - will be taxable

Running old age home

• for residents > 60 yrs

• Consideration upto 25k

boarding PM, Punitive

lodging & Maintenance

Note:

Old age home run by

CGI/SG also exempt



Renting of Premises of

→ religious place

→ meant for general public

Sl:

Room rent upto 555 p/day

Premises/km upto 5555 p.d.

Shops - upto 5555 p.m.

Note:

1. Always 555/5555 is exempt

in case of religious place.

2. Pandit's service also exempt

3. Hostel accommodation by trust, vas upto 999 P.D is exempt

Training/Coaching

in recreational activities relating to sports.

Note:

Training/Coaching in recreational activities relating to arts/culture is also exempt.

By any Person

not necessarily charitable entity

Services by Rehabilitation Professionals

(Rehabilitation/therapy/counselling)

→ a) entity reg. under 12AA/ 84A Ins.

at Medical Inst, Rehab Centre (CG/SG/VR)

Religious Pilgrimage

Services by

KMVNL & HAS Committee

Kailash Mansarovar HAS

Yatra

KMVNL: Kumamon, Mandal

Vikash Nigam Limited



Exempt ← Pure Services/Composite upto 25% (in relation to 243q/w) → Govt. Entity/ Authority → by way of any activity under 243q/w → Exempt

to Cq/sg/LA/UT

to Cq/sg/LA/UT → Exempt

Sec 712(6) - Cq/sg/LA As public Authorities

Not Supply (Out of scope of Supply)

Activities under 243q & 243w

Alcoholic liquor license No GST

Services by Dept of Post

Govt (Cq/sg/LA/UT) Exempt

Officers (non govt) - an aircraft/vessel gsr (FCM)

SP/AS/LT/EP gsr (FCM)

Other Services - Inland Post - Postal Cards - Money Orders gsr (FCM)

Transport Services (goods/passengers) gsr (FCM)

Port/Airport Services - an aircraft/vessel gsr (FCM)

All other Services excluding → Services by way of (other than part) \*

Business entity (TT) gsr (RCM)

Exemption (En-17)

Services to ATO < Registration limit Exempt

ATO > Registration limit

Non govt check

Govt Exempt (En-8)

Consideration: ≤ 5K Exempt

> 5K RCM

Ex: Police dept protection to SC

CRUX: Any OS Govt by BE

Am changed 7SK Not exempt elsewhere RCM

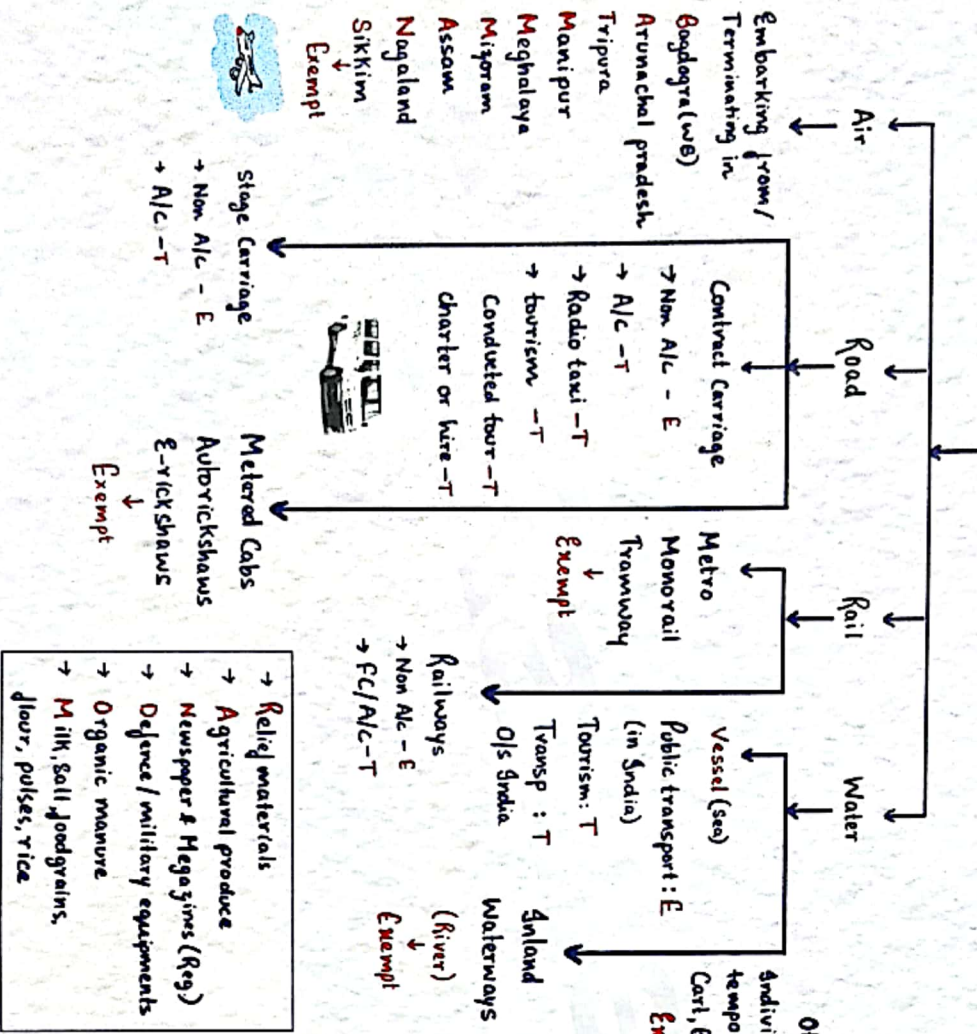
\* Services by way of:

- Guaranteeing loans of their undertakings/PSUs (from Bank/FI) [Applicable for Cq/sg/LA only]
- Circular: Services provided by Cq/sg to any BE/PSU by guaranteeing their loans from FI - taxable.
- Allowing BE to operate as telecom operators/ use radio frequency for license fees. (Prior to 01.04.16)
- Providing veg/ vegd under law, testing, calibration, safety check, certification relating to protection of workers, Consumers/public at large incl. fire license, read under law. Circular: GST on seed certification tags, supply of seed tags with Seed testing & Certification - exempt, but supply of seed tag by manufacturer to SG: liable to GST.
- FSSAI fees (Reg/testing) • Passport/visa/DL/Birth/death certificate - issuance service
- Tolerating non performance of Contract against fines/liquidated damage
- Assignment of Rights to use Natural resource to individual farmer for cultivation of plant & rearing all life forms of animals (except horses)
- Merchant overtime fees
- Assigning the right to collect royalty on behalf of SG on mineral dispatched by mining lease holders

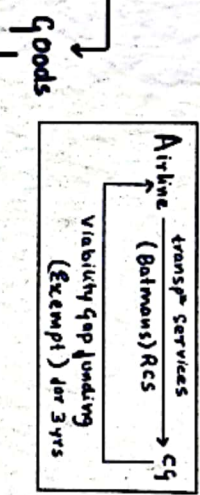
# Transportation Services



**Passengers**  
(with/without accompanied belongings by)



- Relief materials
- Agricultural produce
- Newspaper & Magazines (Reg)
- Defence/military equipments
- Organic manure
- Milk, Soil food grains, flour, pulses, rice



**Road** (issues Consignment note)

- CTA: Taxable
- Specified Persons: UR/Umng CRP
- Taxable if UR/P: Fb Scoop + Reg CR
- Note: Exempt if RP is dept of govt
- LA/GA → Registered as TDS deductor
- Specified goods: RANDOM
- Other goods: freight
- Single Carriage upto 1500
- Single Consignee upto 150

**Waterways**

- International Transp
- ↳ from o/s to CS (India)
- ↳ from India (CS) to o/s India
- ↳ Exempt (upto 30.09.20)
- Indian shipping co. FCM Foreign " Co: RCM (Importers)
- ↳ Exempt

**Air**

- International
  - ↳ Taxable
- Domestic
  - ↳ Taxable

**Waterways**

- International Transp
- ↳ from o/s to CS (India)
- ↳ from India (CS) to o/s India
- ↳ Exempt (upto 30.09.20)
- Indian shipping co. FCM Foreign " Co: RCM (Importers)
- ↳ Exempt



# Construction Services



Services provided by way of

Pure labour Contracts

of

- Construction erection
  - Commissioning
  - Installation
  - Completion
  - fitting out
  - Repairs
  - Maintenance
  - Renovation
  - Alteration
- or
- Any other original works

Pertaining to Beneficiary-led Individual house Construction

or

Enhancement

Under The housing for all mission or Pradhan Mantri Awas Yojana

of

- Construction erection
  - Commissioning
  - Installation
- ↓
- of Original works Pertaining to a single residential unit (otherwise than as a part of a residential complex)

Electricity distribution Utilities

Services Supplied by

By way of

- Construction erection
- Commissioning
- Installation

of infrastructure for extending electricity distribution networks

upto:

The hubwell of the farmers or agriculturalist for agricultural use

# Admission

Services by way of  
**ADMISSION TO**  
(Entry ticket only)



(79)

- Museum
  - National park
  - Wildlife Sanctuary
  - Tiger reserve
  - Zoo
- ↓  
No value limit  
Any amount - Exempt

(79A)

Protected monuments  
→ Declared so under Arch. sites  
& remains act/ State act  
  
Example: Taj Mahal  
↓  
No value limit  
Any amount - Exempt

(a) Circus, Dance

Theatrical performance  
incl. Drama/ballet



(b) Award Junction  
Concert  
Pageant  
Musical performance  
Any Sporting Event  
(other than RSE)

(81)

Exempt only if : Consideration upto 500 per person

(c) Recognised Sporting event

FIFA U-17  
World Cup 2017  
No value limit

(82)

(d) Planetarium

### Notes:

1. Any water park, amusement park - fully taxable
2. Film city, Snow city, Theme parks - fully taxable
3. Cinema hall fully taxable

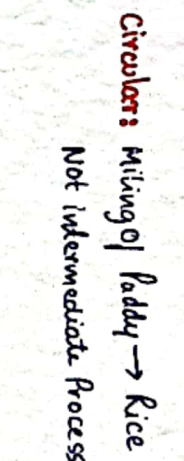
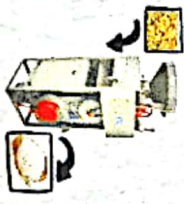
Entry No: 78: Services by an Artist by way of

Performance in folk or classical art forms (Music / Dance/theatre) → Exempt if considr upto 15L  
 Note: Performance in Bollywood Songs-taxable  
 Brand ambassador - Fully taxable

Bhangra  
Raiposthani



Bharatanatyam (TN)  
Kathak (UP)  
Dollu kunitha (KA)  
Sattriya (Assam)



**Circular: Milling of Paddy → Rice**  
 Not Intermediate Process

(B) Supply of farm labour (C) Renting of: Agro Machine/

Entry no. 54



Services  
 Relating to: Cultivation of plant &

- Rearing of all life forms of Animals (except horses)
- Breeding of fish
- Rearing of silk worms
- Foriculture
- horticulture
- Forestry

For: Food, fibre, fuel, raw material or other similar products/agricultural produce  
 by way of: (C) Agricultural operations directly related to prodn of agri produce  
 Incl. cultivation, harvesting, threshing, plant protection/testing



(C) Process at agricultural farm

- Husking, dehusking
- tending, Pruning, Cutting,
- drying, cleaning, fumigating
- currying, Sorting, grading
- cooling bulk packing, etc

Do not change the essential character existics but make it marketable for the primary market.

- |              |                                 |
|--------------|---------------------------------|
| Agri-produce | Not agri-produce                |
| Apple        | Appy                            |
| Potato       | potato daisy                    |
| Tomato       | Ketchup                         |
| Coffee beans | Processed Coffee - beans/powder |
| green tea    | tea                             |
| Sugar cane   | Jaggery                         |
| whole pulses | Dal by splitting pulses         |
|              | Processed dry fruits, Spices    |

warehousing

(H) Fumigation in a warehouse of agricultural produce

→ Warehousing of agri produce/ vice

→ Warehousing of Minor forest produce tamarind, Curry leaf, Tendu patla, Bamboo, etc

→ Warehousing of Cereals, pulses, fruits, nuts & vegetables.

Spices, Copra, Sugarcane, Jaggery, indigo, unmanuufactured tobacco, betal leaves, Coffee & tea.

(G) Services by any

Agricultural produce Marketing Board/ Commission agent (APMC)

Services for Purchase/ sale of agri-produce

(E) Agri extension services

(C) Loading, unloading, Packing, Storage of agri produce/ vice By car/rail/ vessel.

Transportation of

Entry no

57: Carrying out an intermediate process as jobwork

-in relation to cultivation of plant & rearing of all life forms of animals (except horses)

58: Services by way of artificial insemination of livestock (Cows)

57: Services by way of pre-cooling, ripening, waxing, retail-packing, labelling of fruits a veg. which does not alter essential characteristics.

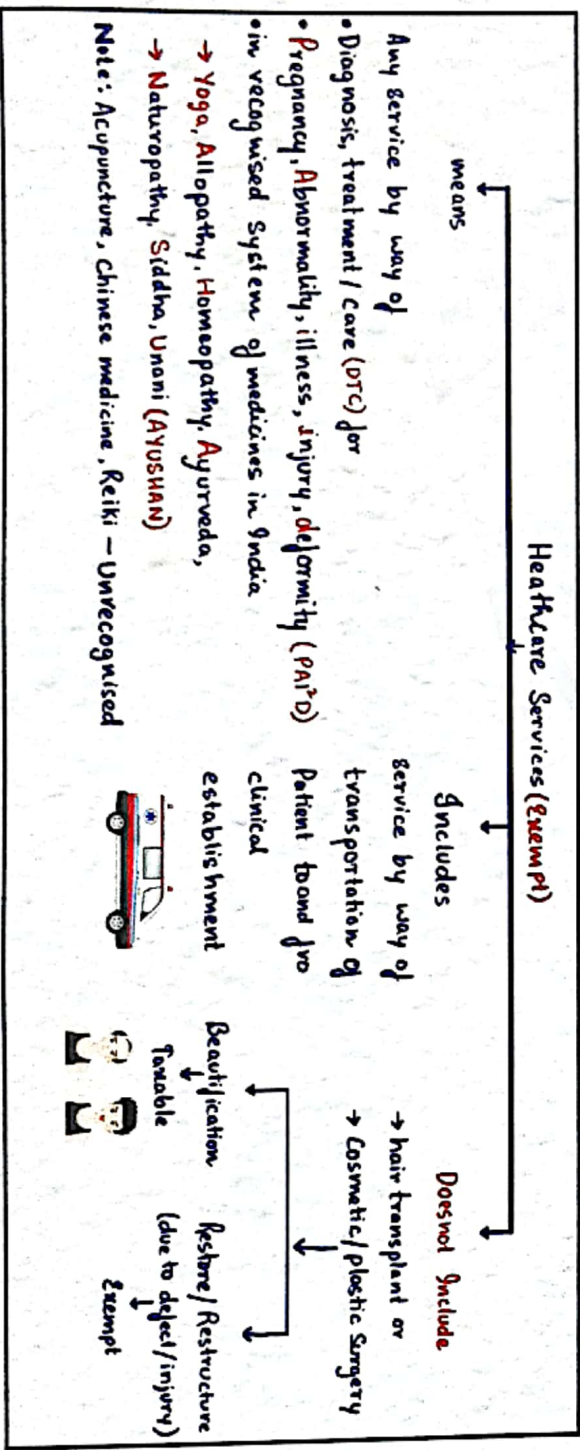
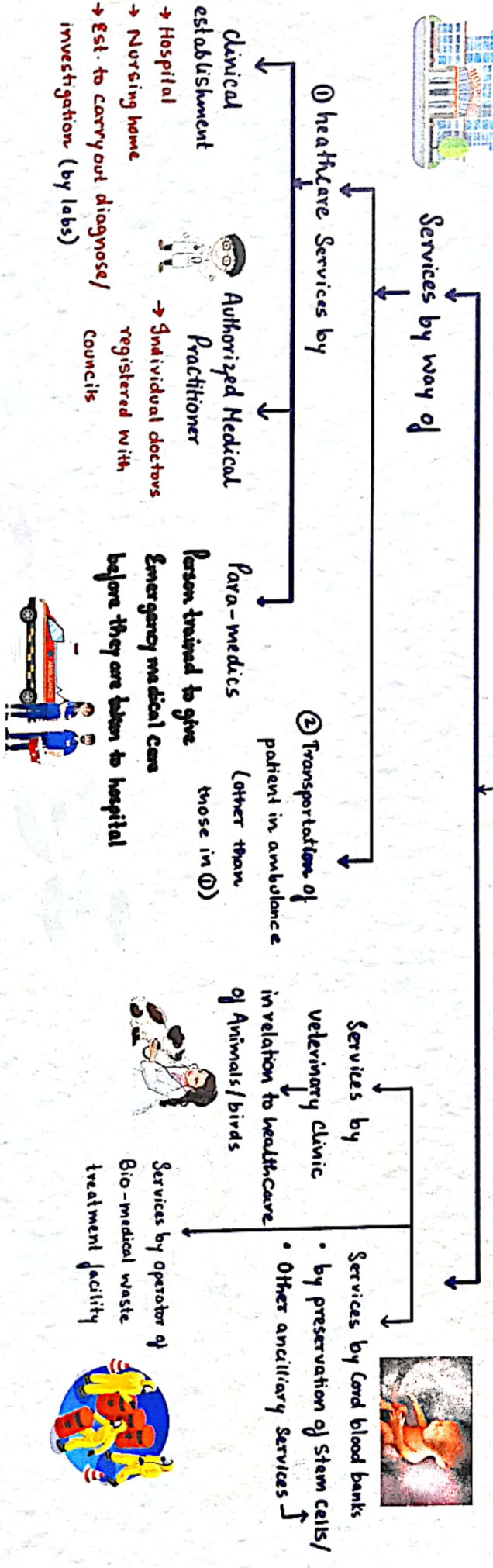
Characteristics

58: Services by NCD (Ministry of Agriculture)

-by way of cold chain Knowledge dissemination.

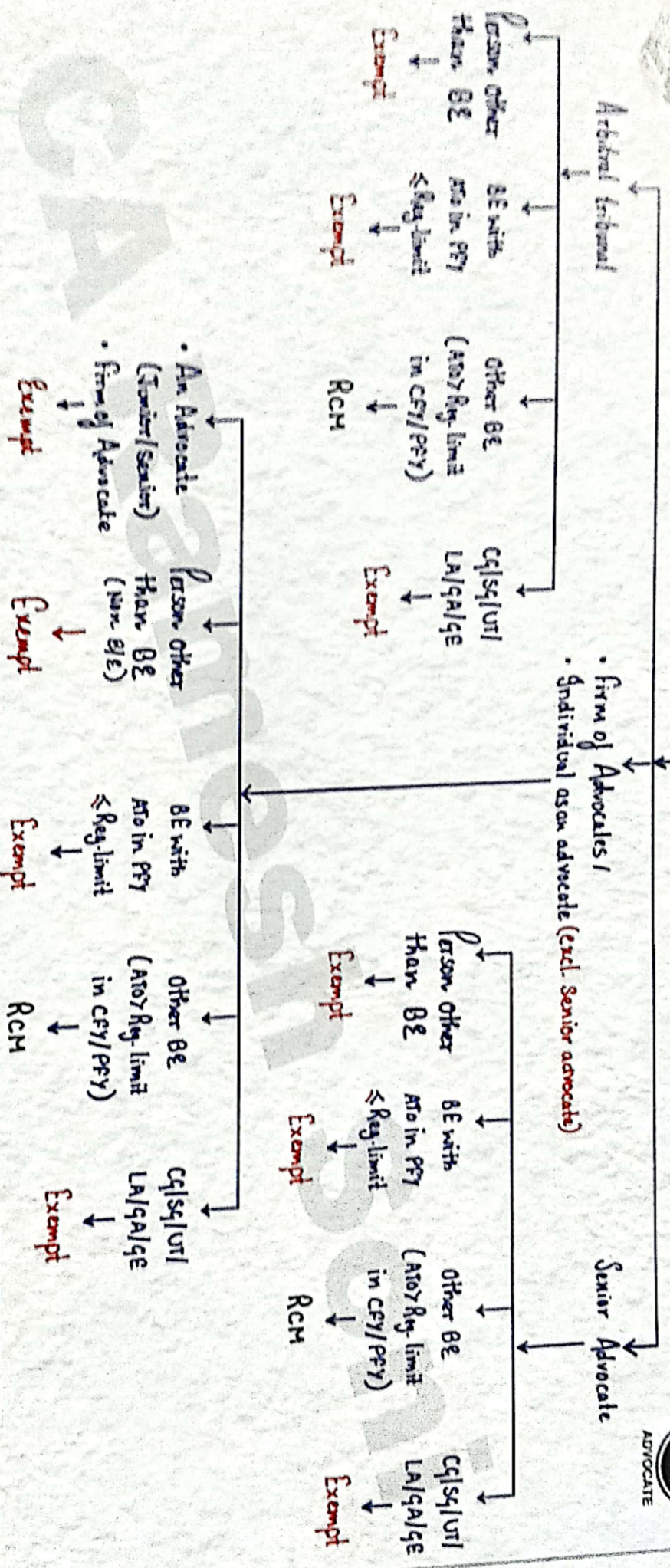


# Health Care Services



- Circulars:**
1. Room rent to in patients – Exempt
  2. Doctor/consultants hired by hospital pay them (Exempt)
  3. Retention money charged from patient is covered in health care – Exempt
  4. Food to in patient (IS) – Exempt
  5. Food to outpatient, attendant, visitors – **taxable**
  6. Clinical est. giving Shops/auditoriums on rent/displays of advertisements – **taxable**

# Legal Services



**Crux:**  
 AT/Asa → Big BE → RCM

Now is applicable on Legal Services  
 Legal Service means any Service provided:

- in relation to Advice/Consultancy/Assistance in any branch of law &
- Includes Representational services before Court/Tribunal/authority

**Note:** Business entity means any person carrying out business (can be an advocate/firm of Advocate also)

### Exemptions

- **Services by way of transfer of a going concern, as a whole/an Independent part.**
- **Supply of services associated with transit cargo to Nepal and Bhutan.**
- **Supply of services by a Govt. entity to CG/SG/UT/LA against consideration in form of grants from CG/SG/UT/LA.**
- **Services by fair trade shops – Pawan Shop's commission from govt.**
- **Renting of residential house for residential purpose.**
- **Renting of Hotel, Inn, Guest house etc., having VOS is below or equal to Rs 1,000 per day. Circular: Hostel acc. to students by trust not charitable activity, and if amount charged is below Rs 1000 Per day – Exempt.**
- **Giving on hire MV for transportation of passenger > 12 to STU, to a LA an Electrically operated vehicle meant to carry > 12 passengers truck to a GTA, MV for transportation of Student, faculty and staff (SFS) to a person providing transportation of SFS to an EI (Pre-school up to 12th)**
- **Services by way of access to a road or a bridge on payment of toll/annuity.**
- **Transmission/distribution of electricity by a transmission/distribution utility. GST applicable: Application fees, meter rental & shifting charges, testing fees.**
- **Interest on Loans & Advances & forex conversion bank to bank, dealer to bank etc. - other than interest involved in credit card services. (Refer clarification on additional/penal interest on EMI)**
- **Services to savings bank a/c holders under Pradhan Mantri Jan Dhan Yojana.**
- **Life insurance services provided to members of Army, Navy, Air Force, personnel of Coast Guard, Central Armed Police Forces under Group Insurance Schemes.**
- **Services of life insurance by way of annuity under National Pension System**
- **Services provided by the CMPF, ESI, RBI, EPFO, SEBI, IRDA.**
- **Bank charges on Cr/Dr CARD – Exempt upto Rs 2,000 per transaction**
- **Services of General Insurance business under schemes for – Hut, Cattle, tribal, Gramin, Agricultural pumpset, weather, crop, coconut, Nilamaya, Bangla Shasya Bima, etc.**
- **Services of life insurance business - Janshree Bima, Aam aadmi Bima, micro-insurance product (IRDA approved – cover upto 2L), Varishtha pension Bima, Pradhan Mantri Jeevan Jyoti, Jan Dhan Yojana, Varja Yandan yojana, Reinsurance services of the insurance schemes specified above.**
- **Services by way of collection of contribution under the Atal Pension Yojana/ any pension scheme of SGs**
- **Services by business facilitator/correspondent to a banking /Insurance co. w.r.t. to its rural area branch or intermediary to BFI/BC.**
- **Intermediary services of financial services located in a multi-services SEZ with International Financial Services Centre (IFSC) status to customer outside India.**
- **Insurance Scheme where premium paid Government**
- **Upfront amount payable for granting of long-term lease of 30 years/more of industrial plots/plots for development of infrastructure for financial business provided by the SG Industrial Development Corporations/ Undertakings/by any other entity having 20%/more ownership of CG/SG/UT to the industrial units/the developers in any industrial or financial business area.**
- **Service by way of transfer of TDR/FSI on/after 01.04.19 for construction of residential apartment by a promoter intended for sale to a buyer before issuance of CC/FO whichever is earlier.**
- **Upfront amount payable in respect of service by way of granting of long-term lease of 30 years/more, on/after 1-4-19, for construction of residential apartments by a promoter in a project, intended for sale to a buyer before issuance of CC/FO whichever is earlier.**
- **Services by govt by allowing BE to operate as a telecom service provider /use radio frequency spectrum on payment of fee/ spectrum user charges.**
- **IRFC – Services of Leasing of Assets to Indian railway**
- **Services provided by an incubatee up to a TO of Rs 50 lacs in FY, provided PFY total TO  $\leq$  Rs 50 lakh & 3 years has not elapsed from incubate agreement.**
- **Incubator- taxable services provided by a Technology business incubator/a recognised STEP or Bio incubator.**
- **Services by way of collecting or providing news by an independent journalist, Press Trust of India or United News of India.**

## Exemptions

- Services of public libraries by way of lending of books, publications, etc.
  - Services provided by the GST Network to govt for GST implementation
  - Services by an organiser to any person for a business exhibition held outside India.
  - Services provided by and to FIFA & its subsidiaries for FIFA U-17 Women's World Cup 2020 to be hosted in India.
  - Services by way of right to admission to the events organised under FIFA U-17 Women's World Cup 2020.
  - Services by way of sponsorship of sporting events organised by a national sports federation, Indian Universities, inter university sports board.
  - Services by way of slaughtering of animals.
  - Services by a foreign diplomatic mission located in India.
  - Services of providing information under Right to Information Act, 2005
  - Services - by an EI to its Student, faculty & staff; by way of conduct of entrance exam against fees; (Clarification Maritime courses are EI)
  - Services - to an EI (up to 12<sup>th</sup>) by way Transportation of SFS, catering, security, cleaning, house-keeping.
  - Services - to EI (> 12<sup>th</sup> - college) by way of supply of online educational journals/periodicals.
  - Services provided - to EI (up to 12 & college) - by way of services relating to admission to, or conduct of examination by, such institution.
  - Services provided to a recognised sports body by- player, referee, umpire, coach or team manager & by another RSB. (selector, commentator-GST)
  - Skill - Any services provided by, NSDC, SSC, an assessment agency, a training partner approved by NSDC/SSC.
  - Skill - Services of assessing bodies empanelled centrally by the Directorate General of Training, Ministry of Skill Development and Entrepreneurship.
  - Services by training providers under Deen Dayal Upadhyaya Gramen Kaushalya Yojana - by way of offering skill/ certified vocational training.
  - Services provided to government under any training programme for which expenditure is borne by government.
  - Services of public conveniences like washrooms, lavatories, urinal/toilets.
- Service by a non-profit entity registered to its own members by way of reimbursement of charges or share of contribution up to 7.5k pm, per member. (Refer clarification on Resident welfare association)
  - Services by Non-profit entity, engaged in activities for welfare of Industrial/ agri labour/farmer/promotion of trade, commerce, industry, agriculture, art, science, literature, culture, sports, education, social welfare, charitable activities & protection of environment, to its own members against consideration in the form of membership fee up to an amount of Rs 1000 per member per year.
- Exemption under IGST**
- Services received from a service provider from NTT by
    - a) CG/SG/UT/LA/GA/Individual for non-business purpose
    - b) 12AA entity c) a person in NTT.
  - Exception NA in case of OIDAR to a & b, Transportation services by a vessel from place o/s India up to CS in India.
  - Services supplied by an establishment of a person in India to any establishment of that person o/s India, which are treated as establishments of DPs provided the POS of the service is o/s India.
  - Import of services by United Nations/a specified international organisation for official use.
  - Import of services by Foreign diplomatic mission or consular post in India, or diplomatic agents or career consular officers posted.
  - Services provided by an intermediary when location of both supplier and recipient of goods is outside the taxable territory.
  - Services Received by RBI from Abroad.
  - Services provided by a tour operator to a foreign tourist in relation to a tour conducted wholly outside India.
- Other Exemptions**
- All services imported by a unit/developer in the SEZ for authorised operations - NO CD/IGST
  - Central Government's share of profit petroleum exempted.
  - IGST leviable on import of services in relation to temporary transfer or permitting the use or enjoyment of any IPR has been exempted.

# VALUE OF SUPPLY

GST = VALUE X ROT  
Ascertainable?

Yes

IS(1): Value of Supplies = Transaction Value

Price actually paid/payable (PP)

- ⊕ Parties unrelated
- ⊕ Price - Sole Consideration

IS(2): Inclusions in TV

(a) Duties, Taxes, cesses, fees Other than GST → Charged Separately

(b) Any Obligation of Supplier met by Recipient (not included in PP)

Circular: value of would a des to be included/not, depends on contract b/w OEN & CH

(c) Incidental expenses charged by Supplier - incl. Selling Commission & Packing

(d) Interest, late fee, penalty for delayed payment

(e) Subsidies linked to Price (Excl. cqlsq Subsidies)

IS(3): DISCOUNT

Given before/at Tos

Donot include in VOS

- Any discount by whoever name
- Case: Trade discount

After Supply (Yr end/To based discst)

Prior agreement for such discst exist

- (+) discst Can be Specifically linked to Invoice
- (+) Attributable ITC has been reversed by recipient (on basis of credit note)

Discount to be excluded from VOS

Otherwise

Include in VOS

NO

IS(4): Value cannot be determined w/ss(1) apply rule 27-31

Rule 31A: VOS: Lottery, Betting, gambling & Horse Race  
 Lottery: 100/125 of FV of ticket/Price notified in the official gazette by Organising State (whichever is higher)  
 Betting, gambling & Horse Race: 100% of FV of bet/amt paid into bracket

Sequentially

27: VOS: Money not whole Consideration

28: VOS b/w RP/DP (Excl. through agent)

29: VOS made or received through agent

OMV of Supply → Yes → VOS ← Yes ← OMV

Money + FMV of addnl Consideration → Yes → VOS

90% of Price charged for 50% of like kind & Quality by recipient to his customer (opt)

value of dis/b of like kind + quality → Yes → VOS ← Yes ← like kind + quality

like kind + quality → No

VOS = Money ⊕

Monetary value of additional consideration

30: VOS Based on Cost

31: Residual Method (Best Judgement)

- VOS = 110% x CO Acquisition
- CO Production
- CO prov. of Service

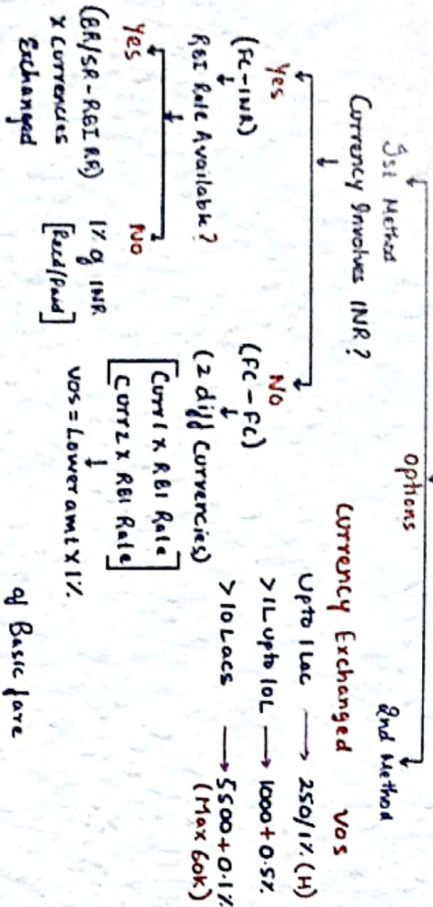
\*\* Proviso

1. If goods are further Supplied by Recipient as such: value (at option of Supplier) = 90% of Price charged for like kind & Quality by Recipient to his customer's (opt)

2. If Receipt eligible for full ITC then value declare in Invoice = Deemed OMV

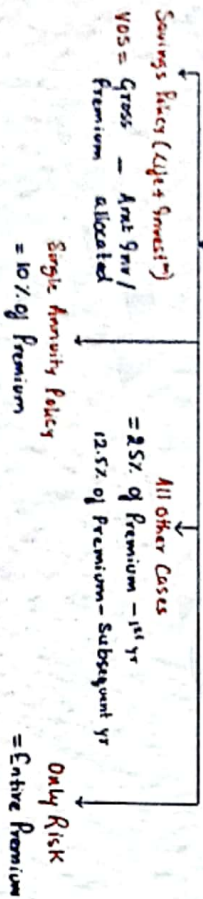
2: Optional valuation methods w.r.t. Certain Supplies

32(2) → Purchase or Sale of foreign Currency



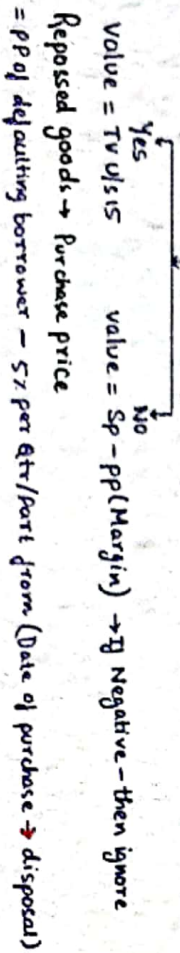
32(3) - Air travel Agent  
 VOS = Domestic Bookings - 5%, International Bookings - 10% of Basic fare  
 Basic fare: amt on which airline pays commission (i.e. amt excl charges & taxes)

32(4) - Life Insurance business



32(5): Buying & selling of hard goods (might be after minor processing)

Is itc taken on purchase of such goods??



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a chartered accountant never compromises on cost and quality. The evidence is being assigned just like this. Charat Book

32(6): Value of token, voucher, Coupon, a stamp

VOS = money value of g/s/e redeemable against such token/voucher

32(7): Value of SOT to Distinct person (Increase of notified supply)

VOS = NIL (If itc is available)

Rule 32A: VOS increase where Kerala blood cess is applicable

VOS: value determined u/s 15 but shall not include such cess

Rule 33: Reduction of expenditure incurred by Pure Agent

Expenditure/cost incurred by a supplier as pure agent - Exclude from VOS

Circular: PSF & UDF are levied by airport authority through airlines (acting as pure agent)

PSF & UDF are consideration for services provided by airport authority & leviable to GST.

Airlines acting as pure agent should separately indicate PSF & UDF & applicable GST in the invoice, based on the invoice the passenger/recipient may avail itc of GST paid on PSF & UDF.

Rule 34: Rate of Exchange for determination of value of:

Favourable Goods: Rate notified by CBIC u/s 14 of customs act on the date of TOS of such goods

Favourable Services: Rate as per GMP on the date of TOS of such services

Rule 35: Value inclusive of taxes

If VOS inclusive of GST, tax amount is calculated by making back Caln

tax amount =  $\frac{\text{value inclusive of GST} \times \text{GST Rate}}{100 + \text{applicable GST rate}}$

Classification: On discounts

Staggered discount (Buy more, save more offers) generally shown in the invoice to be excluded

Periodic/yr end discounts/volume discounts

Generally not shown on invoice since given at yr end such discounts are excluded from VOS subject to fulfillment of conditions u/s 15(3)(b).

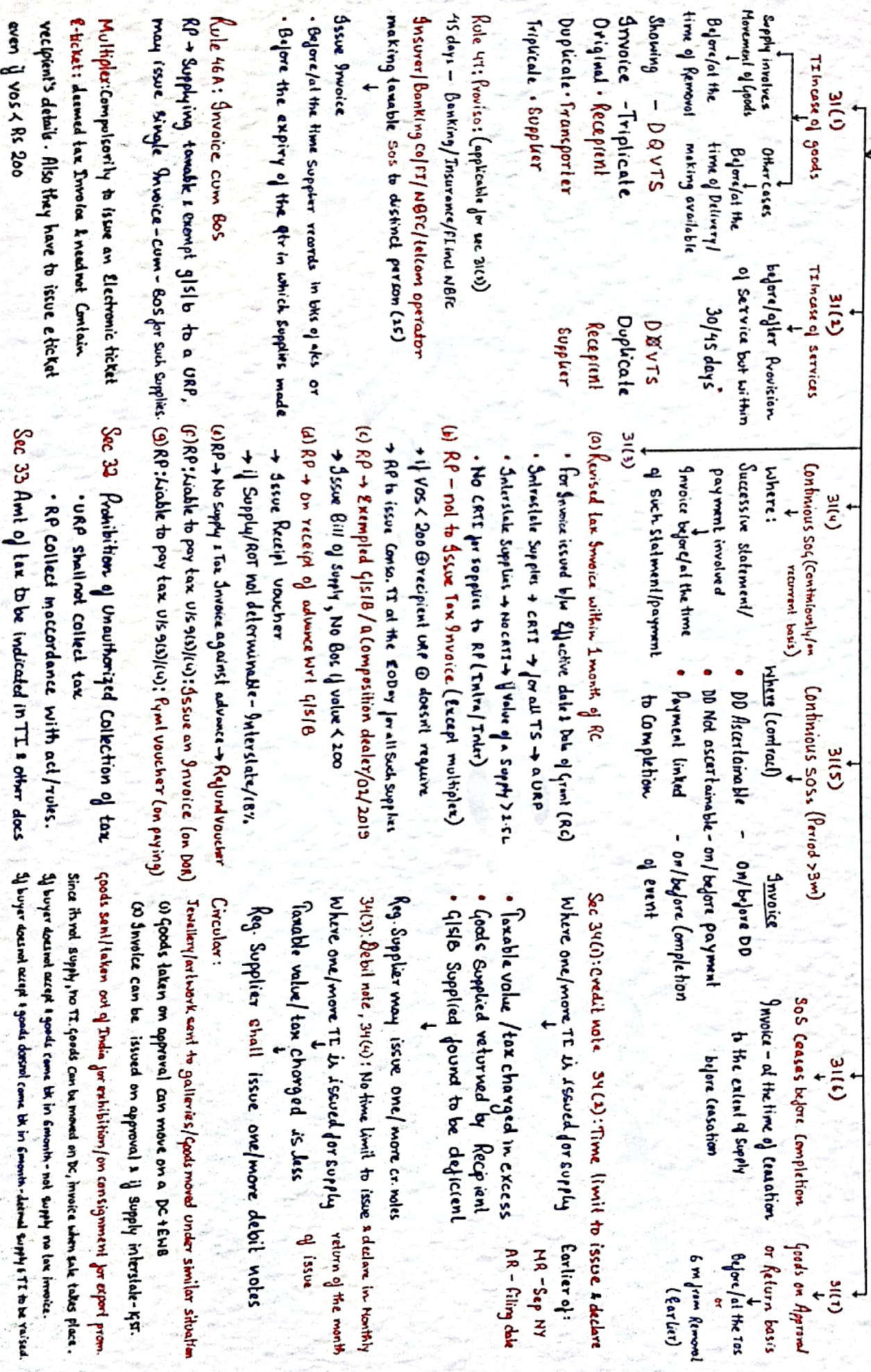
Secondary discounts (Not known at TOS)

In this scenario commercial credit note can be issued since condition u/s 15(3)(b) not satisfied.

Such discounts shall not be excluded from VOS since not known at TOS & 15(3)(b) condition not satisfied.

# Tax Invoice Credit Note & Debit note

Delivery Challan (Rule 55): 3 Copies (consigner, transferee, consignee) → Supply of Liquefied Gas → Transport of Goods - Job work  
 → Toq - for reason other than Supply → when goods transported for Supply but invoice couldn't be issued at time  
 → goods transported in ckd/skd/batches/lots.



CA RAMESH SONI

a chartered accountant means compromises on cost and quality. He refuses in being original just like this Charat Book



# Accounts and Records



**35(1): Every RP shall keep & maintain**

- True and correct a/c of prod<sup>n</sup> and manufacture of goods
- Inward & outward supply of g/s/B
- Stock of goods
- STC avoided
- Output tax payable & paid
- Such other particulars as prescribed (Rule 56)
- Where: At POB as per RC
- Proviso 35(1): if more than 1 POB, A/c's relating to each POB at such APOB

**Circular:** In case of auction of tea/coffee/Rubber no need to maintain at APOB, maintain at POB & intimate Jurisdictional officer

**How to maintain:** Either physically or in e form

**Rule 51:** Back up of records, produce on demand, Share files, passwords etc

**Rule 56:** (1) Every RP shall maintain true & correct a/c of goods imported/exported/supplies attracting RCM, invoices, B/S, De, Cr & Dr notes, receipt, payment, refund vouchers

(2) Every RP (except Compco) shall maintain s/tk details

(3) Receipt, supply, lost, stolen, destroyed, gift, free sample etc

(4) RP shall maintain a/c's relating to advances (recd, paid, adjusted)

(5) Every RP (except Compco) maintain a/c's of tax payable (incl. RCM), Collected, paid, etc claimed with, TI, Dr & Cr notes, De.

**35(2): (Whether Registered | Unregistered)**

- Owner/Operator of godown/warehouse
- Every Transporter

Shall maintain records of

→ Consignor, Consignee & other Relevant details (R-SB)

Owner/Operator/transporter



Registered  
One state  
Multiple  
Use GSTIN  
obtain UEN GSTIN

Unregistered  
Submit SUE-01 & obtain Unique Enrollment no.

Stored in transit

**Transporter:** Records of goods transported/delivered/

**Owner/Operator:** B/S of a/c w.r.t. period for which gds store goods remain in w/H, incl. particulars of disposal, in such movement, receipt & disposal of such gds.

wanner that they can be identified item wise & Ownerwise & facilitated physical verify/ inspection by Ro.

(1) Every RP shall maintain details of suppliers, recipients & Showhouses

(2) If gds stored at other than declared place without cover of valid doc. Ro to determine tax payable as if such gds have been supplied.

(3) Wrong entries shall not be erased, effaced or overwritten, incorrect entries (except clerical errors) shall be scored out under attestation & thereafter correct entry shall be recorded, in case of e-records, a log of every entry edited/deleted.

(4) Manufacturer to maintain monthly prodn a/c's showing quantitative details of raw material & services used, gds manufactured, scrap & by products.

**35(3): Notified class to maintain odd no. of a/c's/docs**

**35(4): Notified class relaxed from maintaining a/c's**

**35(5): RP ATO > 2CR, get accounts audited by CA/CA**

⊕ Furnish Audited Annual a/c's Reconciliation statement in GSTR 9C

For FY 18-19: whose ATO is upto 5cr not reqd to furnish audited a/c's & Recon. Stat.

Proviso: Books of a/c's of g/s/B not subject to audit by CA/CA if same subject to audit by CMA/auditor appointed under any law for the time being in force

**35(6): Every RP fails to maintain a/c's of g/s/B**

Ro shall determine tax as if those goods are supplied by such person → Provisions of T3/T4 shall apply mutatis mutandis.

**Section 35: Period of Retention of a/c's**

Until the expiry of 72m from DD of furnishing AR

If RP Party to appeal/revision/proceeding before AT/AA/court maintain bks accounts & records for a period of

→ one year after final disposal of appeal/revision/proceedings

→ or 72 months, whichever is later.

(1) BK to be maintained by agent

Particulars of authorisation received from principal to receive & supply

Particulars incl. Dev of g/s received & supplied on behalf of every principal

Details of a/c's furnished to every principal & tax paid on receipt of g/s.

(2) BKs to be maintained by works Contractor

Names & addresses of persons on whose behalf WC executed

Dev of g/s received/ utilised in execution of WC's

Details of payment recd w.r.t each works Contract (w/c)

Names & Address of Suppliers from whom he recd g/s.

Details of a/c's received/ utilised in execution of WC's

Names & Address of Suppliers from whom he recd g/s.



**Who:** Consignor/Consignee (other cases) } Causing Supplier/Recipient (in case of supply) } movement

**Where:** www.ewaybillgst.gov.in

**How:** By uploading information in Part A: Consignment in Part B: Transport doc/vehicle details (EWB 01)

**What:** Generate EWB

**Rule 138A:** Docs & devices to be carried by PIC:  
Invoice/Bol/DC + Eway Bill + BOE (Imports)

**Note:** EWB not reqd in case of Rail/Air/Vessel



**Eway bill**  
(Sec 68 r/w rule 138)



Data Server

**Rule 138D:** Detention > 30 mins  
Transporter may upload info in EWB 04

EWB mapped to RFID Installed

RFID reader (Copy EWB)

Repairable  
Can be taken (within 8 hrs)

Update Part B (Inv details)

Same transporter

Different transporter

Breakdown (resulting change in truck)

Transshipment

**Extension:**  
he shall update Part B (Inv)  
Assign EWB  
Different transporter

**Why:** Causing movement of goods

- Consignment Value > Rs 50000 or
- Interstate movement • to JWB
- By Handicraft Supplier (Exempt U/c 23(2))

**Determination of Consignment Value**

Value (as per sec 15) declared xxx

(In Service/Bol/DC)

+ GST including cess xxx

Exclde: Value of exempt goods (In case of invoice Cum Bol)  $\frac{5\% \text{ amount} > 50k \rightarrow xxx}{xxx}$



**Rule 138B: Verification of Docs & Conveyance**

Auth. PO - Inspecter (By Comm)

Check Docs + Eway bill + Conveyance

On specific intelligence information,

Any other officer may do physical verification (with prior approval from Commissioner)

**Rule 138C: Inspection & Verification of goods**

After inspection of QR (PO)

Summary report

EWB 03 - Part A

in 24 hours

Final Report

EWB 03 - Part B within 3 days (Extn - 3 days)



→ No further physical verification again

→ Except: (on specific intelligence information)

EWB is not reqd

Where goods are: LPG, Kerosine (PS), postal baggage,

Peris, precious stones or metal, Jewellery, currency, Personal & household objects, coral.

Transported by a non-motorised conveyance

Transported to/ro-custom port/airport/station - ICD/CS

Movement of goods within notified areas

Transp of exempt goods (except de-oiled cake)/AL/HPHAN

where Supply of goods being transported & not supply (SA III)

Supply of goods by CSD to/jro Unit/rom. Cantonment/outh. Customers

Supply of heavy water & nuclear fuels by Dept of Atomic energy

Movement of goods by Defence formation under ministry of defence

Movement of Empty Cargo Containers/ Empty Cylinder for refilling

where consignor is Cg/Sc/LA for transport by rail

Transp from one custom port/station to another.

Transp under custom supervision/seal

Transit Cargo to/jro Nepal/Bhutan

**EWB validity**

• ODC or MMT (ship) - ≤ 20 Km - 1 day

• Other than ODC/MMT(S) - ≤ 100 - 1 day



Transportation by Road



Who shall generate?

By RP (as consignor/recipient as Consignee)

In Own Conveyance  
Or hired one/a public Conveyance

EWB: Part A : RP to update

Part B : RP to update (before movement)

Handed over to transporter  
for transportation

EWB: Part A : RP to update

Part B : RP to assign. EWB to transporter

Transporter to update vehicle details,

and generate EWB

Rule 138E: Restriction on Furnishing information in Part A of EWB-01

- No person shall be allowed to furnish info in part A w.r.t. a RP who:-
- (a) Being Comp/ person under NW-02/19, has not furnished CMPOB for 2 consecutive quarters.
- (b) Being person other than (a) has not furnished returns for a consecutive period of 2 months.
- (c) Being person other than (a) has not furnished the statement of outward supplies for any 2 months/ qtrs.

Proviso: Commission on receipt of appn from RP in EWB 05, on sufficient cause being shown, order in EWB 06, allow furnishing of info in Part A of EWB 01.

Transporter by Railway/air/vessel

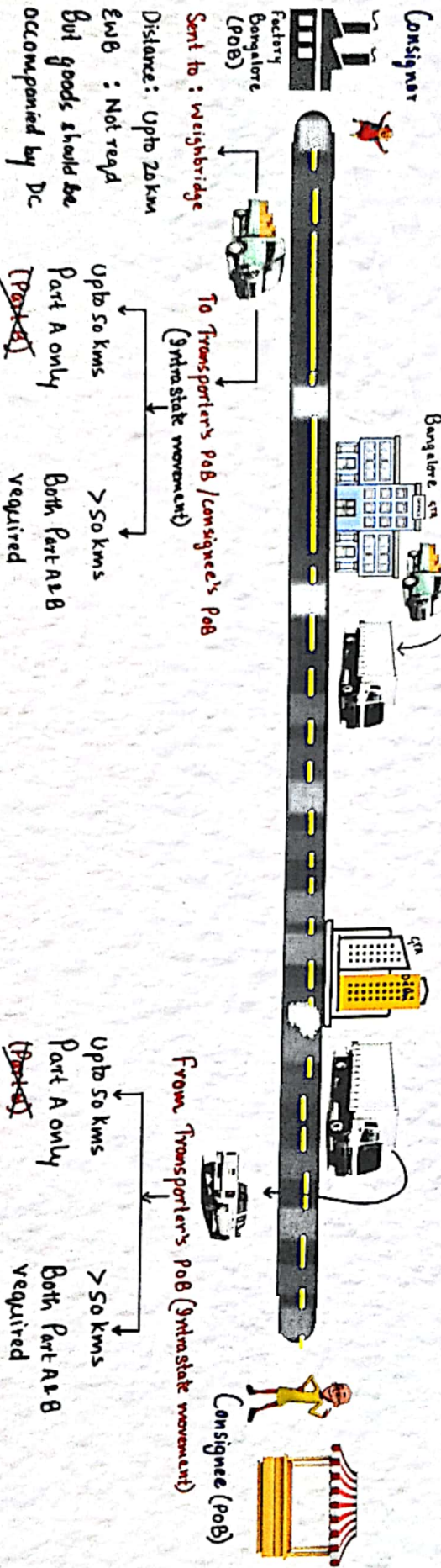


EWB: Part A : RP to update

Part B : RP to update details (RR no/ Air no/ Boat no.)  
and generate EWB (before/after movement)

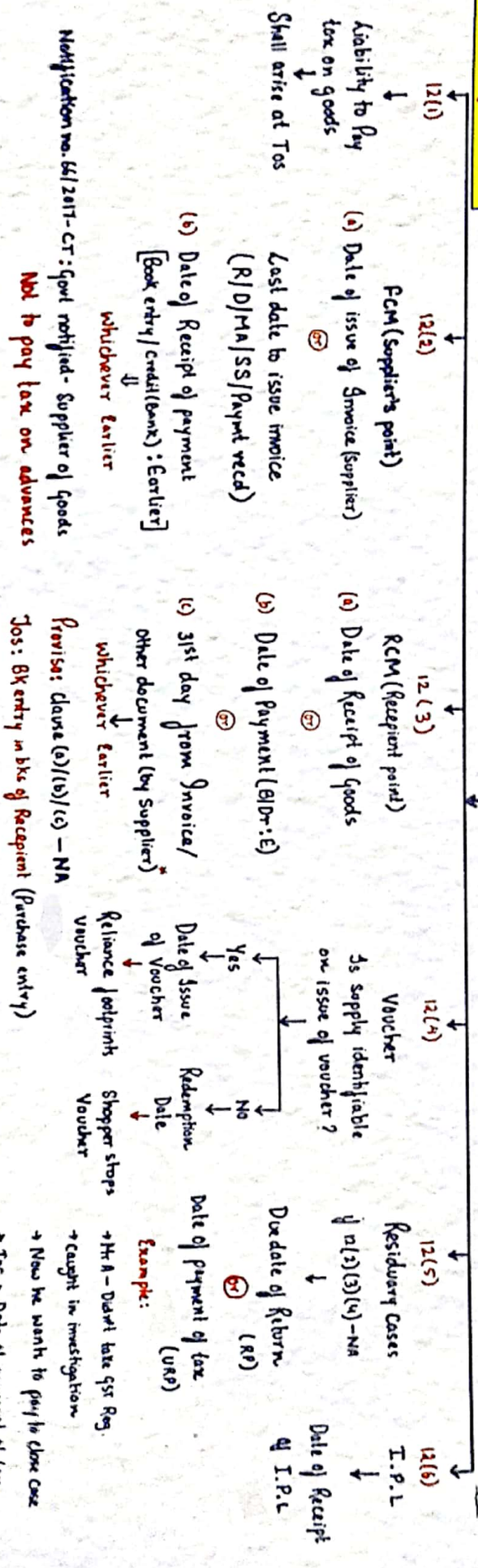
Some important points:

- Transporter may generate Consolidate EWB in GST EWB or
- EWB may be cancelled on common portal within 24 hrs of generation but before being verified in transit.
- EWB generated in one state is valid in another state
- Railway will not give delivery unless EWB produced at the time of delivery
- EWB can be generated (optional) even if cons. value < 50k

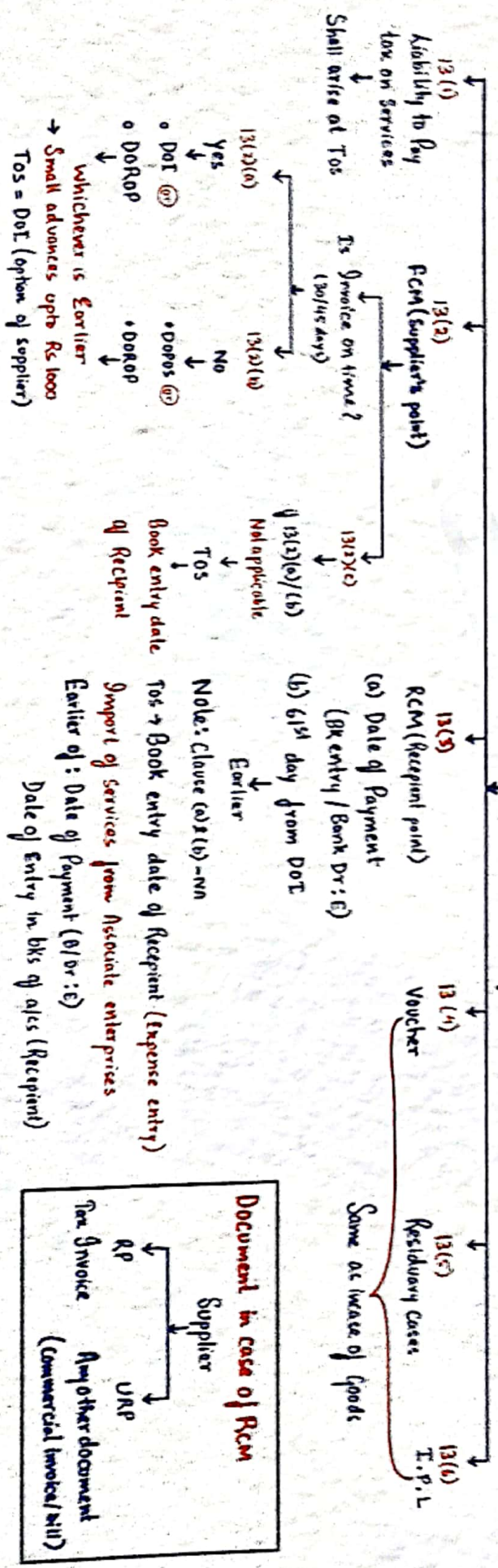


# Time of Supply

## Section-12: Time of Supply increase of goods



## Section-13: Time of Supply increase of Services



## Section 14: TOS in case of change in rate of tax

14(a): Goods/Services Supplied Before

→ Invoice before  
Payment after ]  $\frac{\text{Tos}}{\text{DOI}}$  OR  $\frac{\text{Rate}}{\text{OR}}$

→ Invoice after  
Payment before ] DOP OR

→ Invoice after  
Payment after ]  $\frac{\text{DOI}}{\text{DOP}}$  (E) NR

14(b): Goods/Services Supplied After

→ Invoice after  
Payment before ]  $\frac{\text{Tos}}{\text{DOI}}$  NR  $\frac{\text{Rate}}{\text{NR}}$

→ Invoice before  
Payment after ] DOP NR

→ Invoice before  
Payment before ]  $\frac{\text{DOI}}{\text{DOP}}$  (E) OR

Note: Sec 14B: Spl procedure applicable → Supplier of goods not to pay GST on receipt of advance.

**Notification no. 06/2019 - CTR (N) dated 29.02.19**

Special procedure for determining TOS of services by way of transfer of TDS/EST or long term lease (w.e.f. 01.04.19)

The liability to pay tax (TDS) on:

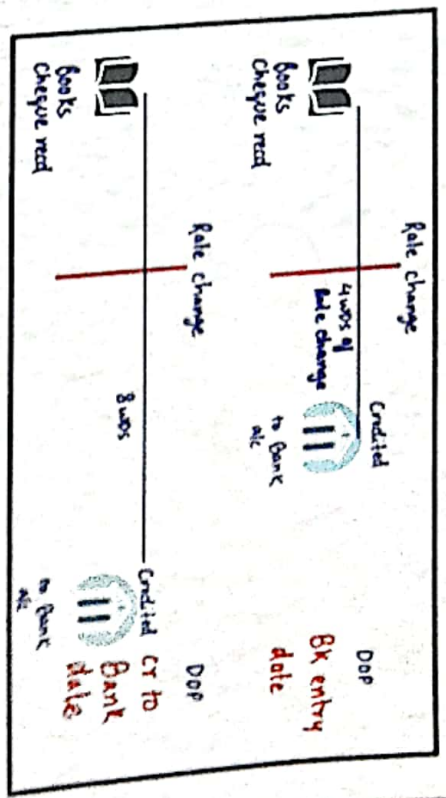
- (a) The consideration paid by promoter in form of Construction Service of Commercial/Residential apartment in the project, for supply of development rights| FSI (incl. actual FSI);
  - (b) The monetary consideration, paid by promoter, for supply of development rights| FSI (incl. actual FSI) related to construction of residential apartments in project;
  - (c) The upfront amount paid by promoter for long term lease of land related to construction of residential apartments in project; and
  - (d) The supply of Construction service by him against consideration in the form of development rights| FSI (incl. actual FSI)
- shall arise on the date of issuance of Completion Certificate/First occupation of the project, whichever is earlier.

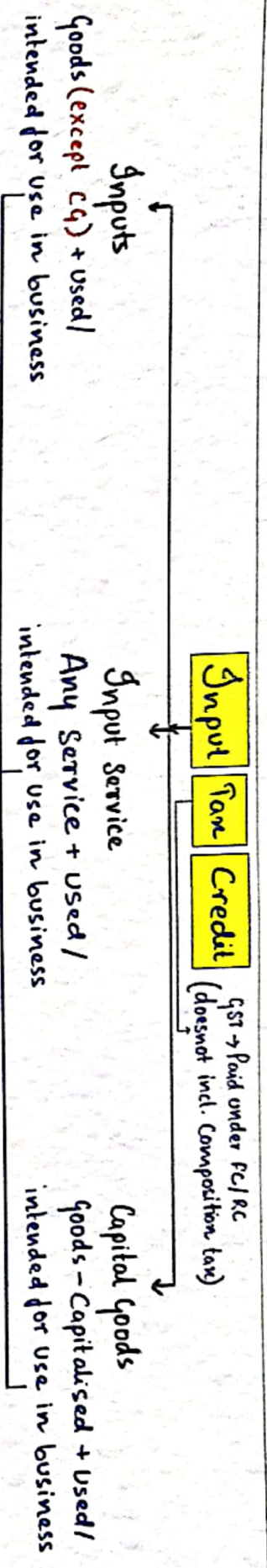
**Generally:**

Date of Receipt of Payment: BK entry | credit to bank a/c → Earlier

Proviso to Sec 14:

DOP = Date of Credit in bank a/c, if Credit after 4 wds from date of change in rate.





**Section 16: Eligibility** → and → **Conditions for taking ITC**

- Registered Person
- G/S/B → used in his business
- And amt shall be credited to E. cr. ledger
- Possession of Tax Invoice/debit note/such other tax paying docs (Prescribed)
- R-36: Supplier/sell Invoice, Dr note, BOE, BSD Invoice, BSD Cr. note

- Containing: Description, value, tax charged, GSTN of both, Pos in case of inter
- No ITC of any tax paid in pursuance of DO confirmed on a/c of fraud/willful misstatement
- STC availment: 100% of uploaded Invoice & max 10% of uploaded Invoice wri. Invoice not uploaded
- Receipt of G/S/B (deemed received: when g/s are provided by supplier to recipient on behalf of RP)
- Tax paid to Govt (Through Cash/Credit Utilization)
- Return filed by Recipient v/s 39 → GSTR-3/now GSTR-3B

Proviso: Sec 16(2):

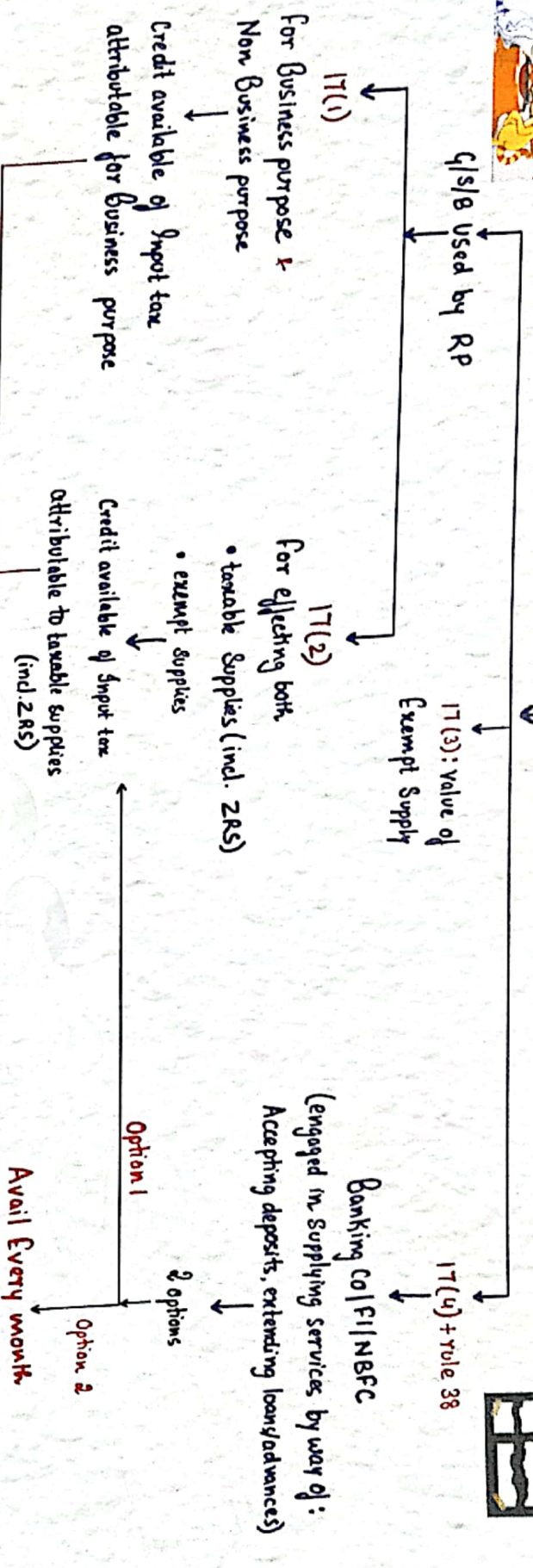
1. If goods received in lots - Then ITC on receipt of last lot  
 R-37: RP - furnish details in GSTR-2 of the month following 180 days
2. Payment to Supplier within 180 days from Invoice (value + tax both) → if not → then Pay ITC availed (added to OTL) + interest @ 18% p.a.  
 → ITC can be taken again when payment made to supplier [No Time limit to regain ITC]  
 From Date of availing credit  
 till Date when the amount added to OTL and paid  
 → No ITC reversal → (a) Supply under RCM (b) Supplies who consider (Schedule I supplies)  
 (c) On that part of vos which is met by recipient

**Sec 16(3):** RP if claimed depn on tax Component of G/S & PAM under ITC, No ITC on tax

**Sec 16(4):** Maximum time limit to claim ITC: a. DD of Monthly Return of Sep NFY (i.e. 20<sup>th</sup> Oct of NFY)  
 with any Invoice or debit note  
 b. Actual Date of furnishing Annual return (whichever EARLIER)



## Section 11: Apportionment of Credit and Blocked Credit - 17(5)



17(5): Method of apportionment to be prescribed by Govt:

Refer Rule 42: Hammer of distribution of ITC w.r.t IIS

Rule 43: Hammer of distribution of ITC w.r.t CGS

Exempt Supply: 2(41): Nil valued - Values per sec 15

Wholly exempt - Values per sec 15

Non-taxable - Values per sec 15

Addition by: 17(3) Supply under RCM - Values per sec 15

Transaction in Securities - 1% of Sale value

Supply of land & Completed Building - Stamp duty value

**EG shall exclude:** (Don't consider other sec III activities which are out of scope)

• Interest/direct income except in case of bank/FT

• Vos of services by way of transport of goods by a vessel from es(India) to o/s India.

Note: 1. Option Once exercised shall not be withdrawn for FY.

2. 50% restriction shall not apply to tax paid on Supplies to DP (under same pov)

**Rule 42**

**IT(6): Method of apportionment**

**Rule 43**

**(1) Manner of Apportionment of ITC [Inputs & Input Services]**

- (a) T = Total ITC (Inputs + IS)
- (b) T<sub>1</sub> = IT on C<sub>1</sub>s used exclusively for personal purpose
- (c) T<sub>2</sub> = IT on C<sub>1</sub>s used exclusively for exempt supplies
- (d) T<sub>3</sub> = Blocked credit = IT(S)
- (e) Common Credit + IT on T<sub>3</sub>(T<sub>4</sub>) → C<sub>1</sub> = T - (T<sub>1</sub> + T<sub>2</sub> + T<sub>3</sub>) • ITC in ECL
- (f) ITC of T<sub>3</sub>s used exclusively for affecting non-exempt supplies including T<sub>4</sub>
- (g) T<sub>1</sub>, T<sub>2</sub>, T<sub>3</sub>, T<sub>4</sub> to be declared at summary level in GSTR 3B
- (h) Common credit → C<sub>2</sub> = C<sub>1</sub> - T<sub>4</sub>

(i) • ITC (Exempt Supplies) → D<sub>1</sub> =  $C_2 \times \frac{E}{F}$  • E = Aggregate value of ES  
 • F = Total to in state during the period

(j) • ITC (C<sub>1</sub>s used for Personal purpose) → D<sub>2</sub> = 5% × C<sub>2</sub> (E&F to exclude CEO, SED, VHT & CST)  
 • T<sub>1</sub> E&F of Current tax period NA - take E&F of last tax period (previous month)

(k) Eligible Common Credit → C<sub>3</sub> = C<sub>2</sub> - (D<sub>1</sub> + D<sub>2</sub>) → Added to OTL (CC for taxable @ Bus. purpose)

(l) Amount C<sub>3</sub>, D<sub>1</sub>, D<sub>2</sub> to be computed Separately for ITC of CT/ST/IT/UT & declare in 3B DRC 03

(m) Amount = (D<sub>1</sub> + D<sub>2</sub>) shall be reversed in GSTR 3B through DRC 03.

(2) Finalization of Credit (D<sub>1</sub> + D<sub>2</sub>) > (D<sub>1</sub> + D<sub>2</sub>)

Final Provisional

Excess add to OTL (By 20th Oct of NRY)

Interest @ 18% p.a

(April of NRY → Date of Payment)

(D<sub>1</sub> + D<sub>2</sub>) < (D<sub>1</sub> + D<sub>2</sub>)

Final Provisional

Difference credited to ECL

**(1) Manner of Apportionment w.r.t C<sub>2</sub>s used Commonly**

(a) C<sub>2</sub>s used exclusively NBP/Exempt Supplies  
 = IT declare in GSTR-223B IT will not be credited to ECL

(b) C<sub>2</sub>s used exclusively for non-exempt Supplies (incl. 2B5)  
 = IT declare in GSTR 223B IT will be credited to ECL

(c) C<sub>2</sub>s used Commonly: ITC in invoice - Credit in ECL - denoted as 'A'  
 Useful life of such C<sub>2</sub>s shall extend upto 5 years from Date of Invoice.  
 Provision: C<sub>2</sub>s shifted from (a) → (c) → ITC of such C<sub>2</sub>s → Credit to ECL  
 → Shrinkable ITC w.r.t the C<sub>2</sub> attributable to period under (a)  
 shall be calculated @ 5% for every qtr/part & added to OTL, denoted 'T<sub>1</sub>'

Proviso: 'T<sub>1</sub>' shall be calculated separately for CT/ST/UT/IT & declared in 3B  
 Total Common Credit w.r.t. Common C<sub>2</sub>s whose life remains during the tax period, to be denoted as 'T<sub>2</sub>'  
 i.e. T<sub>2</sub> = 'T<sub>1</sub>'

Proviso: C<sub>2</sub>s shifted from (b) → (c) → ITC of such C<sub>2</sub>s shall be added to 'T<sub>2</sub>'  
 Common credit - attributable to a tax period, be denoted as 'T<sub>3</sub>'  
 T<sub>3</sub> =  $\frac{T_2}{60}$

Explanation: Useful life of C<sub>2</sub>s shall be 5 yrs from DOJ & formula shall be applicable during the useful life of such C<sub>2</sub>s.

(2)  $T_3 = T_2 - T_3$  (omitted)  
 Common credit attributable to exempt Supplies 'T<sub>4</sub>' =  $T_3 \times \frac{E}{F}$

(3) 'T<sub>4</sub>' along with applicable interest shall be added to OTL  
 (4) 'T<sub>4</sub>' shall be computed separately for ITC of CT/ST/IT/UT & declare in 3B

# Blocked Credit - 11(S)



(a) MVs (for transportation of persons)

Approved Seating Capacity  $\leq 13$  (including driver)

Except: when used for

Making taxable supplies

(A) Further Supply

(B) Transport of Passengers

(C) Training • Driving

(aa) Vessels & Aircraft

Except: when used for

(i) Making taxable supplies

(A) (B)

(c) on navigating vessels

(d) on flying aircraft

(ii) Transportation of goods

(ab) Services of General Insurance, Repairs & Maintenance of (a) (b)

Except:

(i) when MVA used for specified purpose

(ii) where received by TP engaged

(I) in manufacturing MVA

(II) in supplying general insurance services

(b) Following q/s/b

(ii)

• Club Membership

• health & Fitness centre

No ITC

• Club Membership

• health & Fitness centre

No ITC

• Club Membership

(i)

• Food & Beverages

• Outdoor Catering

• Beauty treatment

• Health services

• Cosmetic & Plastic Surg.

• Leasing/renting/living

(MVs, vessels or aircraft)

• Life & health Insurance

Generally

Same Category

Element of taxable c/s/m

NO ITC

Yes ITC

Yes ITC

(c) Works Contract Services (Capitalized)

For constn of IMP No ITC

constn of Imp (part) Yes ITC

Further wcs Yes ITC

(d) q/s/b received by TP-

For constn of Imp on own ac NO ITC

constn of Imp (part) Yes ITC

(e) Tax paid w/c  $\rightarrow$  no ITC to recipient

(f) q/s/b received by NRTF (exception: goods imported)

(g) q/s/b for Personal Consumption

(h) goods lost, stolen, destroyed, written/disposed off

(i) Tax paid in accordance with prov. of Sec 74, 129, 130

• Evasion • Detention • Confiscation

Explanation:

Plant & Machinery means

• Apparatus • Equipment • Machinery

Fixed to earth by foundation & structural support used for ops of q/s/b

& includes such foundation and ss

• 12B @ any Civil Structures

• Telecommunication tower

• Pipelines laid off's factory premises

But Excludes

• 12B @ any Civil Structures

• Telecommunication tower

• Pipelines laid off's factory premises

NO ITC

Yes ITC



## Section - 18: Credit in Special Circumstances

### Sec 18(1):

Person shall be entitled to take ITC of:

- Inputs held in stock
- Inputs Contained in Semi finished goods
- Inputs Contained in finished goods

held on the day immediately Preceding the

First time Regn (URP → RP)

(a) New Regn (Applied within 30 days): Date from which he becomes liable

(b) Voluntary Regn - Sec: 25(3): Date of Grant of Registration  
Already Registered

(c) Compo → Regular : Date from which he becomes liable v/s 9  
dealer taxpayer Cq ITC available \* Rule 40

(d) Exempt → Taxable : Date from which Supplies become taxable  
Supply (RP) Supply Cq ITC Available, which were exclusively \*  
for such exempt Supplies

### Note:

1. New Regn: Credit available if applied in 30 days of becoming liable
2. If a person fails to apply in 30 days, he is not eligible to take ITC

\* **Rule 40: Manner of Claiming credit in SPI circumstances**

• ITC on Cq v/s 18(c)(2)(d) = Input tax - 5% per Qtr/Part (from DoI)

• RP within 30 days (+ extension) from becoming eligible - make a declaration electronically, in form GST ITC-01 to the effect that he is eligible to avail ITC

• Declaration clearly Specify details of SMT/inputs in SFG/FGs (on day imm. preceding)

⊕ certified by PCA (Claim > 2Lacs)

18(2): No ITC of Q1S1B for Invoices older than 1 year

18(3): In case of change in Constit<sup>n</sup> of RP: ITC t/b to transferee

→ Sale, merger, demerger, amalgamation, lease, t/b of business

RP allowed to t/b: ITC which remains unutilized in E. Cr. L

→ Rule 41: File GST ITC 02 declaration - buyer will accept - ITC t/b

In case of demerger: STC apportionment in ratio of value of assets of new units

→ No time limit to file declaration, CA Certificate mandatory resp. of amount

→ Rule 41A: T/b of ITC to DP → Sep Reg in same sl/ur: ITC 02A (30 days)

18(4): Payment of ITC on switching to composition/Supplies become exempt

Rule 44: Manner of Reversal under SPI Circumstances

Reversal = Credit of Input tax w.r.t

• Inputs held in stock/contained in SFGs/FGs → ITC calculate proportionately

• Capital goods held in stock → (ITC available x Balance life in months/60 months)

• Amount of Reversal - to be calculated separately for CT/ST/UT

• IJ Tax invoices of Inputs unavailable - estimate based on mkt price (evid)

• Amount determined above to be added to OTL + RP to file Form GSTR ITC 03

• If PMV of goods is used - It shall be certified by PCA/CA

18(5): Amount v/s 18(2)(d) shall be calculated in manner prescribed (Rule 40 & 44)

18(6): **Success of Supply of Cqsl Part (on which ITC taken)**

RP shall pay = • Reduced ITC (ITC taken - 5% per Qtr/Part) ⊕

(Higher of) • Tax on TV v/s 15

Proviso: where Refractory bricks/moulds & dies/sigs & fixtures (supplied as Scrap)

→ TP may pay tax on TV of such goods (v/s 15)

1) Imported gds sent directly to Jm

**JOB WORK**

Inputs/cgs send directly to Jm  
 BOE → Copy of Invoice + Jm name and address as consignee  
 ⊕ → DC (RP to make DC & send to Jobworker directly)

(Jm cheques) (Gst rec-ov)  
 Job 45 Quarterly  
 (DC + Information + EWB)  
 Send 2 copies  
 Sec 143: Send inputs/cgs (w/o payment of tax)

ITC: If Jobworker is registered: he shall be eligible for ITC of inputs used by him in supplying Jobwork Services.

Export within 1yr  
 Supply of Principal  
 Ltr/Band executed by Principal

**Direct Supply**

• Principal to make invoice  
 • Always include in Ato of Principal

• If Jm Registered - Possible  
 • If Jm URP - Principal to declare Jm Premises as APOB  
 • Except: If goods are notified by Commissioner

Tos, Vos & Pos to be determined in hands of principal  
 If Jm is in different state Declaring APOB not possible, hence either Jm should take registration/bring back goods & then supply

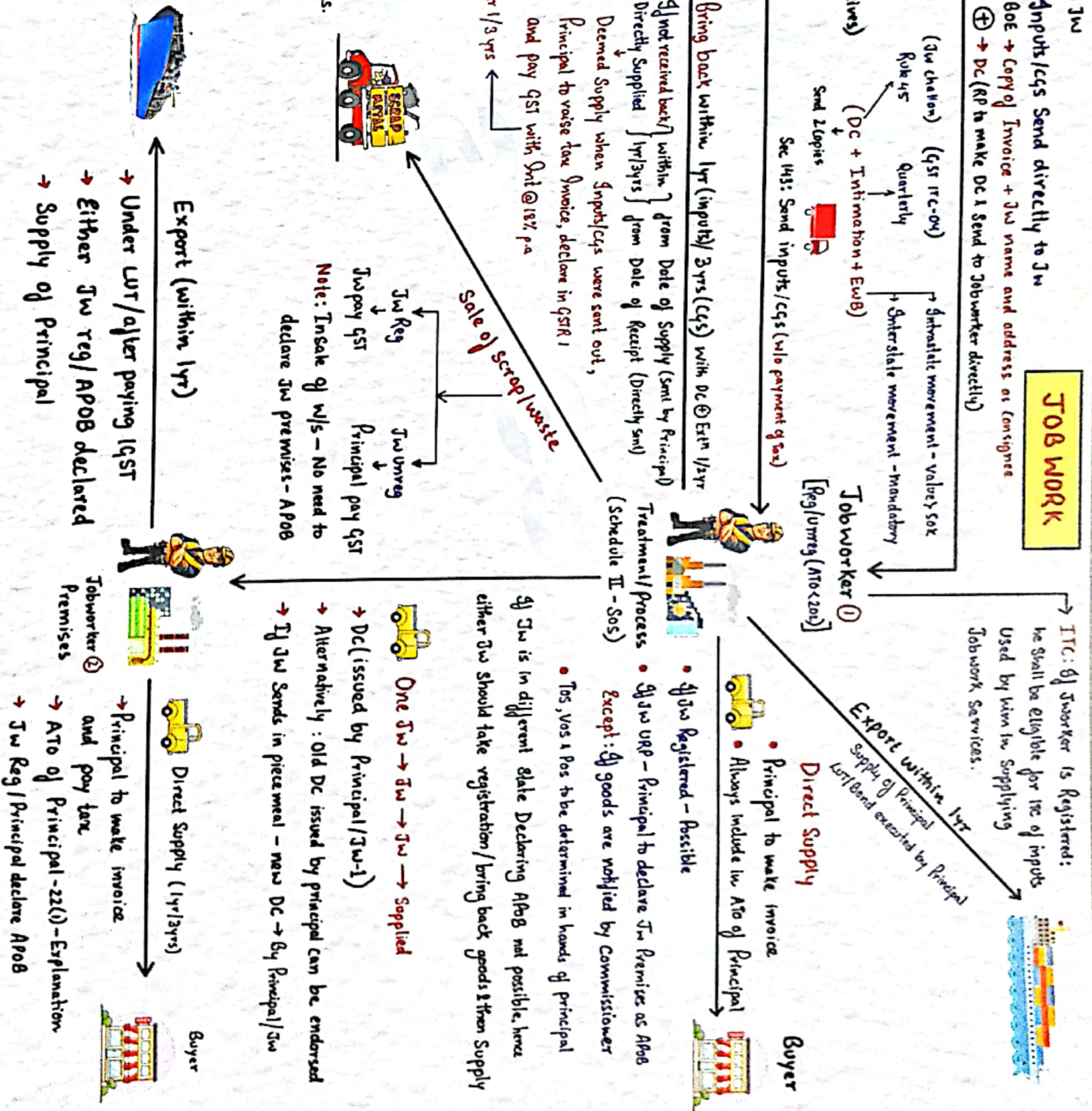
One Jm → Jm → Jm → Supplied  
 → DC (issued by Principal/Jm-1)  
 → Alternatively: Old DC issued by principal can be endorsed  
 → If Jm Sends in piecemeal - new DC → By Principal/Jm

Jobworker ②  
 → Principal to make invoice and pay tax  
 → ATO of Principal-22(i) - Explanation  
 → Jm Reg/Principal declare APOB

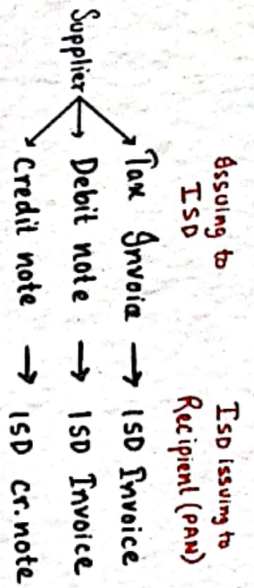
- Goods returned later by Jm (Reg) i.e. after 1/3 yrs and pay GST with Int @ 18% p.a
- Exception: Moulds, dies, jigs, fixtures, tools
- Created as supply of goods to principal
- Jobworker to raise tax Invoice,
- declare in GSTR1 and pay GST
- If Jm unregistered: No GST implications.

**Quarterly Return for goods sent to Jm**

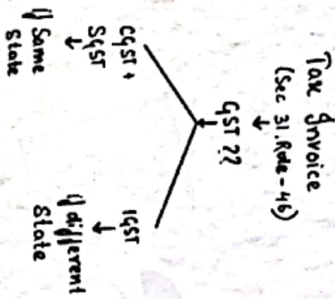
- Details of Challans of goods sent/need
- in form GST ITC on quarterly
- on or before 25th of month succeeding the quarter.



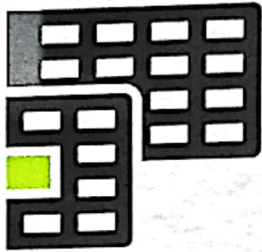
# Input service distributor



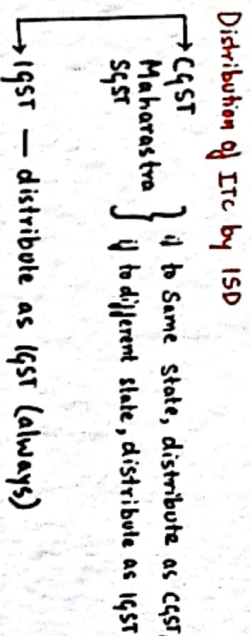
**Adv. Company**  
File GSTR 1, 2, 3



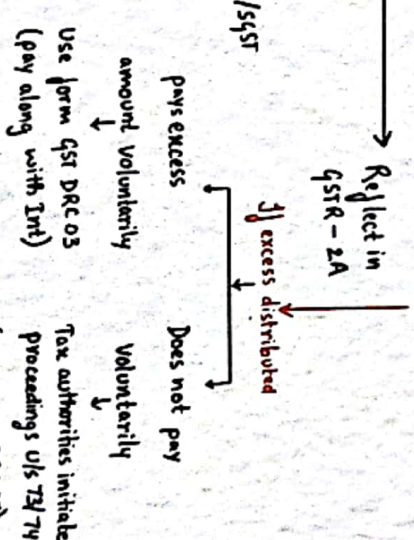
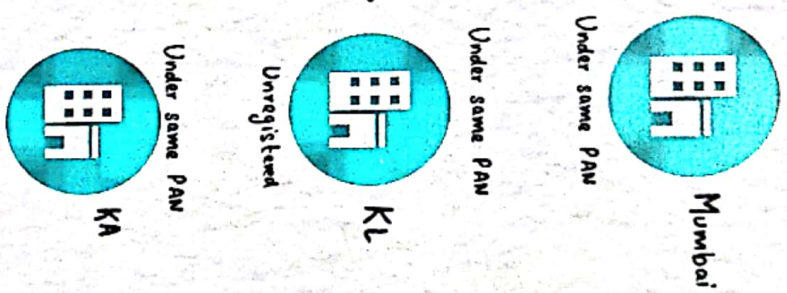
Reliance  
Head office - Mumbai  
(ISD Registration) - CR - Sec 24



ISD Invoice (Sec 20 + Rate-5%)  
File GSTR-6, Monthly by 13th



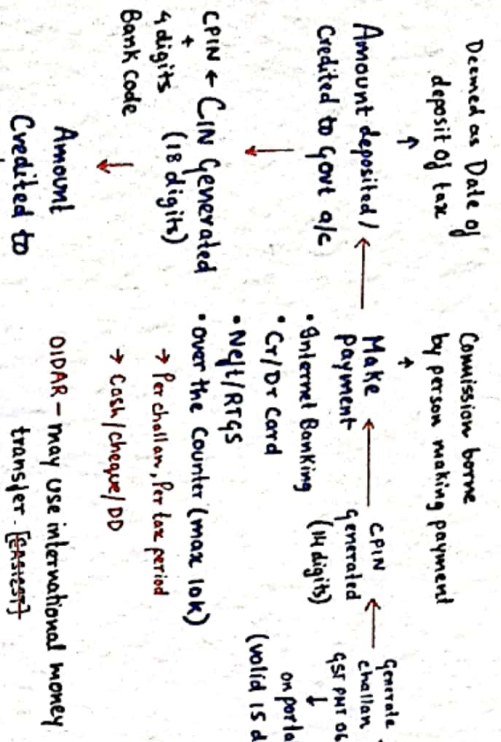
Distribution To based on PY/Quarter  
(To exclude CED/SED/VAT/CST)



**Note: general penalty to ISD**

**Note: ISD is only for distribution of credit relating to services**

**Payment of tax**



(Sec 49)

Major head: IGST, CGST, SGST, UTGST, CESS  
 Minor head: Every major has 5 sub-heads: Tax, Interest, Penalty, Fees, Officers.  
 Restriction of Rs 10,000 over the Counter, not applicable in following cases:  
 • Govt depts/any other deposit by persons notified by Commissioner  
 • Pol/other officer authorised to recover outstanding dues from any person, including recovery made through attachment/sale of movable/immoveable property.  
 • Pol/other officer authorised for the amt collected during investigation/enforcement activity/any ad hoc deposit.  
 EPPB - Electronic point branch.  
 Branches of authorized banks, authorized to collect GST, each authorized bank to nominate 1 branch as EPPB for Pan India.

**Rule 81: E Cash Ledger (GST PMT 05)**

- Credited to Cash Ledger
- Every deposit made towards tax, interest, penalty/fees or other amount.
- Debited to cash ledger
- Amount may be used for: Making payment towards tax, int, penalty, fees or any other amount payable.
- URP: Have payment → on the basis of temporary identification no.
- RP way transfer tax, interest, penalty, fees, any other amount from E. cash ledger (CGST) to E. cash ledger for IT/CR/ST/UT/CESS in Form GST PMT 09.
- Such transfer from E. cash shall be deemed to be a refund & such transfer to E. cash shall be deemed to be deposit.
- Balance after payment - Refunded (Sec-54)

**Sec 50: Interest on delayed payment of tax**

Every person who fails to pay tax due, shall pay with int. @ 18%  
 Provision: Interest shall be levied on tax paid by debiting E. cash ledger  
 Interest shall be calculated from the day succeeding the due date.  
 Under/excess claim of IT/under/excess reduction in CRT - interest @ 24%.

**Rule 86: E Credit Ledger (GST PMT 02)**

- Credited to Credit Ledger
- STC self assessed in the return (Sec 41: Provisional ITC)
- Debited to credit ledger
- Amnt may be used for making payment towards output tax
- Manner of Utilization
- IGST → IGST then CG/SG/UTGST (in any order & Pmp)
- CGST → CGST then IGST
- SG/UTGST → SG/UTGST then IGST
- CGST → SG/UTGST
- On submission of refund claim, amount shall be debited if claim rejected, amount shall be re-credited (Order PMT 03)
- Balance after payment - Refunded (Sec 54)

**Rule 86A: Commissioner/officer authorised has reason to believe that**

ITC available in e-credit ledger has been availed fraudulently/it is ineligible, he may not allow debit of an amt credit in e-credit ledger for discharge of liability u/s 49 / for claim of any refund of any unutilised amount.  
 Commissioner/officer authorised if satisfied, condition for disallowing no longer exist, may allow such debit. Restriction maximum 1yr from date of imposition

**Rule 85: E Liability Ledger (GST PMT-01)**

- All liabilities recorded in this ledger (ie all amt payable debited to this ledger)
- as per return, furnished by TP (self assessed)
- as determined by Po in proceedings (DO)
- Tax & interest as a result of mismatch (u/s 49/50)
- Interest that may accrue time to time
- Payment of liability: Dr E. cash, E. credit Cr. E. liability ledger
- TDG, TCS, Tax under RCM & u/s 10, int, penalty, fees, any other amount → shall be by debiting E. cash & E. liability shall be credited.
- Manner of discharge
- (a) Self assessed tax & dues related to returns: of Previous tax period
- (b) of Current tax period including demand u/s 73/74.
- (c) Any other amt payable under this act/rules including liability granted against demand by AN/IT court, the liability ledger shall be credited accordingly.
- RP upon noticing discrepancy in any ledger communicate to Po in GST PMT-04

Person liable to deduct TDS

- (a) Deptt est of Cg/Sc or
- (b) Local authority
- (c) Governmental agencies
- (d) Persons/Cat. of Persons

Notified Govt - RC

Notification No + ST/2018

a. An authority/ Board/ any other body

(i) Set up under act of Parliament/State legislature or

(ii) Est by govt:

Equity/Control > 51% (is with the govt)

b. Society established by Cg/Sc/LA

→ Under Societies registration act

c. PSUs

Note: No TDS if Supply b/w (a)(b)(c)(d)

Ministry of defence - not to deduct TDS

Local Authority: Panchayat, Municipality,

Municipal Committee, Zila Parishad, etc

No TDS in the following Cases

1. Supplier & Pos in different State from Recipient
2. Transaction out of scope of supply.

Eg: Sale of land & Building

3. Transaction → Nil rated/w/e/ARTS Supply

4. Transaction on which tax under RCM - 9(3)(iv)

5. Payment made to Unregistered Supplier

6. No TDS - when payment relates to TI before 1.10.18

7. No TDS on advance before 1.10.18, but invoice on/after 1.10.18, to the extent of such advance

paid to the extent of advance before 1.10.18

6000 → Refund can be claimed

Created in e-cash after validation

**TDS - Section 51 [Effective - 01.10.2018]**

(Excl. tax)

Supply (> 2.5L)

Taxable q/s

Supplier q/s

[Deductee]

Tax Invoice	
Value	300000
Cgst 9%	27000
Sgst 9%	27000
	354000

3L + 18% GST



Recipient } Compulsory Regr TAN/PAN Based of q/s → Separate Regr to be taken

[Deductor]

↓ TDS on - (value - GST)

Deduct TDS on 3L @ 1% Cg + 1% Sgst

i.e. 6000 @ 2% GST

Pay the rest

Value of q/s 294000

54000 - 348000 → No TDS on GST

\* Pay to govt via challan

\* File TDS Return - GSTR-7 → by 10th of NM

\* Issue TDS Certificate + in GSTR-7A within 5 days of Crediting/depositing TDS to govt

\* Late Submission/failure to issue TDS Certificate date/ees → Rs 100 p/day / max 5K

(Similar amount payable under 84G/84G(1)(a))

\* Failure to deduct/pay : Recovery u/s 73 & 74

↳ Fee, Interest, Penalty (on TDS amount - higher)

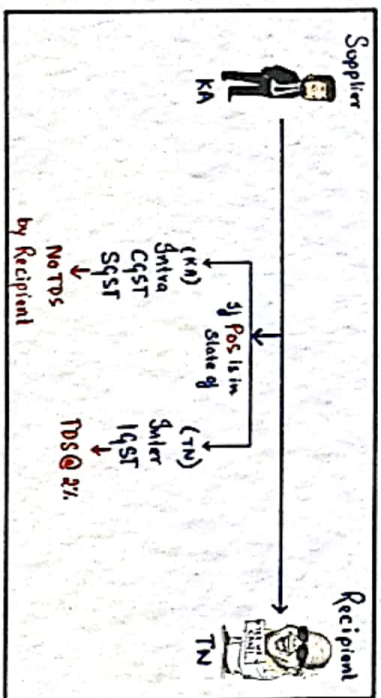
\* Deduction : Payment or Credit : Earlier

(TDS on advances also whether supply of q/s)

made available to deductee

Transfer + 348000

Note: Success of Supply Under contract, check for total Contract value, If value > 2.5L, then TDS, now single invoice value shall not matter



### Rectification of errors/mistakes

Rectify in statement to be furnished for the month in which error/omission noticed. Subject to interest @ 18%.

Maximum time limit to rectify

• DD for NR of Sup 15/7 or

• AD of furnishing AR (letter)

Note: Non-collection =

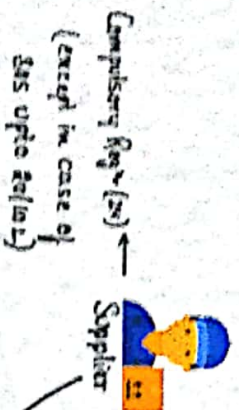
Omission & attracts

penalty up to 25%.

Amount available to Supplier

Created to & cash

after validation



### Sec 52: TCS (Effective - 01.10.18)

File GSTR Monthly (10th)

Pay TCS

Take Regn as TCS collector → Pan is mandatory

→ No TCS if amount received directly by Supplier



Supply of 10 qts (Goods)

4. After 15 days (Return period) Deduct = 50000 x 1% = 500 Pay remaining = (50000 - 500)

Invoice	
Sale Price	50000
GST (ex)	5000
	55000

(TCS on only value of TS)

TCS  
 If Intrastate 1% 1qst  
 0.5% 0qst  
 0.5% 5qst

1. Place order + payment



**Eco Registration reqd:**  
 In each State/ur as obligation for collecting would be there for every inter/Intra State Supply

Notice by GST authority & Deputy Com. Regarding Eco to furnish details of:  
 (a) Suppliers of c/ile affected through it  
 (b) Details of stock maintained by Eco  
 Eco to furnish information in 15 days/finality upto 25th

After Supplier may also maintain book in Eco's name, in that case he should declare such with as AFOB

### No TCS in following Cases:

1. Transaction out of Scope of Supply.  
 Eg: Sale of land & Building - 99 across-atom
2. Transaction on which the order RCM - 9(3)(iv)
3. Transaction → Not retail/wh/whs Supply
4. Supplier Unregistered Person - 23(5)  
 - Services through Eco upto 20/12/18
5. No TCS on Services covered U/s 9(5)

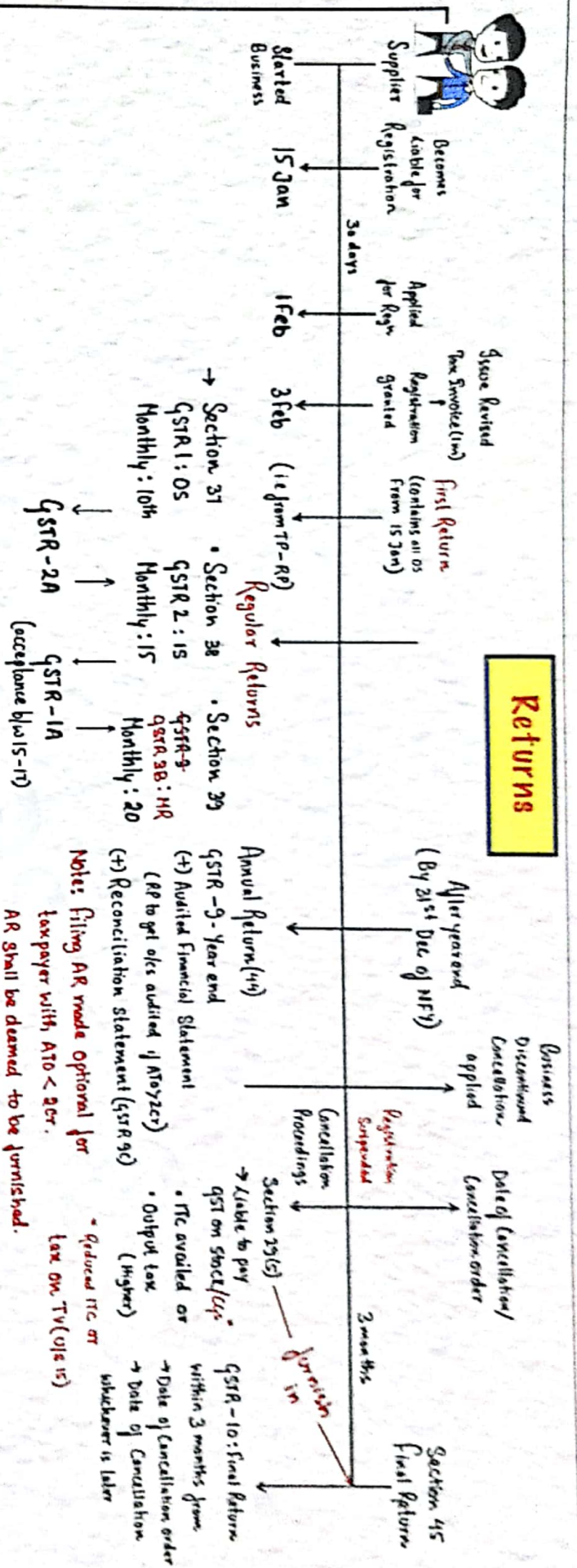
Annual Return: GSTR-9B - 31st December  
 Matching & Mismatch: Supplier's GSTR-1 to be matched with Eco's GSTR 8.

- Any discrepancy shall be communicated to both parties → to be rectified by Supplier/operator in the same month of communication.
- Otherwise added to OR in succeeding month (Pay tax @ Interest @ 18% - DD to date of pymt)

### Difference b/w TCS & TDS

Recipient used to deduct and pay to govt	Eco to deduct and pay to govt
TDS obligation on only notified recipient	TCS is on Eco who receives payment
TDS is only when value Under Contract > 2.5L	Here whenever Eco is collecting the Consideration & paying - TCS is applicable (no value)
Return - GSTR-1	Return - GSTR8

# Returns



**RP** → Composition dealer or Person under 2/2019 CTR → Furnish statement **GST CMP 08** (Quarterly payment) till 18<sup>th</sup> of the month succeeding Qtr.

**GSTR 4**: File annually by 30<sup>th</sup> April following the end of FY, Annual Return: **GSTR - 9A**

**NRTTP** → **GSTR - 5**, within 20 days after end of month or within 7 days after last day of validity → whichever earlier

**OIDAR** → **GSTR - 5A**, by 20<sup>th</sup> day of month succeeding calendar month.

**SSD** → **GSTR - 6**, after 10<sup>th</sup> of the succeeding month & before 13<sup>th</sup>

**UIN holders** → **GSTR - 11** - Statement of Inward Supplies received by them.

**Section - 41: Non submission of Return** → Sec 41: Late Submission (CGST act only)

1. Notice u/s **GSTR 3A** to furnish in 5 days

2. If not filed - It may do Best Judgement

3. Penalty Rs 10000 (Section 122)

**Annual Return (AR)** → Sec 47: Annual Return - 100 PD / Max 5K

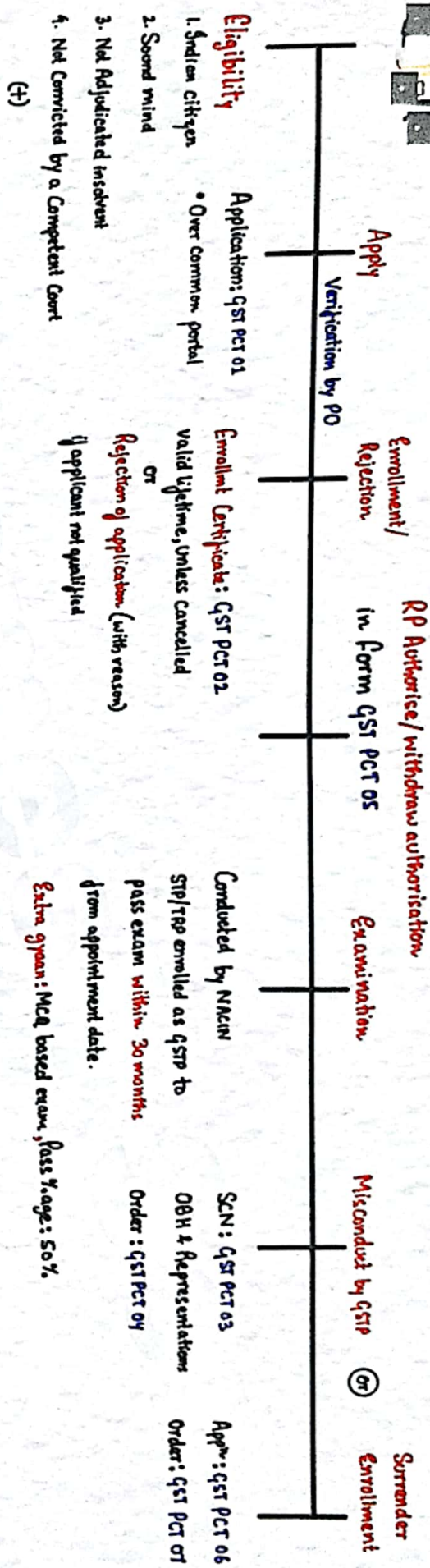
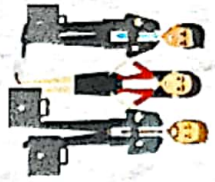
**Waiver of LC**: Nil Return - 10 PD / Max 5K

**Others** - 25 PD

**Business Disclosed Cancellation applied** → **GSTR - 3B** - Simple return containing Summary of O/S, BSCRM, eligible ITC, payment of tax etc - to be filed by 20<sup>th</sup> of next month

**Date of Cancellation/ Cancellation order** → **GSTR - 1** → Can be filed quarterly by TP having TO upto 15<sup>th</sup> of FY/CFY within 10<sup>th</sup> day from end of relevant quarter.

# GST Practitioner



### Functions of GSTP

1. Furnish details of outward & inward supplies
2. Furnish monthly, quarterly, annual or final returns
3. Make deposit for credit into the e. Cash ledger
4. File a refund claim
5. File an application for amendment/cancellation of Registration
6. Furnish information for generation of e-way bill
7. Furnish details of challan in GST ITC 04 (Jobwork details)
8. File an application for amendment/cancellation of enrollment under rule 58
9. File an intimation to pay tax Under Composition/withdrawal from scheme

**Note:** Benefit of enrollment: GSTP's name would be made available On. gst portal, so that tax payers can choose.



**Concerned officer**



Forward copy of app<sup>n</sup> ⊕  
Call to furnish relevant records

T/above  
Members Appointed by Cg/Isq

**Advance Ruling**  
(Decision by AAR/AAR)

**Section 91(2): Question**

- Classification of qts - C
- Applicability of notifications - A
- Registration required? - R ??
- determination of Liability - L
- Admissibility of ITC - I
- Whether thing result in Supply - S
- Determination of Tos & vos - T RP/URP destroys



GST ARA-01 Rs 5000  
Signed Appn + Fees  
[Common Portal]



AAAR (St/Ur)  
Examining Application & Records  
Opn of being heard  
[Applicant/AR ⊕ Concerned officer/AR]

2 Options

Note: Question relating to Pos cannot be raised with the AAR

Direct Appeal to AAAR - Not possible

Copy to

- Applicant
- Concerned officer
- Jurisdictional officer
- AAAR

Pass order (within 90 days of Reference/ Application)  
Confirming/Modifying the ruling  
OBH (to both Parties)



AAAR (St/Ur)  
(Gst-ARA-02) (10000)  
Application + Fees  
Within 30 days + Extension 30 days  
Application + Fees  
(Gst ARA-05)

(State parties of differences)  
Reference to AAAR  
Yes  
No  
Pro nounce AR (within 90 days of Appn)  
copy of AR

- Applicant
- Concerned officer



Application Admitted  
Examine further material  
(Placed by applicant/obtained by authority)

- Applicant/AR ⊕ Con. officer/AR
- difference in opinion between members of Authority

Application Rejected

Question raised in application is already pending or decided in any Proceedings [in the case of an Applicant]

Pass order Rejecting application (with reason)  
Copy to Applicant • Concerned officer

- (102) Rectification of AR → If error apparent on face of Records, within 6m from date of order
- OBH - If rectification resulting in increase in tax liability / reducing ITC
- (103) AR binding on → Applicant & his Concerned/Jurisdictional officer  
→ Unless change in law/Facts/Circumstances (Supporting original AR)
- (104) AR Void-ab initio → if obtained by fraud/Suppression/misrepresentation.
- (105) Powers of AAR & AAAR: (a) Discovery & inspection (b) Enforcing attendance of any Person & examining him on oath, (c) Issuing commissions & Compelling production of books & other records, have all power of a civil court under the of civil procedure.

# Assessment: Determination of Tax liability



Notification: The Summary of Assessment orders U/s 62, 63, 64 is required to be uploaded electronically.



(59)

(60)

(61)

Best Judgement Assessment

(64)

Summary Assessment  
Po may

Self assessment  
Every RP shall

Self assess  
Tax payable

\* Provisional Assessment  
TP - Unable to determine VOS / ROT

Scrutiny of Returns  
Return furnish by RP

Po may Scrutinize to verify correctness

Discrepancy found, Po shall issue notice (ASMT 10)

Request Po (gst ASMT 10)  
for Provisional Payment of Tax

RP (within 30 days)  
Accepts

Discrepancy Explanation (ASMT 11)  
Pay tax, int, other amount & inform Po

Found Acceptable  
RP shall be informed in ASMT 12 & No further action.

Not Satisfactory or late fees shall Continue.  
after accepting discrepancies, Po to take corrective measure

Even after Notice U/s 14 (to furnish Return in 15 days)  
Po shall go for Best Judgement (A. Order within 5 yrs (AR))

Deemed Withdrawal if RP furnished a valid Return within 30 days of Service of No.

But liability for interest & late fees shall Continue.

Po to proceed to assess the tax liability of such TP to the best of his judgement (after giving 60D)

Po to issue notice to TP (ASMT 14) stating grounds for assessment & allowing 15 days to reply

To protect intent of Revenue & issue assessment Order (ASMT 16), if he has sufficient ground to believe that any delay in doing so may adversely affect the interest of revenue

withdrawal of AO  
On application by TP within 30 days of receipt of order

On own Motion if Ac/jc considers Order Erroneous

Final ASMT > Prov. Assmt

yes  
Pay tax, with  
Snt U/s 50 @ 18% p.a.  
From day after DD till actual payment

no  
Request with  
Snt @ 6% p.a. Section 56

Note: Po: ASMT 14  
Fo: ASMT 17

Final ASMT > Prov. Assmt

Final Assessment Order (ASMT 17) in 6m. Further Extension 6 months by AC/jc, Commission for further period upto 4 yrs

On execution of bond in ASMT 15 with Security in form of bank guarantee. (Security upto 85% of amount of bond)

Benefit: No penalties if any Short payment

(62)  
Non Filers of Returns (SCN not mandatory)  
RP fails to furnish Return U/s 39 or 45

Even after Notice U/s 14 (to furnish Return in 15 days)

Po shall go for Best Judgement (A. Order within 5 yrs (AR))

Deemed Withdrawal if RP furnished a valid Return within 30 days of Service of No.

But liability for interest & late fees shall Continue.

Po to proceed to assess the tax liability of such TP to the best of his judgement (after giving 60D)

Po to issue notice to TP (ASMT 14) stating grounds for assessment & allowing 15 days to reply

To protect intent of Revenue & issue assessment Order (ASMT 16), if he has sufficient ground to believe that any delay in doing so may adversely affect the interest of revenue

withdrawal of AO  
On application by TP within 30 days of receipt of order

On own Motion if Ac/jc considers Order Erroneous

Final ASMT > Prov. Assmt

yes  
Pay tax, with  
Snt U/s 50 @ 18% p.a.  
From day after DD till actual payment

no  
Request with  
Snt @ 6% p.a. Section 56

Note: Po: ASMT 14  
Fo: ASMT 17

Final ASMT > Prov. Assmt

Final Assessment Order (ASMT 17) in 6m. Further Extension 6 months by AC/jc, Commission for further period upto 4 yrs

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29(3): Continuation Act/rules,  
No Return - Compo - 3 tax period  
No Return - Normal Person - 6m  
Voluntary Regn - No business-6m  
Regn Obtained by year, will not  
misstatement

Transporter/ owner of a  
Warehouse - Person in charge  
- in a case where TP  
cannot be ascertained.

# Audit

## Section 65: Audit by Tax Authorities

Commencement of Audit (later of)

Prior notice (GST-ADT-01)

- When books made available or
- Actual institution of audit at pos



Commissioner/  
Person Authorized  
(By gen/Specific order)

At pos of RP/  
At their office

15 wds

3 months

may extend upto 6 months

within 30 days

Commissioner if Satisfied Concluded

Audit

Audit → if not → Extension  
Completion After recording  
reasons in writing

- Rights of officer during audit: RP to provide
- Necessary facility to verify bks and docs.
  - Information + Assistance for timely Completion

→ Inform RP about the findings (ADT-02)

- his rights & obligation
- Reason for findings

↓  
if tax not paid/short paid/erroneously refunded  
etc wrongly availed/utilised  
Po may initiate action u/s 73/74.

May Undertake Audit of RP  
(Period 1yr/for a part of a yr/multiple yrs)

## Section 66: Special Audit



During Scrutiny Inquiry Investigation/ other Proceedings

Officer & AC  
Js of the opinion that

- Value declared → Not Correct
- Credit availed → Not within Normal Limits

he may after permission of Commissioner  
Direct RP in writing - get his records incl. books  
(GST ADT-03)  
examine by CA/CMA nominated  
by the commissioner



Audit Concluded → CA/CMA shall submit report (duly signed & certified) to Ac.  
Now Audit findings → OBH → if tax not paid, short paid, → Po may initiate  
to be Communicated to RP erroneously refunded, ITC action u/s  
to RP in GST-ADT 04 wrongly availed/utilised 73/74

Note: CA/CA nominated by Commissioner, paid by dept.

# Inspection, Search, Seizure & Arrest



## Inspection - 67C(1)

PO > JC - R2B

→ Forable person has suppressed

• transaction/stock claims excess ITC

Contravens Provisions of activities to evade tax

→ Transporter/owner/operator of warehouse/a godown/any other place is

→ Keeping tax unpaid goods

→ kept wrong a/c to evade tax

PO may authorise inspection (GST INS 01)

## Search and Seizure - 67C(2)

Pursuant to inspection/otherwise - PO has r2b

→ Goods - A/c for Conspicitation

→ Doc/Books/Things - Seized at any place (relevant for proceeding)

PO/authorized officer shall make order of seizure in GST INS 02.

Proviso: If not practicable to seize goods Order not to remove/deal with goods. GST INS 03 (except with permission)

→ 2 records (Hard disk)/device  
→ Written/printed docs

## Inspection of Goods in transit (68)

→ Inspection of Conveyance carrying vsg > Rs 50000

→ PIC shall produce (Documents & Devices)

Any mismatch → All docs/bond in Order

Detention & Seizure (129) → No issues  
Conspicitation of 615 (130)

## 69: Power to Arrest (when trial is on)

Commissioner - R2B

Person has committed offences

1. Supply w/o Invoice
2. Bogus Invoice
3. ITC availed using such Invoice
4. Tax collected not deposited > 3m

Amount involved > 2cr.

Repeated offence - any amount

Cognizable & → Produce before Non-Bailable magistrate (within 24 hours)

Non Cognizable → AC/DC to decide & Bailable bail

(Refer Section 132(c) & (5))

## 67C(3): DBT return after examination/enquiry

If DBT → relied upon - use for issue of notice

→ not relied upon - Return within 30 days

67C(4): PO has power to seal/break open door/

aluminium, electronic devices, box, receptacle

in which gds, a/c's, docs are suspected to be concealed & access denied.

## 67C(5): Provisional Release of Seized goods

2 options - 1. Bond → GST INS 04

+ Security → Bank Guarantee

2. Pay tax & go for appeal

67C(7): Conspicitation Proceeding - Start in 6m (+ 6m)

Section 130 (by SCN) (of date of seizure)

Otherwise return goods

## 67C(8): Perishable/Hazardous goods

Be released if the TP Pays: lower of

- Market Price of goods/things
- The tax, interest & penalty payable

But if TP fails to pay the Commissioner

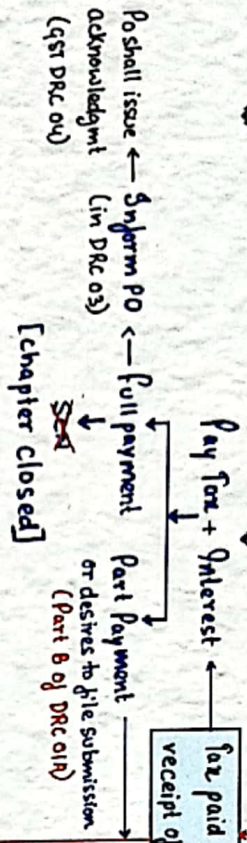
PO may dispose goods/things & the amt realised shall be adjusted towards tax, interest, penalty or any other amount.

# Demand & Recovery

Where it appears to PO that  
Tax not paid / Short paid /  
Erroneously refunded /  
ITC wrongly availed/utilised  
↓  
2 Situation

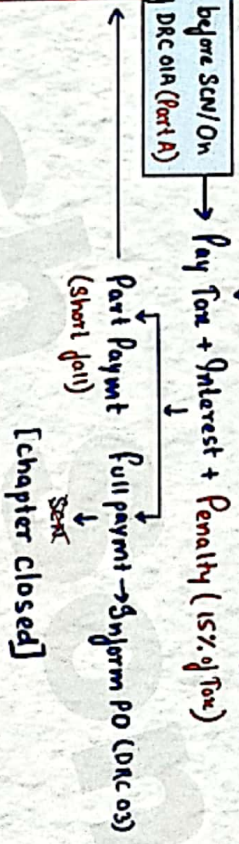
(bonafide mistake) Normal Cases

Section-73



Fraud Cases (Deliberate)

Section-74



Tax amount + Interest @ 18% p.a. @ state grounds → SCN-GST DRC 01 → Asking - why specified amt should not be demanded

[proceedings concluded] ~~Do~~ No Penalty → Pays amt + Interest → Furnish Representation to PO → [proceedings concluded]

Pay Tax + Interest + Penalty (10% of Tax/10k-H) → [proceedings concluded]

Time Limit to pass order  
 [Within 3 yrs effective 8 yr] 5 yrs  
 [4, 6 yrs] Or else proceedings deemed Concluded.

from DD of AR for related FY / Date of Erroneous refund

File Appeal → Assessee → 3 months → Department → after 3m of DO → Recovery

## Demand & Recovery Other miscellaneous sections

**Sec 75: Gen. provision relating to determination of tax**

- (1) Period of stay shall be excluded while computing time limit for SCN/order.
- (2) If notice issued u/s 74(1) not sustainable, PO shall determine tax payable deeming notice issued u/s 73(1).
- (3) Do issued as per direction of Court/AT, shall be issued within 2 yrs from the date of communication of such directions.
- (4) OBH in case of tax/penalty or adverse decision is contemplated against such person.
- (5) PO shall if sufficient cause is shown grant adjournment. Maximum 3 adjournments to ~~extend~~ penalty.
- (6) Do shall set out facts & basis of decision (speaking order).
- (7) Tax, interest, penalty in Do not to exceed the amt in notice and Do to be in conformity with grounds in SCN.
- (8) Where AA/AT/court modifies tax, interest & penalty shall stand modified accordingly.
- (9) Interest payable even if not specified in demand order.
- (10) Proceeding deemed concluded if no DO in 3/5 yrs.

**76: Tax collected but not paid to govt**

Amount collected representing as tax  
 ↓  
 If not paid - PO may serve SCN (DRC-01)  
 ↓  
 representation by person, if any  
 ↓  
 Determine  
 tax + penalty ⊕ Int from collection - payment  
 ↓  
 OBH (if requested)  
 ↓  
 Pass DO within 1yr from SCN

- Note:**
1. Exclude period of stay
  2. Order should be speaking order

**Section 77: Tax wrongfully collected & paid to CG/SQ**

- (1) CGST & SGST paid instead of IGST by treating Interstate supply as intrastate, shall be refunded the amt paid (Rule 89)
- (2) IGST paid instead of CGST & SGST by treating intrastate supply as Interstate, shall not be required to pay any interest on the amount of CGST & SGST.

### Circular: Monetary limit for issuance of SCN

	Monetary Limit Under		
CGSI officer	CGSI	IGSI	CGSI + IGSI
Superintendent	≤ 10L	≤ 20L	≤ 20L
Deputy/Assistant	> 10 ≤ 1cr	> 20L ≤ 2cr	> 20L ≤ 2cr
Additional/JC	> 1cr	> 2cr	> 2cr



# Recovery



## Section 78

Initiation of Recovery Proceedings  
 Amount payable in Do  
 Shall be paid in 3 months  
 Otherwise  
 Recovery proceedings  
 Po considers expedient -  
 he may require TP to  
 make payment  
 within < 3ms  
 (Period Specified by Po)

## Section 79

Recovery of Tax (Modes) → MR<sup>2</sup> TDS  
 a. Refund/other amt payable to such person  
 (Formy deduct/ask Specified officer to deduct)  
 b. Detention & selling goods (himself/spec officer)  
 c. From third party from whom amt is due  
 or may be come to such person  
 d. Sale of moveable/immoveable property  
 e. Recovery through district collector  
 (he shall recover as if land revenue arrears)

## Section 80

Payment of Tax & other amt  
 (in installments)  
 Taxable Person  
 Files application (DRC-20)  
 Commission may  
 → Extend time for paymt/  
 → Allow monthly installments  
 (max 24 installments)

## Section 81

Transfer of Property = Void  
 Person  
 amt become due from him  
 Creates a charge @ Ports with property  
 (with intention of depriving govt revenue)  
 Such transfer = void  
 Exception: Bona fide intention and  
 for adequate Consideration  
 (+) without notice of pendency of such proceedings

## Section 82

Gst dues have first charge  
 TP/Representative  
 Amt payable - GST dues  
 Govt shall have first  
 Charge on the property  
 (Subject to Insolvency &  
 bankruptcy code)

Note:

1. Gsl assessed tax (no installment allowed)
2. Installment facility is subject to interest w/o so
3. If default in payment of any one installment  
 - withdrawal of installment  
 - Total unpaid amt recoverable immediately

Ⓞ Such tax/other sum payable by said person  
 Ⓞ with prior permission of Po

## See 83: Provisional Attachment to protect Revenue

During pendency of Proceedings (62, 63, 64, 67, 73, 74)  
 Commissioner - for protecting revenue interest  
 Attach provisionally Property incl. Bank a/c (TP)  
 For max - 1 year (order - DRC 23)

Note: Person can file objection against attachment  
 within 7 days → Commissioner to provide OBH &  
 release property by order (DRC 23)

## See 84: Continuation and validation of Recovery Proceedings

- Do served → TP → appeal/Revision appn filed  
 ↓  
 officer to stay recovery Proceedings
- Appeal disposed in favour of Po → Continue recovery

### Modes of Recovery

- M: Magistrate
- M: Moveable/Immoveable property
- R: Refund (adjusting)
- R: Realisation of Bond
- T: Third party (amt due/becomes)
- D: District collector
- S: Selling goods

Sec 121: Now appealable orders/No revision also

- Case transfer orders from 1 officer to other
- Order of Seizure/detr of Bks/docs/register
- Order Sanctioning prosecution
- Order rejecting payment of dues (in installment)



### Appeals and Revision

Any authority appointed/authorised to pass order/decision under this act, but doesn't include NAARC.

Audicating Authority [Sec 20(a)] → act, but doesn't include NAARC.

Audication Order (order in Origin - 010)



Who is aggrieved by 010?

(if no appeal by dept in 6 months)

### Sec 108: Revisionary Authority

- Authorised Representative
- Relative/Regulator employee of assessee
  - Practising advocate
  - Practising CA/CS/CMA
  - GST Practitioner
  - Retired tax officer

### Appeal by • Assessee

[Within 3m + 1m (condone)]  
From date of Comm-  
of Demand order

### Form GST-APL-01

- (along with Specified amount)
- Admitted amount → 100% (Tax, interest, fine & Penalty)
  - \* 9% @ 6% Tax in dispute → 10% (cost)
  - DOP to DOR (11S)
  - Re-deposit amount: Max 25 cr (cost)
  - [Balance amount deemed stayed]

### Appeal by • Department itself

(Review application/Departmental appeal)

- Commissioner on own motion/
- On request from Sgst/UGST Commissioner

Examine records of any proceedings

in which AA(PO) has passed order to satisfy himself about legality/Propriety of decision/order

Direct Subordinate to apply to AA

[6m + 1m (condonation - AA)]  
Form GST-APL-03 (No Re-deposit)

### 101: Appeal to Appellate Authority

Pass order (01A)

- confirm, modify/Annul the decision/order
- within 1yr from date of filing of appeal (if possible)
- NO power to remand case back to Audicating authority

Adj. Order by: Appeal lies with  
Addl. Com. / JC → Commissioner (appeals)  
DC/Asst. Com/Superintendent - JC (A)

- OBH
- Adjournment - max 3 times
- May Permit Additional grounds
- Fees: NIL

### Order by Sub-ordinate officers (below RA)

- Rev. Authority on his own motion/
- Upon information received by him/
- On request from Sgst/UGST Commissioner

Call & Examine records of any proceedings

- On Examination RA found order Erroneous (Prejudicial to Revenue Interest)
- Is illegal/Improper/
- Material facts unconsidered/ignored
- In Conseq. of observation by CBfC (audit opinion)

Operations to be Stayed by RA & after giving OBH & Making Enquiry

Pass revisional order as he thinks 'Just and Proper'

Enhancing / Modifying / annulling (cancel the DO)

### Order passed by: Revisionary Authority

Addl. Com. / JC → Principal com./com.  
DC/Asst. Com/Superintendent → Addl Com./JC



**Order passed by Appellate Authority**

**Order passed by Revisional Authority**

Aggrieved Party (Assessee/dept)

(Assessee/dept) Aggrieved Party

Mem. of Cross Obj: to be filed by party against whom the appeal has been preferred.

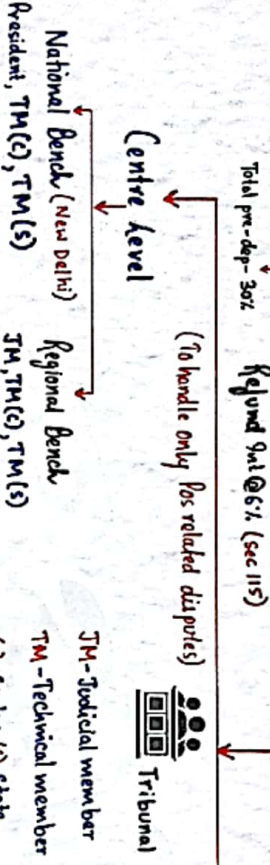
Appeal against Order of AA/RA → Assessee: 3m + 3m (COO) Dept: 6m

**Note 1. Memorandum of Cross Objection**  
in 45 + 45 days (Extn) GST-APL-08  
a. Pre deposit → 20% of Tax in dispute (additional) → max. 50 crore (CGST)

**Sec 112: APPELLATE TRIBUNAL**

Two Tier Tribunal  
Refuse appeals → (discretion) if amount involved ≤ 50k  
can also be returned back  
Fees: 1000 for every 1 lac tax involved (max 25000)

**RA Cannot Review/Revise:**  
a. Appeal already filed before AA/RA/Hc/Sec  
b. Proviso: Any point not raised/decided in appeal. Revise before expiry of 1yr from order in appeal } whichever before expiry of 3yr from order in original } is later.  
c. Period of 6m not expired / 5 yrs expired  
d. Already taken for revision (picked up but wasn't revised)  
e. A revisional order (no revision again)  
f. Exclude: Time spent b/w date of decision of AT - Hc/Hc-2  
g. Same issue already pending before AT/Hc.  
h. Stay period by Court/AT is stayed: exclude stay period



Pass Order (within 1yr / copy to Appellant/ Jurist Com/ str/OT/GST Comm) (if possible)

Order of National/ Reg. bench (Pos related)

No HC Appeal (Direct)



**S.117: Appeal to High Court**

Order of State/area bench

Admit if case involves Substantial Quest<sup>n</sup> of Law  
Appeal within 180 days + Extn (No limit) - Condonation by HC  
Form GST-APL-08  
To be heard by > 2 Judges  
Admit only after full payment (if refund - 3m 6% payment under protest after 60 days) - S6

(As per CPC) Time limit → Sec 118:

**Appeal to Supreme Court**

Sec 119 → (payment under protest) Admit only after full payment

HC certifies Case to be fit one

(if refund - 3m 6% after 60 days) - S6

## Liability to pay in certain cases

Sec	Liability to pay in case of	Section Summary
85	Transfer of business	<ul style="list-style-type: none"> <li>➤ Transferor (TP) &amp; Transferee jointly &amp; severally liable to pay dues upto date of transfer.</li> </ul>
86	Agent & Principal	<ul style="list-style-type: none"> <li>➤ Where agent supplies/receives taxable goods on behalf of principal, such agent &amp; Principal jointly &amp; severally, be liable to pay the tax payable on such goods.</li> </ul>
87	Amalgamation/Merger (RTP NOV 2018 & 19)	<ul style="list-style-type: none"> <li>➤ In pursuance of an order of court/Tribunal/otherwise &amp; order is to take effect from a date earlier to the date of order &amp; Any two/more of such co. have supplied/received g/s/b to/from each other then, such transactions shall be included in the TO of supply/receipt of the respective companies &amp; they shall be liable to pay tax accordingly.</li> <li>The said two or more companies shall be treated as distinct companies for the period up to the date of the said order</li> </ul>
88	Company in liquidation (CA Final-MAY 18)	<p><b>Every person appointed as receiver of any assets of a company(liquidator)</b></p> <ul style="list-style-type: none"> <li>➤ within 30 days of appointment give intimation of his appointment to the Commissioner</li> <li>➤ Commission to make inquiry &amp; notify within 3 months of the receipt of intimation, the amount of dues if any payable by co.</li> </ul> <p><b>In case of private co. : If dues cannot be recovered, Directors jointly &amp; severally liable.</b></p>
89	Liability of directors of Private company.	<ul style="list-style-type: none"> <li>➤ If dues cannot be recovered, Directors jointly and severally liable.</li> <li>➤ unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance/breach of duty on his part</li> <li>➤ In case of private co is converted to public: then directors shall not be liable</li> </ul>
90	Liability of Partner of the firm	<ul style="list-style-type: none"> <li>➤ Firm and each of the partners of the firm shall, jointly and severally Liable</li> <li>➤ Retiring partner/firm shall intimate date of retirement to Commissioner &amp; he shall be liable to pay dues upto date of retirement</li> <li>➤ If no such intimation is given within 1 m from retirement, the liability of such partner shall continue till the date of intimation.</li> </ul>
91	Guardians/trustees	<ul style="list-style-type: none"> <li>➤ Liability w.r.t tax of business carried on by Guardians/trustees on behalf of/ benefit of a minor/other incapacitated person</li> <li>➤ Dues shall be recoverable from such guardian/trustee/agent 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</li> </ul>
92	Court of wards/ trustees appointed by court	<p>Where estate of a TP owning a business in respect of which dues is payable is under the control of the Court of wards/trustee appointed by court order then dues shall be recoverable from such Court of Wards/Administrator General/Official Trustee.</p>
93	Special Provisions in certain cases	<p><b>On death of a person liable to pay dues:</b></p> <ul style="list-style-type: none"> <li>➤ Business is continued after death: Legal representative/any other person</li> <li>➤ Business is discontinued before/after his death: Legal representative is liable to pay the dues, out of the estate, to the extent, estate is capable.</li> </ul> <p><b>On partition of HUF/AOP:</b> Each member/group of members shall, jointly &amp; severally, be liable for dues up to time of partition.</p> <p><b>On dissolution of a firm:</b> Partners shall, jointly &amp; severally, be liable for dues up to the time of dissolution.</p> <p><b>On termination of guardianship/trust:</b> Ward/ beneficiary shall be liable to pay dues.</p>
94	Other cases	<ol style="list-style-type: none"> <li>1. Discontinuation of business by a firm/AOP/HUF: Partner/member of association/ family, shall, notwithstanding such discontinuance, jointly &amp; severally, be liable</li> <li>2. Change in the constitution of the firm/AOP: Partners/members, as it existed before &amp; as it exists after reconstitution, shall, without prejudice to the provisions of section 90, jointly &amp; severally, be liable</li> <li>3. Dissolution of firm/AOP/partition of HUF: Partner/members liable jointly &amp; severally.</li> </ol>

## Offences and Penalties

### PENALTY FOR CERTAIN OFFENCES [SECTION 122]

	Offences	Penalties
122(1)	<p><b>Circumstances for levy of penalty on a Taxable person</b></p> <p>Supplies goods/services/both without invoice/an incorrect/false invoice;                      Issue of invoice/bill without supply of goods/services/both in violation of provisions of act/rules                      Collects any amount as tax but fails to pay Govt. beyond a period of 3 months from the due date                      Collects tax in contravention &amp; fails to pay to Govt. beyond a period of 3 months from the due date                      TDS: Fails to deduct tax in accordance with sec 51/ deducts less than required/where he fails to pay, the amount;                      TCS: Fails to collect tax in accordance with sec 52/collects less than required/where he fails to pay, the amount;                      Takes/utilizes ITC without actual receipt in contravention of the provisions of this Act/rules                      Fraudulently obtains refund of tax under this Act                      Distributes/takes ITC in contravention of ISD provisions                      Falsifies records/produces fake a/cs/docs/furnishes any false information/return with an intention to evade tax                      Liable but fails to obtain registration                      Furnishes False information for registration either at the time of applying for registration, or subsequently;                      Obstructs/prevents any officer in discharge of his duties                      Transports any taxable goods without the cover of documents                      Suppresses his turnover leading to evasion of tax                      Fails to keep, maintain or retain books of account and other documents                      Fails to furnish information or documents called for by an officer/furnishes false information or documents                      Storing/transporting illegal goods (on which tax not paid) which he has reasons to believe are liable to confiscation                      Issues any invoice or document by using the registration number (GSTN) of another registered person                      Tamper with, or destroys any material evidence/document                      Disposes off/tampers with any goods that have been detained/seized/attached under this act.</p>	<p>Rs 10000 (CGST)                      OR                      Amount equivalent to</p> <ul style="list-style-type: none"> <li>• Tax evaded</li> <li>• Tax not deducted/ short deducted/ not paid</li> <li>• Tax not collected/ short collected/ not paid</li> <li>• ITC availed/passed on/distributed irregularly</li> <li>• Refund claimed fraudulently</li> </ul> <p>Whichever is Higher</p>
122(2)	<p><b>Reg Person -supplies g/s on which tax not paid/short-paid/ erroneously refunded/ITC wrongly availed/utilized</b></p> <p>(a) Bona-fide cases                      (b) Fraud case</p>	<p>(a) Rs 10,000 or (b) 10% of tax due - higher                      (a) Rs 10,000 or (b) Tax due (100%) - higher</p>
122(3)	<p><b>Circumstances for levy of penalty on Any person</b></p> <p>(a) aids or abets any of the 21 offences under 122(1)                      (b) acquires possession of/in concerns himself in transporting/removing/depositing/keeping/concealing/ supplying/ purchasing/in any manner deals with illegal goods                      (c) receives/is concerned with the supply of/deals with any SOS which he knows are in contravention of any provisions                      (d) fails to summon for giving evidence a document in an inquiry;                      (e) fails to issue invoice/fails to a/c an invoice in books</p>	<p>Penalty may extend to Rs 25,000 (CGST)</p>
<p><b>PENALTY FOR FAILURE TO FURNISH INFORMATION RETURN [SECTION 123]</b></p>		
123	<p>Even after receiving notice u/s 150(3) within 90 days</p>	<p>Penalty: Rs 100 per day, Maximum Rs 5000</p>
<p><b>FINE FOR FAILURE TO FURNISH STATISTICS [SECTION 124]</b></p>		
124	<p>Failure to furnish any information or return                      (a) Without reasonable cause fails to furnish</p>	<p>Fine: May extend upto Maximum Rs 10000, &amp;                      In case of continuing offence-further fine Rs</p>


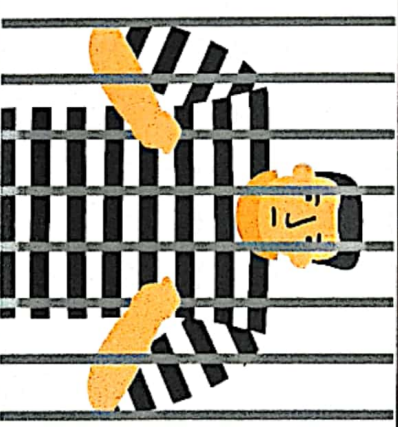


## Offences and Penalties

(b)	Willfully furnishes false information.	100 each day subject to maximum <b>Rs 25000</b>
<b>GENERAL PENALTY [SECTION 125]</b>		
125	Controvention of provisions of act/rule for which no penalty is separately provided for in this Act	Penalty may extend to <b>Rs 25000</b>
<b>GENERAL DISCIPLINES RELATED TO PENALTY [SECTION 126]</b>		
126	<ol style="list-style-type: none"> <li>Officer not to impose penalty for minor breach/omission/mistake, where tax involved &lt; Rs 5000, or which is easily rectifiable.</li> <li>Penalty imposed shall be commensurate with the degree and severity of the breach.</li> <li>No penalty shall be imposed on any person without giving him an opportunity of being heard</li> <li>Officer to specify nature of breach &amp; applicable law under which the amount of penalty for the breach has been specified</li> <li>Person voluntarily discloses to officer, PO may consider and charge less penalty</li> <li>The provisions of this section shall not apply, where the penalty a fixed sum/expressed as a fixed percentage.</li> </ol>	
<b>POWER TO IMPOSE PENALTY IN CERTAIN CASES [SECTION 127]</b>		
127	PO of the view that person liable to a penalty and same is not covered under 62/63/64/73/74/129/130	Penalty after giving OBH
<b>POWER TO WAIVE PENALTY OR FEE OR BOTH [SECTION 128]</b>		
128	Government on recommendation of council by notification, waive part/full penalty referred in sec 122/123/125/late fee referred in sec 47(for delay in filing of return) for such class of taxpayers and under such mitigating circumstances as may be specified therein on the recommendations of the Council.	
<b>DETENTION, SEIZURE AND RELEASE OF GOODS AND CONVEYANCES IN TRANSIT [SECTION 129]</b>		
129(1)	Goods & conveyance after detention/seizure, shall be released, --	<p>(a) On payment of: Applicable tax = 100% Penalty = 100% of tax payable or If Exempted goods, on payment of - An amount equal to 2% of the Value of goods/ 25000: whichever is less</p> <p>(b) On payment of: Applicable tax = 100% Penalty = 50% of VOGs - tax amount paid or If Exempted goods, on payment of - an amount equal to 5% of the Value of goods/ 25000: whichever is less</p> <p>(c) Furnishing security=Amount under (a)/(b) in GST INS 04 (Rule 140)</p>
	Where owner does not come forward for payment of applicable tax and penalty:	
(2)	Provisional Release of goods and conveyance execution of a bond and furnishing of a security	
(3)	PO shall issue order demanding tax and penalty	
(4)	No tax, interest or penalty shall be determined without giving the person concerned an opportunity of being heard.	
(5)	All proceedings deemed concluded on payment of amount in respect of notice.	
(6)	If Demand unpaid within 14 days of detention and seizure, confiscation proceedings shall be initiated	
<p><b>Clarification: If invoice/document accompanied the consignment - Consignor/consignee deemed owner. Otherwise PO has power to decide owner.</b></p>		
<b>CONFISCATION OF GOODS OR CONVEYANCES AND LEVY OF PENALTY [SECTION 130]</b>		
130(1)	<b>If any person--</b>	then,
	(i) Supplies/receives goods in controvention of Act/rules with intent to evade payment of tax: or	• All such goods/conveyances- liable to
	(ii) Does not account for goods on which he is liable to pay tax	confiscation &
	(iii) Supplies without having applied for registration: or	



## Offences and Penalties

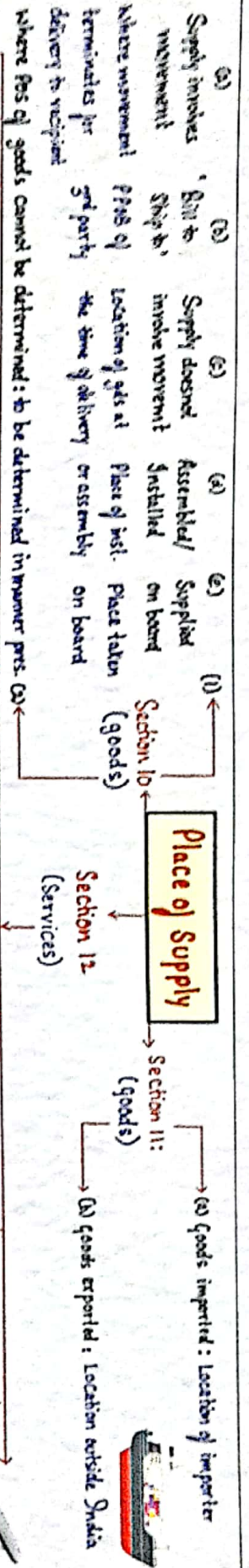
	<p>(iv) Contravenes provisions of Act/rule with intent to evade tax</p> <p>(v) Uses any conveyance for transport of goods in contravention of provisions of Act/rules unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself</p>	
130(2)	<p><b>Whenever confiscation goods/conveyance is authorised by this Act</b></p> <p>- Officer - shall give to the owner of the goods - an option to pay in lieu of confiscation, such fine as the said officer thinks fit:</p>	
130(3)	After Fine, owner additionally liable to tax, penalty/other charges payable in respect of goods and Conveyance	
130(4)	No order for confiscation of goods or conveyance or for imposition of penalty shall be issued without giving the person an opportunity of being heard	
130(5)	Upon confiscation the title of such goods or conveyance shall thereupon vest in the Government.	
130(6)	PO shall take possession of confiscated goods/conveyance and every police officer shall assist him	
130(7)	Confiscated goods/conveyance to be disposed off after giving time of 3 month to pay fine.	
<b>CONFISCATION OR PENALTY NOT TO INTERFERE WITH OTHER PUNISHMENTS [SECTION 131]</b>		
<b>PUNISHMENTS FOR CERTAIN OFFENCES [SECTION 132]</b>		
(1)	<p>(a) supplies any g/s/b without issue of any invoice</p> <p>(b) issues any invoice or bill without supply of g/s/b in violation of the provisions</p> <p>(c) avails input tax credit using such invoice or bill</p> <p>(d) collects tax but fails to pay the same to the Government beyond a period of three months</p> <p>(e) evades tax, fraudulently avails input tax credit or fraudulently obtains refund</p> <p>(f) falsifies or substitutes financial records or produces fake accounts</p> <p>(g) obstructs or prevents any officer in the discharge of his duties</p> <p>(h) Transports any taxable goods without the cover of docs</p> <p>(i) receives/is concerned with the supply of/deals with any SOS which he knows are in contravention of any provisions</p> <p>(j) tampers with or destroys any material evidence or documents</p> <p>(k) fails to supply any information which he is required to supply under this Act</p> <p>(l) Attempts to commit, or abets the commission of any of the offences mentioned above</p>	
<b>Offence involves</b>		<b>Amount Involved</b>
Tax evaded /ITC wrongly availed/utilized/refund wrongly taken		(i) > 5 crores (ii) > 2 crores upto 5 crores (iii) > 1 crore upto 2 crores
Commits/abets the commission of an offence		(iv) Falsifies records, Prevents officer, tampers docs
Subsequent offence u/s 132		No limit
(5)	Offences under (a)(b)(c)(d)	And amount > 5 crores
(4)	Other offences	Shall be
<b>Offence involves</b>		<b>Punishment</b>
Tax evaded /ITC wrongly availed/utilized/refund wrongly taken		Jail upto 5 Years and with fine
Commits/abets the commission of an offence		Jail upto 3 Years and with fine
Subsequent offence u/s 132		Jail upto 1 Years and with fine
Offences under (a)(b)(c)(d)		Jail upto 6 months or with fine or both
Other offences		Jail upto 5 Years and with fine Cognizable and non-bailable. Non-cognizable and bailable.

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 for the time being in force.

## Offences and Penalties

(3)	The imprisonment referred to in clauses (i), (ii) & (iii) above & repetitive offence shall, in the absence of special & adequate reasons, be for at least 6 months.	
<b>LIABILITY OF OFFICERS &amp; CERTAIN OTHER PERSONS [SECTION 133]</b>		
(1)	Where any person engaged in connection with the collection of statistics u/s 151/compliance/computerization thereof or if any officer of CT having access to information specified u/s 150(1), or if any person engaged in connection with the provision of service on the common portal or the agent of common portal, willfully discloses any information or the contents of any return furnished under this Act or rules made thereunder otherwise than in execution of his duties under the said sections or for the purposes of prosecution for an offence under this Act or under any other Act for the time being in force.	Tail upto 6 months or with fine upto Rs 25000, or with both.
(2)	<b>Any Person—</b> (a) who is a Government servant shall not be prosecuted for any offence under this section except with the previous sanction of the Government; (b) who is not a Government servant shall not be prosecuted for any offence under this section except with the previous sanction of the Commissioner.	
<b>COGNIZANCE OF OFFICE [SECTION 134]</b>		
No court shall take cognizance of any offence punishable under this Act or the rules made thereunder except with the previous sanction of the Commissioner, and no court inferior to that of a Magistrate of the First Class, shall try any such offence.		
<b>PRESUMPTION OF CULPABLE MENTAL STATE [SECTION 135]</b>		
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.		
<b>RELEVANCE OF STATEMENT UNDER CERTAIN CIRCUMSTANCES [SECTION 136]</b>		
A statement made & signed by a person on appearance in response to any summons issued u/s 70 during the course of any inquiry/proceedings 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. —		
(c) 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 interest of justice.		
<b>OFFENCES BY COMPANIES [SECTION 137] - Including firm AOP/BOT</b>		
In case of Co - Persons who, at the time the offence was committed was in charge of & was responsible for conduct of business of co, as well as co, shall be deemed to be guilty of the offence & shall be liable to be proceeded & punished. Partners/Karta/Managing trustees etc. shall also be deemed to be guilty & liable to be proceeded & punished.		
No punishment, if a person proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.		
<b>COMPOUNDING OF OFFENCES [SECTION 138]: It means stopping prosecution by paying fees/fines - Paid in addition to tax</b>		
<b>Compounding amount:</b> Minimum amount: higher of (10,000/50% of tax involved) Maximum amount: higher of (30,000/150% of tax involved)		
<b>No compounding in following cases:</b>		
<ul style="list-style-type: none"> <li>• a person who has been allowed to compound once in respect of any of the offences specified in clauses (a) to (f) of section 132(1) &amp; attempts to commit/abets the commission of any of the offences in clauses (a) to (f) of the said sub-section; (i.e. already allowed compounding)</li> <li>• Any offence (other than above offences), in respect of supplies of value &gt; 1 crore, if allowed compound earlier.</li> <li>• a person who has been accused of committing an offence under this Act which is also an offence under any other law.</li> <li>• a person who has been convicted for an offence under this Act by a court.</li> <li>• a person who has been accused of committing offences as: obstructs/prevents officer, tempers/destroys docs &amp; material evidence &amp; fails to furnish info.</li> </ul>		
Compounding allowed under the provisions of this section shall not affect the proceedings, under any other law.		
Compounding shall be allowed only after making payment of tax, interest and penalty involved in such offences.		
On payment of compounding amount, no further proceedings shall be initiated against the accused person in respect of the same offence & any criminal proceedings, if already initiated in respect of the said offence, shall stand abated.		

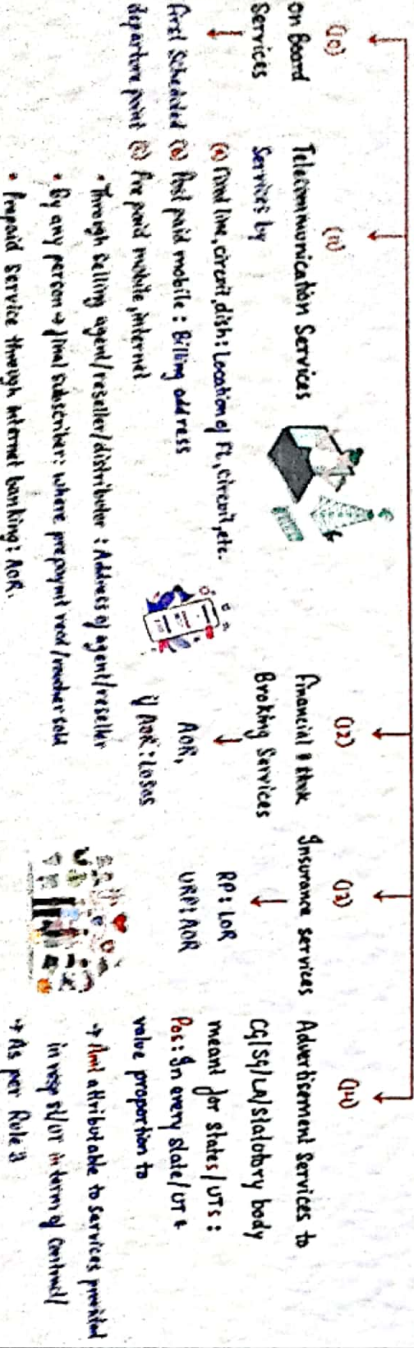




Location/Intended loc of property  
 Immovable property of India - LO RP  
 Summable property located in multiple state/UT: SoS treated as made in each state/UT, in proportion to value of services separately collected/determined in term of contract/As per Rule 4  
 Rule 4: in proportion to no. of night/area on the basis of declaration by service provider.



Event in multiple state  
 Pos in each of the resp. s/UT & Pos: destination  
 value shall be in proportion to value separately collected/  
 in term of contract/As per Rule 5: apply GAAR.



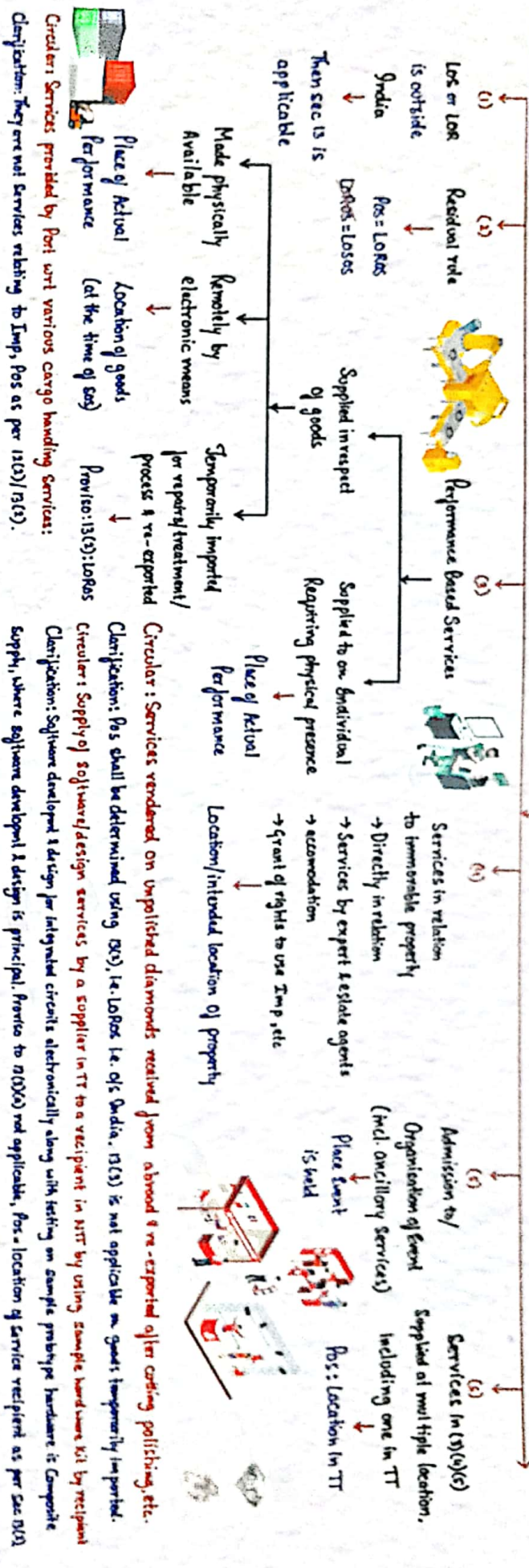
**Rule 31: Manner for determination of value attributable to different states/UTs, in absence of agreement.**

**Basis of Apportionment**

- Advertisement in Newspaper & Publication → Amount payable
- Printed material (pamphlets) → Amount payable
- Marketing other than on trains → Amount payable
- Trains → length of railway tracks
- Utility bills of oil/gas co. → Amount payable
- Railway tickets → No. of railway stations
- Over Radio stations → Amount payable
- Television channels → Viewership
- Cinema halls → Amount payable
- Over internet → Internet Subscribers
- Through SMS → Telecom subscribers

**Place of Supply**

**Section 13 (Services)**



(7) Services in (13)(4)(c) Supplied in multiple States/UT

(8) Services by Banking co/Fin/Insure to account holders

(9) Transportation of goods (Excl. mails/Carrier)

(10) Passenger transportation Services on Board a Conveyance

(11) Services on Board a Conveyance

(12) Double Taxation/ Non taxation

Pos in each of the resp. S/UT & Value shall be in proportion to value separately collected/ in term of Central/As per Role

**Role 7 per 13(5):**

- Services Supplied on same goods: Divide value equally.
- Services Supplied on different goods: Ratio of invoice value of goods.
- Services Supplied to individuals: Apply GMR.

**Role 8 per 13(4):** apply Role 4 unless the provider's Role 9 for 13(5): apply Role 5 unless the provider's

(13) Hiring of means of transport, incl. boats, Excl. aircraft & vessels, upto one month

(14) Destination of such goods

(15) First Scheduled departure point

Circular: Supply of Satellite launch Services by Antrix Corporation Ltd to: International customers: 13(5): Pos of India & if supply meets reqmt of 13(5), it constitutes Export of service & shall be ZRS. Domestic Customers: Governed by 13(5) & should be taxable.

Circular: Pos in case of RFD services relating to Pharmaceutical sector = Location of recipient

Circular: Supply of maintenance, repair/overhaul services w.r.t. aircraft, engines, component parts supplied to a person for use in the course of the exercise of business, Pos = LORs



## Refunds

Sl No	Situations leading to refund:	Rule	Form and remarks	Relevant date	Documentary evidence
54(1)	Any person claiming refund - Make application Refund of balance in the electronic cash ledger	89	<b>GST RFD-01</b> Time limit: 2 years from relevant date May be made through the return i.e. FORM GSTR-3/4/7 Note: Person may also file RFD-01A	NA	NA
54(2)	Refund to specialized agency of UNO, MFIO, Consulate, Embassy, person notified u/s 55 - JIN holders	95	<b>GST RFD - 10</b> Time limit: 18 months Notified: CSD - can claim 50% of GST paid on Inward supplies.	from the last date of the quarter in which such supply was received	A statement of inward supplies of in GSTR-11
54(3)	Refund of Unutilised ITC - generally no refund. Except in 2 situations:	89(3)	<b>GST RFD-01</b> 89(3): Refund application submitted: Amount debited to e - credit ledger Refund passed: amount credit to Bank Refund is rejected: ITC shall be re- credited to electronic credit ledger	<u>Export of Goods</u> : where a refund of tax paid on goods or I & IS used in such goods: <b>Export by</b> <b>Sea/Air</b> : date on which ship/aircraft, leaves India <b>Land</b> : date goods pass custom frontier. <b>Post</b> : date of dispatch of goods by the Post Office	<u>Export of goods</u> : a statement containing no. & date of shipping bills/bills of export the no. & the date of relevant export invoices. <u>Export of services</u> : a statement containing no. & date of invoices and the relevant Bank Realization Certificates or Foreign Inward Remittance Certificates.
	(i) <u>ZRS made without payment</u> • Exports under LUT • Supplies to SEZ unit/ Developer <u>Proviso</u> : No refund if goods exported subject to ED No refund if DBK availed by supplier	89(4)	89(4): Refund related to Input and Input services only Time limit: 2 years from relevant date Refund based on formula: maximum amount admissible. (Refer formula below) <i>Payment + Invoice basis are mandatory</i>	<u>Export of Services</u> : where a refund of tax paid w.r.t. services or I/IS services used in such services: the date of (i) If SOSs completed prior to receipt of payment: receipt of payment Forex, (ii) If advance payment received prior to invoice date of issue of invoice;	<u>Supply of goods to SEZ unit/developer</u> a statement containing no. & date of invoices along with the evidence regarding the endorsement. <u>Supply of Services to SEZ unit/developer</u> no. & date of invoices along with the evidence regarding the endorsement and the details of payment, along with the proof thereof. <b>Additionally</b> : A declaration to the effect that tax has not been collected from SEZ incase of goods or services or both.
	(ii) <u>Person having Inverted tax pattern</u>	89(5)	Refund related to Input only Time limit: 2 years from relevant date Refund based on formula:(below)	<b>DD for furnishing of return u/s 39</b> for period in which such claim for refund arises;	<u>Unutilized ITC due to Inverted tax pattern</u> a statement containing no. & date of invoices received and issued

## Refunds

54	Situations leading to refund:	Rule	Form and remarks	Relevant date	Documentary evidence
54(4)	Documents and other evidence to establish that a refund is due to the applicant. If refund claim < 2 lacs, declaration by applicant certifying- no unjust enrichment If claim > 2 lacs - CA certificate Note: 89(2): Documentary evidence to obtain refund				
	Refund on account of Deemed exports		Form GST RFD-01	Date of furnishing return relating to such deemed exports.	A statement containing the no. & date of invoices along with other notified evidence. Notified: (i) Acknowledgment by the jurisdictional Tax officer (ii) undertaking by the recipient
	Refund of GST paid under protest		Form GST RFD-01	Date of communication of judgment, decree, order or direction.	Reference no. of order & a copy of order passed by the PO/AA/AT/Court resulting in such refund/reference no. of payment of amount
	Refund arises on finalization of provisional assessment		Form GST RFD-01	Date of adjustment of tax after the final assessment;	Reference no. and copy of the final assessment order
	Refund due to wrong classification of supply (See 77)		Form GST RFD-01	the date of payment of tax	Statement showing details of such transactions
	Refund on account of excess payment of tax		Form GST RFD-01	the date of payment of tax	Statement showing the details of the amount of claim on account of excess payment of tax
54(5)	Refund order: On receipt of any such application, if PO after verification is satisfied amount claimed is refundable:		<u>Rule 92</u>		
54(6)	Provisional refund grant of 90% immediately within 7 days of issue of acknowledgement in GST RFD 02 only to Zero-rated supplier. Provisional refund order: GST RFD-04		PO is satisfied that refund is due to applicant: Refund order - Form GST RFD 06 Issue a payment order in FORM GST RFD-05. In case of ZR supplier of g/s/s/b refund on provisional basis, 90% of the total amount claimed. Thereafter make an order under sub-section (5) for final settlement of the refund claim after due verification of documents furnished by the applicant <u>Rule 91:</u> (1) No Provisional refund, if person has been prosecuted for any offence for immediate preceding 5 years for tax evaded > 2.5 crores (2) If PO satisfied, Provisional refund order-in GST RFD 04 (3) Issue of payment order in GST RFD-05		
54(7)	Refund order shall be passed within 60 days of receipt of application		<u>Rule 90:</u> (1) Application for refund from e-cash ledger; acknowledgement to applicant in RFD-02 clearly indicating the date of filing of the claim for refund and 60 days shall be counted from such date of filing.		

## Refunds

	<p>(2) <u>Other refund application:</u>          Application shall be forwarded to PO who shall, within a period of 15 days of filing of the said application, scrutinize the application for its completeness.          Application is found to be complete, an acknowledgement in FORM GST RFD-02 shall be made available to the applicant electronically, indicating date of filing refund claim and 60 days shall be counted from such date of filing.          (3) <u>Where any deficiencies are noticed</u>, PO shall communicate the deficiencies in FORM GST RFD-03 (deficiency memo) electronically, requiring him to file a fresh refund application after rectification.</p>
<p>54(8) The refundable amount shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to:          (Doctrine of unjust enrichment - not applicable)</p>	<p>(a) <u>Export:</u> Refund of tax paid on Export of g/s/b or on inputs or input services used in making such Export          (b) <u>Inverted tax structure:</u> Refund of unutilized ITC under sub-section (3).          (c) <u>Tax paid on advance and refunded:</u> Refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued.          (d) <u>Wrong classification:</u> section 77: Refund of tax in pursuance of section 77: (wrong determination of POS: Intra as inter, inter as intra)          (e) <u>When incidence not passed by applicant:</u> 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          (f) <u>Notified class of applicant:</u> the tax or interest borne by such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify.</p>
<p>54(9) Notwithstanding anything to the contrary contained in any judgment/decreet/order/direction of the AA/court/in any other provisions of this Act/the rules made thereunder/in any other law for the time being in force, no refund shall be made except in accordance with the provisions of sub-section (8).</p>	<p><u>Refund is due to a BP u/ss (3) who has defaulted in furnishing any return/pay any tax, interest or penalty, by the specified date, the PO may—</u>          (a) withhold payment of refund due until return furnished/tax, interest or penalty paid;          (b) deduct from the refund due, any tax, interest, penalty, fee/any other amount.  <b>Rule 92:</b> Commissioner shall pass an order,          - giving details of such adjustment in Part A of FORM GST RFD-07.          - giving details of such withholding in Part B of FORM GST RFD-07.</p>
<p>54(11) Commissioner may withhold refund if refund is likely to adversely affect the revenue (Departmental appeal/Appeal to revisionary authority)</p>	<p>Where an order giving rise to a refund          • is the subject matter of an appeal/further proceedings/where any other proceedings under this Act is pending &amp;          • the Commissioner is of the opinion that grant of such refund is likely to adversely affect the revenue in the said appeal/other proceedings on account of malfeasance/fraud committed,          • he may, after giving the TP an OBH, withhold the refund till such time as he may determine.  <b>Rule 92:</b> Commissioner shall pass an order, giving details of such withholding in Part B of FORM GST RFD-07.</p>
<p>54(12) Department lost above appeal, withheld refund to be paid with interest</p>	<p>If as a result of the appeal/further proceedings, TP becomes entitled to refund which was withheld under 54(11), he shall be entitled to interest @ 6%.</p>

## Refunds

54(13)	Refund to CTP/NRTP - refund of advance tax deposited in e-cash ledger.	Refund of tax only after furnishing returns u/s 39 w.r.t. entire period for which RC granted to him. Note: Refund of Net estimated advance tax liability after adjustment of payable tax on supplies.
54(14)	No refund below Rs 1,000	1. Rs 1000 under CGST and Rs 1000 under SGST/UTGST act. 2. This limit of Rs 1000 shall not be applicable in case of refund of E-cash ledger.
Refund Process:		
55	1. Refund application in GST RFD - 01, 2. If application is complete in all respect i.e. no deficiency - Acknowledgment in GST RFD-02 in 15 days. 3. Provisional refund of 90% within 7 days to zero rated supplier. Order GST RFD - 04 along with payment advice in GST RFD 05. 4. In case of deficiency - it shall be communicated to applicant in GST RFD-03, and then applicant needs to file fresh application. 5. Now after due verification - Refund order in GST RFD-06 along with payment advice in GST RFD 05.	• Any applicant is not refunded within sixty days from the date of receipt of application, interest @ 6%. • From date immediately after expiry of 60 days from date of receipt of application till the date of refund of such tax; • If claim arises from an order passed by an AA/AA/AT/Court which has attained finality and the same is not refunded within 60 days from the date of receipt of application, interest @ 9%. • The Government shall constitute a Fund, to be called the Consumer Welfare Fund & credit to the Fund, — • the amount referred to in 54(5); • any income from investment of the amount credited to the Fund; and • such other monies received by it, in such manner as may be prescribed.
57 & 58	Consumer Welfare Fund Also separate A/cdt: C&AG	

### Formula for refunds

**Rule 89(4): Refund claim in case of ZPSs**

Refund Amount (maximum amount admissible)

$$= \frac{\text{Turnover of ZPS of goods} + \text{Turnover of ZPS of services}}{\text{Adjusted Total Turnover}} \times \text{Net ITC}$$

**TO of ZPS of goods:** the value of ZPS of goods made during the relevant period without payment of tax under bond/LUT, or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less, other than turnover of supplies in respect of which refund is claimed under sub-rule (4A)/(4B)/both;

**Rule 84(5): Refund claim by person having inverted tax pattern:** refundable ITC to be computed as follows:

Refund Amount (maximum amount admissible)

$$= \frac{\text{Turnover of inverted rated supply of goods and services}}{\text{Adjusted Total Turnover}} \times \text{Net ITC}$$

less: tax payable on such inverted rated supply of goods and services.

# Anti-Profiterring & NAA

Reduction in Rate of GST

Cost	GST	SP	Profit
GST Rate 18%	20	3.60	25
GST Rate 5%	20	1.00	25
			4.00

GST introduced in 2017, leading to free flow of credit, reduction in Cost

Credit	Cost (incl. tax)	SP	Profit
Pre GST	2	20	25
Post GST	4	18	25
			7

Process of determination of Profiterring & Passing Order by NAA - Sec 131 r/w rule 127-137

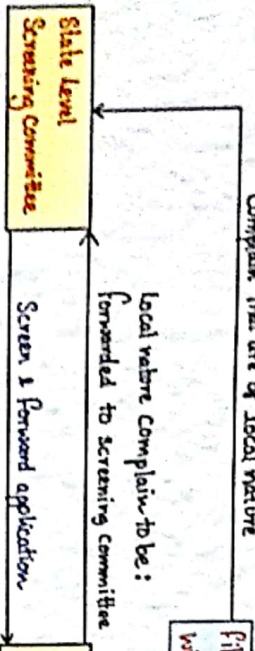
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Excess profit due to

Profiterring means: To make unfair profit, illegally  
Anti-profiterring measures are introduced in GST to prevent suppliers from profiterring

Reduction in Rate of Tax / Benefit of Input tax credit } Common surrogate Benefit  
Supplier guilty of Profiterring -> \$ not passed  
NAA to deal against such suppliers

- Screen application to Ensure Supplier has Continued provisions of sec 111



Complainant: Consumer/Organisation/Supplier/trader/retailer

Complaint involving issue of National nature (all India impact)

Further investigation/inquiry in existing investigation

On receipt of report of DyCE: Issue is of the opinion that further inquiry/investigation required & it may need measure & refer matter back to DyCE for further inquiry/investigation

When necessary action/Enquiry can be ordered by NAA

On receipt of report of DyCE: NAA has v/s that there has been Continuation of prov of 111, want other DyCEs: It may direct DyCE to investigate/inquiry with such other DyCE

Rule 131: Term of Authority (NAA): Shall be 4 years from date of chairman entering his office.

Note: NAA Come into existence on 30th Nov 2017, when Chairman assumed office.

Reduction in Prices

- Factor to Receipt with Sd/GS: pa (cont equivalent to benefit not passed)
- Sd: from date of collection - Date of Return
- \$ eligible person doesn't claim/identifiable, Deposit: 50% amount each in Central & State CUS with int @ 18.7 pa.

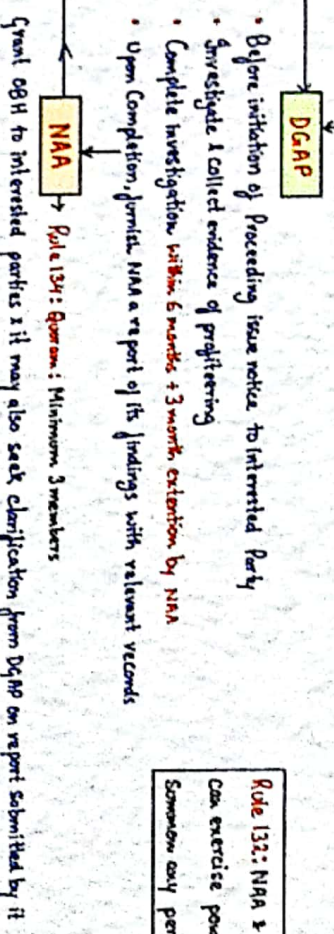
Imposition of penalty = 10% of amt profiterring

Note: No penalty if amt deposited within 30 days of order

Cancellation of Registration

Just for knowledge: Visit www.naa.gov.in

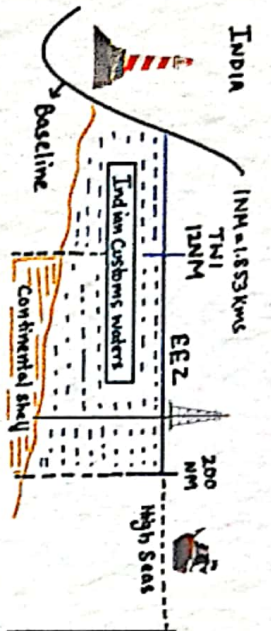
Rule 132: NAA & DGAP Can exercise power to Summon any person



Grant OGN to interested parties & it may also seek clarification from DGAP on report submitted by it

Rule 134: Govern: Minimum 3 members

Rule 135: Non Compliance with order immediately to attract recovery proceedings



**Significance of TARI:** To determine taxable event (Import/Export)  
**Significance of Indian Customs waters (ICW)** → upto 200 NM  
 Power to Stop, Search, Arrest & Confiscation of goods & Conveyance

**Note:** Cf extended applicability of CA & CTR to designated areas of CS & EEZ for purpose of exploration of mineral oil, petroleum or natural gas. Hence these areas form part of India for levy of CD.

**Concession, Abatement & Exemption from duty**

**Sec 13: No duty liability if goods pilfered after unloading but before clearance order for home Consumption/warehousing.**

**Pilferage:** Should happen at port in the custody of Co-ordinator

**Sec 23(1): Remission of duty on goods lost/destroyed**

- Sec 23 applies only when there is no pilferage u/s 13
- Burden of proof on importer, i.e. remission only if A/c De is satisfied that goods lost/destroyed
- Loss/ destruction should be before clearance from Customs, hence applicable to withdrawn goods also

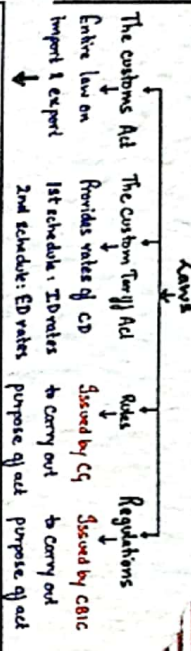
**Sec 23(2): Remission of duty on Abandoned goods**

- Owner of goods before clearance/deposit into wh:
- Relinquish title & no duty payable (Same duty)
- No relinquishment with regards to offensive goods
- Shipowner may relinquish if goods not as per specification/ damaged deteriorated during voyage rendering them useless/there might be breach of Contract & importer unwilling to take delivery

**Sec 34: Power to make rules for Denaturing/mutilation of goods**

If Imported goods may be used for more than 1 purpose, they can be mutilated/denatured by customs, Post denaturing/mutilation: duty at rate applicable to such gds in denatured/mutilated form.

Keval under Entry 88 of Union List  
**LRE From Custom duty**



S 122 Custom duty is levied on goods imported into / Exported from India vessels, aircraft & vehicle (only on permanent import & not if used as Conveyance)  
 Stores: Goods for use in vessel/aircraft incl. fuel, spares, other equipment.  
 Baggage: includes unaccompanied baggage but excl. motor vehicles  
 Currency & negotiable instruments

Other kind of movable property: TV, mobile, iPod, Holograms not on a media  
 Associated Content Component IId: Sec hold that drawings, designs, manuals, technical materials are goods liable to custom duty

**Sec 20: Reimportation of goods produced/manufactured in India:**  
 Treat as fresh importation → liable to duty.

**Concession on re-importation:**  
 1. Goods exported under claim of DDV under refund of 15% / under Bond who pay: Amt payable on reimport: DDV/refund omitted / GST not paid on exportation.

2. Goods imported, then exported for repairs abroad, then reimported: CD on fair cost of repairs + cost of material used in repairs + insurance + freight (25%)

For (1&2) condition: Reimport within 3 yrs (with 2yrs), same gds reimported, no change in ownership of gds between time of export & re-import.

**Exemption to goods manufactured in India & Exported & then Reimported for**

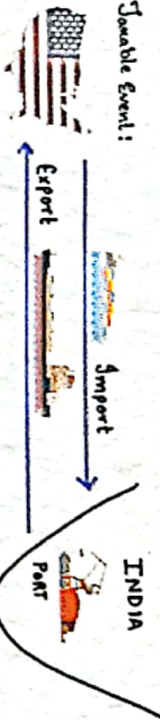
1. Repair & Recondition: within 3yrs from export (3yrs in case of repair/condition)
2. Reexporting, reimporting, Reexport: within 1yr from date of export

Condition: no duty on re-import if: 1. Re-export within 6m (Extension 6m)

2. Some goods to be re-exported: A/c De to be satisfied.
2. Execution of bond at the time of re-importation.

**Sec 21: Goods derelict, Jetsum, Joltsum, wreck brought/coming into India:**  
 Shall be dealt with as if imported into India (Liable to duty)

Through duty IId: Supply from DTA to SEZ without attract Sec 12, No ED



**Import:** Bringing into India from place of India  
**Golden silk mills:** In case of goods cleared for home consp.  
 Import commences when goods cross TARI but continues & is completed when gds become part of mass of goods within the country, the taxable event is reached when goods reach the Custom barriers & BOE for home Consumption is filed.

**Kiran spinning mills:** In case of goods cleared for warehousing  
 Custom barrier is crossed when they are sought to be taken out of customs i.e. taxable event is when BOE for HC is filed.

**Mangalore refinery & Petrochemicals IId:** Duty levied on actual quantity of crude oil received & not on quantity shown in Bill of Lading.

**Abou Lloyd chiles offshore IId:** Goods imported for Consumption on oilrigs situated in CS/EEZ (steamed part of India): Attracts Import duty

**Export:** Taking out of India, to a place outside India (Foreign/related)  
 Rajindra dyeing & Printing mills IId: If vessel sank within TARI, Net Export Sum, Underwrite 1981: Ship went outside TARI, then returned due to damages: Export

**Sec 22: Abatement of duty on goods DAMAGED or DETERIORATED**  
 Before/during unloading

After unloading

Abatement available Abatement available Abatement available  
 Abatement available Abatement available Abatement available

value of damaged/deteriorated gds: value ascertained by the FO (In Option of owner) gross sale proceeds (good sold by Auction/buyer)

Custom duty on DID goods: CD on gds before DID x value of gds before DID

**Sec 25: Power to grant exemption from duty**

- (1): Cf in public interest may by notification in Oq exempt goods from CD
- (2): Cf in public interest may by spl order in each case exempt goods from CD
- (3): An explanation inserted within 1 year to have retrospective effect
- (4): Notification u/s (3) shall take effect on date of issue by Cf for publication in Oq. This rule is not applicable in case of spl orders

# Import Procedure

India: Kerala Port

Person in charge (PIC)

Vessel : Master

Aircraft: Commander/Pilot

Rail: Conductor, guard

Other Conveyance: Driver

Sec 20: Delivery of Import manifest/Import Report: By PIC/other person vessel/Aircraft: AM/EM prior to arrival, to be presented electronically

Vehicle: 18, within 12 hrs, post arrival manual filing

Delay in filing (without cause): Penalty Rs 500, Delayed filing allowed on valid grounds

Amendment of AM/IC: If Po satisfied that IM/IR-incomplete/incorrect no fraudulent intention

Sec 30A: Passenger & Crew arrival manifest and Passenger name record information (PNR)

PIC to deliver to Po before arrival in case of vessel/aircraft Record prepared by operator of aircraft/vessel/vehicle/agent

Upon arrival in case of a vehicle

Delay in filing (without cause): Penalty Rs 5000

# U S A P O R T

Sec 29: Landing/calling at Custom port/Airport/Land Custom Station only

Exception: If Compelled by accident, stress of weather, other unavoidable causes

PIC shall immediately report to nearest Co/officer in charge of Police station

• Shall not without consent of officer unload goods/allow anyone to depart

• If necessary for reason of health, safety, preservation of life/property: nothing shall prohibit departure of crew/passenger & removal of goods.

Sec 45: goods till clearance shall remain with Custodian, he shall keep records & not permit removal & liable to pay duty on pilfered goods



Section 47: Issue of Clearance order

goods not prohibited

+ Duty & Charged paid

Formal correct

NO

Reassessment by PO

Importer to pay differential duty within 1 day from the date BOE returned

Deferment of duty (clear first pay later)  
 → Eligible Importer - AEO (Str 2.5.5)  
 → Due date: for BOE returned by 1<sup>st</sup>-15<sup>th</sup>-15<sup>th</sup>  
 For BOE with 1<sup>st</sup> last day of month - 15<sup>th</sup> of 1<sup>st</sup> month  
 For BOE with 1<sup>st</sup>-31<sup>st</sup> March - 31<sup>st</sup> March  
 → Non payment by BO - Interest @ 15% p.a.  
 → Late of payment on BO > once in 3 mths: withdrawal

Sec 31: Grant of Entry Summons, Entry Summons is a written permission to unload

• Master shall not permit unloading without entry summons

• No entry summons shall be given w/o Arrival/Import manifest

• Entry required for unloading crew member/passengers baggage, Mail bags, animals, perishable or hazardous goods [C/M/H/P]

• ET is NA for vehicle/aircraft.

• ET is NA for vehicle/aircraft.

Unloading of goods

Sec 32: Unloading only the goods specified in manifest/report

Sec 33: Unloading at approved places only (Landing Place)

Sec 34: Unloading under the supervision of the PO

Sec 35: No goods shall be waterborne unless accompanied by a boat note

Note: Boat note is given by PO

• Small Boat • Barge • Lighters

Note: No fee for unloading of baggage & mail bags

Sec 42: No Conveyance to leave w/o written order (By Po)

Bye Bye (Depart)

Sec 11: Sail Assessment + Payment of duty on

date of presentation of BOE.

Belated payment: Pen @ 15% p.a.

(Deferment payment allowed to Authorized Economic Operator)

• AEO • BOE where duty 20% Payment gateway - 'ICEGATE'

Sec 46: Filing of BOE (electronically)

BOE: white (No), Yellow (Yes), Green (Ex bond)

To be filed by next day end first arrival of vessel at clearance port

Prior BOE: 30 days prior to arrival (Warehousing info Warehousing allowed)

Sec 48: If goods not cleared within 30 days from unloading, Custodian may sell after notice to importer & with Po permission.

# Export Procedure

Sec 91:

Issue of Departure order (ie written order)  
 Not to permit Clearance to depart after no issues written order

Sec 411: PIC or any other person (employed by CS) before Departure: file  
 Departure / export manifest (vessel / aircraft): Electronically  
 Export report (vehicle): Manually

Sec 412: Passenger / Crew departure manifest + Passenger name record information (PNR)  
 Delay in Flight/aircraft/ vessel: Penalty: Rs 5000 (Sec 412.1)

PIC

CUSTOMS

Sec 35: Grant of entry orders to a vessel  
 Master not to permit loading of goods without EO

Entry orders not required for baggage & mail bags  
 EO applicable to vessels only



Issuance of goods on Clearance for exportation.

Sec 402: Not to permit loading only if they are accompanied by  
 shipping bill (manifest), Bill of export (manifest), Bill of lading  
 + duly passed by PS

→ General Baggage's mail bag - if permitted by PS

loading



Sec 202: Loading at approved place only

Sec 203: Loading under the supervision of the PS

Sec 204: No goods shall be waterborne unless accompanied by a boat note.

Sec 205: No loading on wharves after working hrs. **Exception:** Notice of merchant override per

Notes: No port for loading of baggage's mail bags

Exporter



Sec 51:  
 Filing of Shipping Bill (SBL) or Bill of Export (manifest)  
 - Electronically (vessel)

Sec 17: Self assessment  
 + Pay EO (if any)

Verify Customs with Self Invoice, payment Declared.

If is satisfied → Sec 51.1b Shall pass order permitting Clearance +  
 + loading called out report order

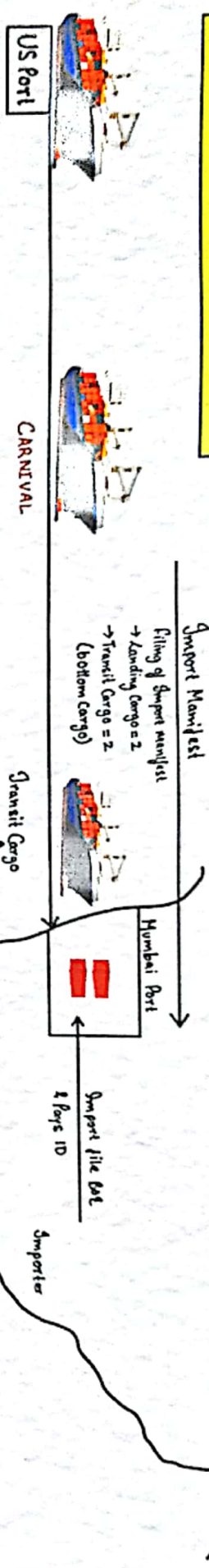
If is not satisfied → Reassess → Exporter → EO  
 by PS (Pay's self-assessment date)

Notes: Clearance Orders may also be issued by Customs automated system (CAS) on the basis of risk evaluation

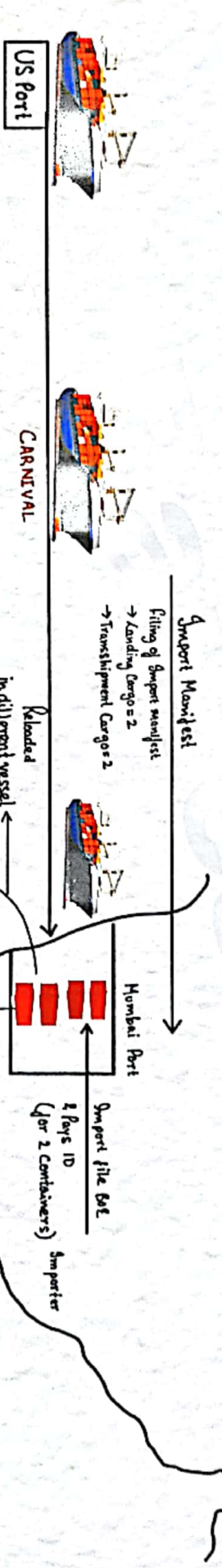


# TRANSIT & TRANSHIPMENT OF GOODS

Sec 52: The provisions of this chapter shall not apply to: (a) Baggage (b) Goods imported by Post (c) stores



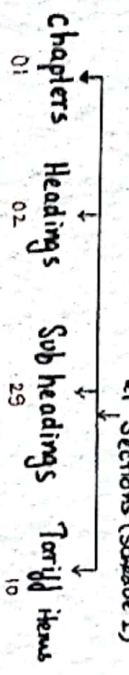
Sec 53: Goods in transit: Further transportation of goods in same conveyance is transit where any good imported in a Conveyance + mention in AH/DW/IR as for transit within/ols India, The Po may allow the goods + Conveyance to transit without payment of duty same document continues, no new document required ID is payable at destination port/station.



Sec 54: Goods in transshipment: Further transportation of goods in other conveyance is transshipment where any good imported in a Conveyance + mention in AH/DW/IR as for transshipment within/ols India, The Po may allow goods to be transhipped without payment of duty Bill of transshipment shall be presented to Po for transshipment of goods ID is payable at destination port/station

Note: Declaration of transshipment: where goods are being transhipped under an international treaty/bilateral agreement like GAT & GAT of origin country, a declaration instead of bill of transshipment shall be presented to Po.

Standardized system of names & Nos for classifying traded products by WCO  
 21 Sections (Schedule I)



## Classification of Goods

Finding out the correct HSN code of the imported/exported goods in CTA

Refer below - Explanatory notes

First Schedule: Import duty (rates)  
 Second Schedule: Export duty (rates)

CTA Contains 5 columns: Tariff item, Description of goods, unit, Standard rate of duty, Rate of duty for preferential Areas  
 Standard unit of quantity: S is a unit of measure, Presented in Col (3) of 1st Sch.  
 S indicates the collection, Comparison Analysis of trade statistics.  
 Unit is indicated by abbreviations like cc - cubic centimetry, g - grams, etc.

**Rule 1:** Title of Sections/Chapters/  
 Sub Chapters are for ease of Reference  
 (Don't have any legal force)

For legal purpose, Classification to be determined according to: Terms of headings & Section/Chapter notes  
 ↓  
 If unable to classify using this rule, then apply rule 2-5.  
 Section & Chapter notes:  
 Given at the beginning of Sec/Chapter  
 They are part of Statute & have legal authority in determining the classification

**Rule 2:** Classification of

- (a) **Incomplete/unjumbled,** Unassembled/disassembled goods (EXD/SXDJGM)  
 ↓  
 Classify under heading of completed article.  
 heading includes article **Incomplete/unjumbled,** Unassembled/disassembled (if it has essential character of the complete article)  
 Car without seats → car  
 Dismantled cycle → cycle
- (b) **Mixture/Combination** of material & substances  
 ↓  
 Classify under main article heading includes mixtures/ combinations of that material with other material/substances  
 Eg: Cellar Covers Cellar with dairy Natural rubber covers N: rubber mixed with synthetic rubber

**Rule 3:** 1 product classifiable under 2 or more  
 If by applying 2(b) for any other reason, goods classifiable under two or more headings:

- (a) Prefer specific over general heading  
 Eg: Leather Bag, classify as Bag
- (b) Essential character test (M/C/T)  
 Note: Mixed/composite goods/items in set [M/C/T] - each heading to be treated as equally specific

**Rule 4:** **Atkin Rule (Above rules rule)**  
 Generally applied when heading unavailable  
 Classify under similar goods heading  
 Eg: Plastic films for cars to be classified under **hardware of plastic shutter**

**Rule 5:** Packing cases/container/material

- Camera/necklace/gun drawing instrument cases  
 ↓  
 Packing material/containers (of a kind normally used)
- Specifically Shaped / Fitted to contain specific article/set of articles  
 ↓  
 Presented with the goods
- Suitable for long term use  
 ↓  
 Presented with the goods

**Market/trade parlance theory**

If product not defined in schedule - Section a chapter notes in CTA, it should be classified according to its common understanding in trade by dealer/consumer  
 M/s Connaught Plaza Restaurant P Ltd: Sajt  
 Served in the ice cream van other dairy products

**Explanatory notes**

- (1) ' - ' Subclassification of articles covered by headings,  
 ' - - ' article is Subclassification of imm. preceding article with ' - ',  
 ' - - - ' article is Subclassification of imm. preceding article with ' - - - '
- (2) Duty shall be equal to such ' % ' on wgt wgt in
- (3) Sld rate applicable if pvt rate unavailable



Eg: Mahindra imporio

Rule not applicable to: (Classify separately)  
 (a) Durable containers capable of repetitive use  
 (b) Containers which gives the whole its ess. character

**Rule 6:** Classification of Sub-headings

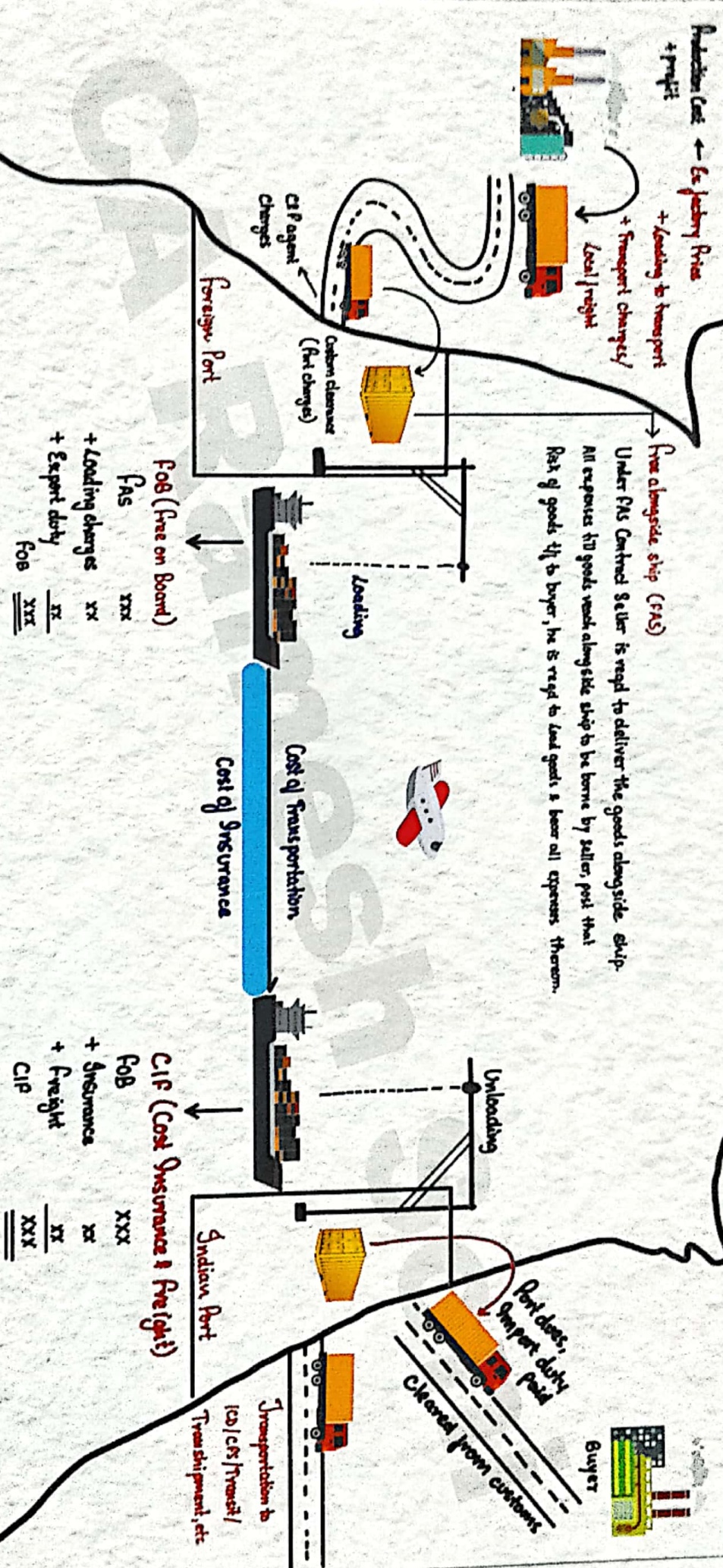
Apply - terms of Sub-headings ⊕ Sub-heading notes ⊕ apply rule 1-5 (Wuettch's method)

**Project Imports:** CTA-heading 9801 (Concessional rate)  
 Imports of a new project / Expansion of project (> 25% of existing project)  
 Project: Industrial/Irrigation/Power/mining/oil exploration/Notified by CTA  
 Notified projects: Metro projects, monorail projects, Airport devt projects  
 Eligible imports: All machineries, instruments, Apparatus & Appliances  
 Auxiliary equipment, Components & raw mat. reqd for initial set up/Expansion  
 Spares, other raw material & Consumables for maintenance of Ptd - lot of voq  
 Treatment: All imports to be classified under 9801 (BOD + SWS + 15 ST @ 10%)

# Place of exportation

# VALUATION

# Place of Importation



Free alongside ship (FAS)

Under FAS Contract Seller is reqd to deliver the goods alongside ship. All expenses till goods reach alongside ship to be borne by seller, post that Risk of goods til to buyer, he is reqd to load goods & bear all expenses thereon.

**FOB (Free on Board)**

FAS	xxx
+ Loading charges	xx
+ Export duty	xx
<b>FOB</b>	<u>xxx</u>

**CIF (Cost Insurance & Freight)**

FOB	xxx
+ Insurance	xx
+ Freight	xx
<b>CIF</b>	<u>xxx</u>

**In FOB Contract:** The seller is responsible for loading the goods on ship. All expenses from factory till loading of goods in ship are undertaken by seller. Post loading the risk is til to buyer who has to bear transportation, insurance, etc.

**In CIF Contract:** The seller is responsible for the goods for the expenses till place of Importation. Freight, Insurance is the responsibility of seller. Post import i.e. Unloading of goods at place of Importation, custom clearances, payment of duty etc. borne by buyer.

**Note: CFR Contract:** Seller will load the goods & also pay freight till delivery port but seller will not bear expense of insurance.

**No Restriction as to disposition/Use of goods by buyer except (FORM)**  
 Restriction: by Law/public auth., geographical area/Other restriction not impacting Value  
 Sale not subject to Condition for which value cannot be determined  
 No Subsequent Sale proceeds to accrue to seller for which adj. cannot be made  
 Buyer & seller are unrelated

Related Party (R-2): SCOPE + Family + both agent (falling in Scope + Family)

**Rule 3(S): Even if buyer & seller related, TV acceptable if:**

1. Relationship did not influence price

2. If importer demonstrates declared value (TV) closely approximates value vlr 4, 5, 7, 8.

**Yes: Rule 3(D): AV = TV (CIF) Adj. Rule 10**

Free on Board (FOB)

R-10: adjustment: 10 (1) : 5 factors

- + Commission + Packing + Container
- + Additional Consideration/Assistance by buyer
- + Royalty + License fees
- + Subsequent Sale proceeds
- + Any other payments (Condition of sale)

Adjusted FOB

10(2): 2 factors

- + Cost of Transportation (actual, if NA + 20% of FOB)
- + Cost of Insurance (if no actual: 1.125% of FOB)

CIF XXX

**Reason for Po to deduct declared value (vlr 11)**

Significantly higher value of Identical/Similar goods

Sale involves Abnormal discs./sp. discs., Fraudulent/fraudulent does

His declaration of goods in parentheses, Non declaration of parameters

**Und. Rule 9: For value determination: Following shall not be treated:**

Minimum Custom values, Arbitrary or fictitious values

Cost of Prod (not computed as per 7-8), Highest of 2 alt. values.

SP of goods for export to Country other than India. SP of Indian goods,

Domestic mkt price of goods in Exporting Country

**Valuation**

Assessable value

Tariff value - 14(2) Section 14(1)  
 (For modified goods fixed by CBIC)

Transaction value

value

Rule 11: Declaration by importer/its agent disclosing full & accurate value + for delivery at the time & place of importation + Buyer and seller unrelated + Price is sole consideration for the sale

4 Conditions Under Rule 3(S) Fulfilled?

Yes: NO: Rule 3(S): TV value not determined vlr 3(D) then apply

Value already accepted Under R-3 (not value assessed provisionally)

Apply (re-assessment)

**Rule 4: AV = TV of Identical Goods**

1. (a) Imported into India, at/about same time as goods being valued

(b) Same Commercial level + Substantially Same quantity, or else

(c) Different Commercial level/quantities/both - Subject to adjustment

2. Adjust for Freight and Insurance: Rule 10(2)

→ Significant differences in such costs

3. More than 1 TV of identical goods → Lowest to be used as AV.

**Rule 5: AV = TV of Similar Goods**

(1) Value = TV of similar goods imported at/about same time. a like Component material enabling them to perform

(2) Clause (b) (c) (d) of rule 4 - Apply Market Methods Some Function & Commercially interchangeable

**Rule 6:** If value cannot be determined using 3, 4, 5 then apply 7-8. At importer request & Po approval order can be 8-7.

**Rule 7: AV = Deductive Value**

Reale unit price (imported/identical/similar goods) in greatest qty. qty to UNP

Less: Commission paid, profits made, general expenses, processing cost

Less: COT and COI and associated cost & Customs duties & other taxes paid in India. (XX)

AV XXX

**Rule 8: AV = Computed Value**

Cost of material + Processing exp + Profit & gen. exp (up to 10%) + COT/COI - 10(2)

**Rule 9: AV = Value by applying Residual method**

Value determined using reasonable means consistent with the principles a general prov of rules & on basis of data available in India

## Determination of Assessable Value

Particulars	Amount	Remarks
<b>Ex-factory Price</b>	XXX	
Add: Freight, Insurance, all expenses upto the port (sea/air) of exporter's country	XX	<b>Point to Remember:</b> Never start solving with CIF, First arrive at FOB.
Free Along Side (FAS)	XXX	<b>Note:</b> Any duties & taxes incurred in India - not includible.
Add: Landing charges at the shipping port in exporter's country	XX	Service charges to Consigning agent is not buying Commission - Includible
Free on Board (FOB)	XXX	Demurrage charge paid for delay in clearing from port - not includible.
Add: Adjustment under 10(i)	XX	<b>Exclude:</b> Amount attributable to post importation activities to be carried out by seller.
(a) The Following, if incurred by buyer & not included in TV (i.e. price paid/payable)	XX	Hence only if charged separately, includible in TV
(i) Commission and Brokerages - all Commission include Local agent/Exporter's agent Comm.	XX	Buying Commissions (paid by buyer to his agent) - not includible,
(ii) Cost of Containers	XX	Except: Cost of durable & returnable containers
(iii) Cost of Packing	XX	whether for labour/materials - include
(b) Assurance by Importer to the supplier - free of cost/at reduced price	XX	Add the value as per appropriate
(c) Material (but not raw material) incorporated in imported goods	XX	
(d) Tools/dies/moulds & similar items used in production of imported goods	XX	
(e) Material consumed in production of the imported goods	XX	
(f) Engineering, development, art work, design work, Plans & Sketches undertaken elsewhere than India	XX	<b>Do not include if:</b> Engineering, development, art work undertaken in India
(g) Royalties & license fees - related to imported goods - that buyer is required to pay	XX	<b>Exclude:</b> Payment w.r.t. patents, trademarks & copyrights. (Press might be undertaken after import)
(h) Value of any part of the proceeds of subsequent resale/disposal/use of imported goods	XX	Deducted from buyer to seller - not subsequent sale proceeds - do not include
(i) All other payments made, as a condition of sale to seller/3rd party to satisfy an obligation of seller	XX	If payment is not Condition of sale then do not add/include.
Adjusted FOB	XXX	
Add: Adjustment under 10(a)	XX	
(a) Cost of Transport, Landing, Unloading & handling charges associated with delivery of the imported goods to the place of importation	XX	COT upto the place of transportation Includible
Actual Available/ascertainable - take Actual	XX	Ship demurrage charges/Barge/Lightage charges - add separately to COT only if transportation charges included on actual basis. (But do not include if calculation done on 20% basis)
Actual Unavailable/not ascertainable - 20% of Adjusted FOB	XX	<b>Do not add in TV:</b> Transportation to ICD, CFS, port to ICD, Port to Port, Port to CR, Port to Airport, etc.
Note: In case of Air we compare: Actual / 20% of Adj. FOB - Lower	XX	transit & transshipment charges/any transport expenses incurred post importation.
Cost of Insurance to the place of Importation	XX	<b>Do not add:</b> Port dues, handling charges, demurrage paid at port of Importation.
Actual Available/Ascertainable - take Actual	XX	<b>Note:</b> (i) Combined FOB (i.e. FOB + Insurance given): COT: 20% of Combined FOB
Actual Unavailable/not ascertainable - 20% of Adjusted FOB	XXX	(ii) Combined FOB (i.e. FOB + Transport given): COT: 100% of Combined FOB.
<b>Assessable value = CIF</b>	XXX	<b>Note:</b> Landing charges were includible.

## Summary of Rate of duty (ROD) & Rate of Exchange (ROE)

### Situations

(1) Goods cleared for Home Consumption (Direct Clearance)

- (i) Imported by vessel
- (ii) Imported by Aircraft/vehicle

Rate of duty (sec 15 & 16)

Rate of Exchange (sec 15)

BOE (P) / Entry towards (Latter)

Date of Filing first BOE

BOE (P) / Arrival Date (Latter)

Date of Filing first BOE

(2) Goods cleared from warehouse (Indirect Clearance)

Date of Filing **Export BOE**

Date of Filing first BOE (Entry bond **BOE**)

(3) Goods entered for Export

Date of LEO (Let export order)

Date of Filing Shipping bill

In any other case

Date of Payment of duty

Date of Payment of duty

The provision above (secs 15) NA to baggage & goods imported by post.

## Table Showing calculation of Various Duties

### Types of Duties under Customs

Particulars	Amount	Remarks
Assessable Value u/s 14(1)/ (2)	XXX	Transaction value (CIF) / Tariff value notified by CBIC
Add: Basic Custom Duty (BCD)	XX	Levied u/s 12 of CA on goods Imported/Exported, at rate specified in first and Second Schedule of CTA, 1975
Add: Protective duty	XX	Levied u/s 6 of CTA, by CG upon recommendation of tariff commission, to protect interest of any industry est. in India
<b>Total</b>	<b>XXX</b>	<b>A</b>
Add: CVD u/s 3(1) on A	XX	Leviable on AL for HC, tobacco products, HPMAN (5 Petro products) at rate of ED on like article manufactured in India.
<b>Total</b>	<b>XXX</b>	<b>B</b>
Add: SWS @ 10%	XX	On BCD + protective duty + CVD 3(1)
<b>Total</b>	<b>XXX</b>	<b>C</b>
CVD u/s 3(5) on C	XX	Levied on Imports, to counter-balance VAT & Sales tax levied on sale of like article in India. Max @ 4%, leviable on HPMAN
<b>Total</b>	<b>XXX</b>	<b>D</b>
Safeguard duty u/s 8B of CTA	XX	When any article is imported in increased quantities so as to cause/threatening to cause serious injury to domestic industry.
CVD (subsidized articles) u/s 9 CTA	XX	When a country pays subsidy upon exportation of any article into India, CG may impose CVD not exceeding such subsidy.
Anti-dumping duty u/s 9 of CTA	XX	Anti-dumping duty is: (i) Margin of dumping or (ii) Injury margin, whichever is lower.
<b>Total - Value u/s 3(8)/(10)</b>	<b>XXX</b>	<b>E</b>
<b>IGST u/s 3(7) of CTA on E</b>	<b>XX</b>	<b>IGST max @ 40%</b>
<b>GST compensation cess on E</b>	<b>XX</b>	<b>Cess u/s 3(9) of CTA</b>
<b>Total</b>	<b>XXX</b>	

### Details Summary of Various types of Duties

Duties	Section	Summary
Basic Custom duty (BCD)	Sec 12 of CA,1962 & Sec 2 of CTA	Levied on: All goods imported/exported, At rate specified in Custom Tariff Act, 1975 Assessable Value: Transaction Value u/s 14(1)/Tariff Value u/s (2)
<b>The Custom Tariff Act 1975</b>		
BCD	Section 2	The rates at which duties of customs (BCD) shall be levied under the CA, 1962, are specified in the First & Second Schedules. Note: BCD specified in CTA is always to be read with exemption notification issued for the goods.
Preferential rate of duty	Section 4	<p><b>Levy of duty where standard rate and preferential rate are specified:</b></p> <p><b>Duty shall be levied at Preferential rate subject to fulfillment of following conditions:</b></p> <ul style="list-style-type: none"> <li>At the time of importation, importer should make specific claim for the preferential rate of duty.</li> <li>Importer also claim that the goods are produced or manufactured in such preferential area.</li> <li>The origin of the goods shall be determined in accordance with the rules made by CG and notified in Official Gazette.</li> <li>The area should be notified to be a preferential area by CG vide notification in the Official Gazette.</li> </ul> <p><b>Determination of Origin is important to allow concessional rate of customs duty. Generally, as per the rules:</b></p> <p>(a) if the goods are un-manufactured, it should be grown or produced in that area.</p> <p>(b) If it is fully manufactured in that country, it should be manufactured from material produced or with un-manufactured materials from that country.</p> <p>(c) if it is partially manufactured in that country, final process should be completed in that country and at least specified percentage of expenditure on material or labour should be in that country.</p>

## Types of Duties under Customs

Duties	Section	Summary
CVD – ED	Section 3(1)	<p><b>Additional Duty to counter-balance effect on excise duty on like article in India</b></p> <p>Levied on</p> <ul style="list-style-type: none"> <li>HPMAN &amp; Tobacco, at rate of ED on like article produced/manufactured in India.</li> </ul> <p>If like article not produced/manufactured in India: ED as leviable on similar class/description of article.</p> <p>If duty is leviable at different rates, the highest duty.</p> <p>On AL for HC @ rate NOTIFIED by CG,</p> <p>Value</p> <ul style="list-style-type: none"> <li>If declaration of RSP(MRP) is mandatory on article in India: AV = RSP(MRP) of the Imported article – Abatement.</li> <li>If Imported article has more than one RSP: AV = Highest RSP</li> <li>If Tariff value is fixed under excise act: AV = Tariff value</li> <li>In all other cases: Valuation as per sec 14(1) + BCD.</li> </ul> <p><b>Additional duty as would counter-balance the sales tax, value added tax, local tax/any other charges</b></p> <p>Leviable on: On HPMAN at the rate notified by CG which can be maximum 4% (currently notified rate is 4%)</p> <p>Value: Value u/s 14(1)/(2) + BCD + CVD 3(1) + SWS @ 10%</p>
CVD – Sales tax & VAT	Section 3(5)	<p><b>IGST shall be levied on any article which is imported into India except AL for HC and HPMAN</b></p> <p>At rate, not exceeding 40%, as is leviable u/s 5 of the IGST, 2017 on a like article on its supply in India,</p> <p>On the value of the Imported article as determined under sub-section (8)/(8A).</p>
CVD - GST	Section 3(7)	<p><b>Value for the purposes of calculating the IGST u/s 3(7):</b></p> <p>Value = Value u/s 14(1)/(2) + All other duties excluding IGST &amp; GST compensation Cess.</p>
Bond to Bond transfer	Section 3(8)	<p><b>Value for Levy of IGST, payable before clearance for HC on goods sold in the warehouse</b></p> <p>(a) where the whole of the goods are sold,</p> <ul style="list-style-type: none"> <li>the value determined under sub-section (8) or</li> <li>the transaction value of such goods, whichever is higher; or</li> </ul> <p>(b) where any part of the goods are sold,</p> <ul style="list-style-type: none"> <li>the proportionate value of such goods as determined under sub-section (8) or</li> <li>the transaction value of such goods, whichever is higher:</li> </ul> <p>Proviso: Multiple times sold in warehouse: take the last TV</p> <p>Proviso: For unsold goods, assessable Value u/s 3(8)</p>
CVD – GST Cess	Section 3(9)	<p><b>Any article which is imported into India shall, in addition, be liable to the GST compensation cess</b></p> <p>At such rate, as is leviable u/s 8 of GST (Compensation to States) Cess Act, on a like article on its supply in India,</p> <p>On the value of the imported article as determined under sub-section (10)/(10A), as the case may be.</p>
Value for 3(9)	Sec 3(10)	<p><b>Value for the purposes of calculating the GST compensation cess u/s 3(9):</b></p> <p>Value = Value u/s 14(1)/(2) + All other duties excluding IGST &amp; GST compensation Cess</p>
Bond to Bond transfer	Sec 3(10A)	<p><b>Value for Levy of GST compensation cess, payable before clearance for HC on goods sold in the warehouse</b></p> <p>(c) where the whole of the goods are sold,</p> <ul style="list-style-type: none"> <li>the value determined under sub-section (10) or</li> <li>the transaction value of such goods, whichever is higher; or</li> </ul> <p>(d) where any part of the goods are sold,</p> <ul style="list-style-type: none"> <li>the proportionate value of such goods as determined under sub-section (10) or</li> <li>the transaction value of such goods, whichever is higher:</li> </ul> <p>Proviso: (1) Multiple times sold in warehouse: take the last TV (2) For unsold goods, assessable Value u/s 3(10)</p>



## Types of Duties under Customs

Duties	Section	Summary
Trade Agreement	Section 5	<p><b>Lower rate of duty shall be levied under a trade agreement subject to fulfilment of conditions:</b></p> <p>Whereunder a trade agreement between the Government of India and foreign country or territory, duty at a rate lower than that specified in the First Schedule is to be charged on</p> <ul style="list-style-type: none"> <li>articles which are the produce or manufacture of such foreign country or territory,</li> <li>the CG may, by notification in OG, make rules for determining if any article is the produce/manufacture of such foreign country</li> <li>for requiring the owner to make a claim at the time of importation,</li> <li>supported by such evidence as may be prescribed in the rules, for assessment at appropriate lower rate under such agreement</li> </ul>
Protective duty	Section 6	<p><b>Power of CG to levy protective duty in certain cases</b></p> <ol style="list-style-type: none"> <li><b>Levied by CG on recommendation of tariff commission to protect the interests of domestic industries.</b></li> <li>Protective duty imposed on goods be deemed to be specified in first schedule as the duty leviable in respect of such goods.</li> <li>If a notification is issued, the CG shall introduce a bill in parliament during the next parliamentary session to give effect to the proposals in regard to the continuance of a protective duty                     <ul style="list-style-type: none"> <li>If the notification u/ss (1) is issued when Parliament is in session, such a Bill shall be introduced during that session</li> <li>Notification shall cease to have effect on expiry of <b>6 months</b> from the date of its introduction in Parliament if it doesn't become law.</li> </ul> </li> </ol>
Duration of Protective duty	Section 7	<ol style="list-style-type: none"> <li>Protective duty shall be effective upto date specified in first schedule.</li> <li>CG may reduce/increase the duty by notification as it thinks necessary</li> <li>In case of increase in duty, approval of Parliament required.</li> </ol>
Increase in ED	Section 8	<p><b>Emergency power of CG to increase or levy export duties:</b> by notification in the Official Gazette (OG).</p> <p><b>Emergency power of CG to increase import duties:</b></p> <p>Where the CG is satisfied that</p> <ul style="list-style-type: none"> <li>the import duty leviable thereon u/s 12 of the Customs Act, 1962 should be increased and</li> <li>that circumstances exist which render it necessary to take immediate action,</li> </ul> <p>it may, by notification in the OG, direct an amendment of first Schedule to be made so as to provide for an increase in the import duty leviable on such article to such extent as it thinks necessary.</p>
Increase in Import duty	Section 8A	<p><b>Power of Central Government to impose safeguard duty</b></p> <p><b>If the CG, after conducting such enquiry as it deems fit, is satisfied that</b></p> <ul style="list-style-type: none"> <li>any article is imported into India in such increased quantities and</li> <li>under such conditions so as to cause or threatening to cause serious injury to domestic industry,</li> </ul> <p>then, it may, by notification in the Official Gazette, impose a safeguard duty on that article.</p> <p><b>Amount of Safeguard duty = Injury Margin</b></p>
Safeguard Duty	Section 8B	<p><b>Safeguard duty is not imposed on import of:</b></p> <ul style="list-style-type: none"> <li>An article</li> <li>originating from a developing country</li> <li>share of imports of that article from that country does not exceed 3% of the total imports of that article into India;</li> </ul> <p><b>The Article is</b></p> <ul style="list-style-type: none"> <li>originating from more than one developing countries,</li> <li>the aggregate of imports from developing countries each with less than 3% import share taken together</li> <li>does not exceed 9% of the total imports of that article into India;</li> </ul> <p><b>Articles imported by a 100% EOU or a unit in a SEZ unless specifically made applicable on them or the article imported is either cleared as such into DTA/used in the manufacture of any goods that are cleared into DTA. In such cases, safeguard duty shall be levied on that portion of the article so cleared or so used as was leviable when it was imported into India.</b></p>

## Types of Duties under Customs

Duties	Section	Summary
CVD on subsidized articles	Section 9	<p><b>Provisional Imposition of safeguard duty</b></p> <ul style="list-style-type: none"> <li>CG may impose duty provisionally on the basis of a preliminary determination that increased imports have caused or threatened to cause serious injury to a domestic industry.</li> <li>On final determination, the CG is of the opinion that increased imports have not caused/threatened to cause serious injury to a domestic industry, it shall refund the duty so collected</li> <li><b>Maximum duration of provisional Imposition: 200 days</b> from date of its first imposition.</li> </ul> <p>Retrospective imposition of provisional duty = not allowed.                      Duration: <b>Maximum period of imposition of safeguard duty = 4 years + Extension 6 years = Total period 10 years.</b></p> <p><b>Countervailing duty on subsidized articles</b></p> <ul style="list-style-type: none"> <li>When a country pays subsidy upon exportation of any article into India, CG may impose CVD not exceeding the amount of such subsidy.</li> <li><b>Maximum CVD: not exceeding the amount of such subsidy.</b></li> </ul> <ul style="list-style-type: none"> <li>A subsidy shall be deemed to exist: if -                             <ol style="list-style-type: none"> <li>there is a financial contribution by the Govt./any public body within the territory of the exporting country, i.e. where-                                     <ul style="list-style-type: none"> <li>there is a direct transfer of funds (including grants, loans, and equity) by the Government;</li> <li>government revenue i.e. otherwise due is foregone and not collected (including fiscal incentives, I.T. exemption</li> <li>a government provides goods or services other than general infrastructure;</li> </ul> </li> <li>a government grants or maintains any form of income or price support which operates directly or indirectly to increase export of any article from its territory.</li> </ol> </li> </ul> <p><b>Ways that constitute Circumvention of CVD:</b></p> <ul style="list-style-type: none"> <li>by altering the description/name/composition of the article on which such duty has been imposed</li> <li>by import of such article in an unassembled or disassembled form</li> <li>by changing the country of its origin or export or</li> <li>in any other manner, whereby the countervailing duty so imposed is rendered ineffective,</li> </ul> <p>In such cases, investigation can be carried out by CG and then CVD can be imposed on such articles.</p> <p><b>Conditions for Levy of CVD:</b></p> <ol style="list-style-type: none"> <li>the subsidy relates to export performance;</li> <li>the subsidy relates to the use of domestic goods over imported goods in the export article; or</li> <li>the subsidy has been conferred on a limited number of persons engaged in the manufacture, production or export of articles</li> </ol> <p>Provisional imposition permissible: pending the determination and later refund if collected excess.</p> <p>Retrospectively imposition: Allowed, from a date prior to the date of imposition but not beyond 90 days from date of notification.</p> <p>Duration: CVD shall cease to have effect on expiry of 5 years from date of imposition, extendable on review by 5 years at a time.</p> <p>If duty is under review on expiry, it shall continue to remain in force pending the outcome of such a review for a further period not exceeding one year.</p>
Anti-Dumping Duty	Section 9A	<p><b>Anti - dumping duty (ADD) on dumped articles</b></p> <ul style="list-style-type: none"> <li>Dumping happens when article is exported from any country, at less than its normal value (i.e. normal value &gt; Export price)</li> <li>Anti-dumping duty is: Lower of [Margin of dumping or Injury margin].</li> </ul> <p><b>Margin of Dumping: Normal Value - Export price</b></p>

## Types of Duties under Customs

Duties	Section	Summary
		<ul style="list-style-type: none"> <li>• Normal Value: SP of the article in domestic market of exporting country/Export price of like article to third country/ Cost of production + reasonable (administrative, selling &amp; general cost) + Profit.</li> <li>• Export price: the price of the article exported from the exporting country, if Unavailable/unreliable: price at which the imported articles are first resold to an independent buyer.</li> <li>• Injury margin: Fair selling Price - landed value of dumped imports.</li> <li>• Fair selling Price: Selling price of the product for the domestic industry.</li> <li>• Landed value of dumped imports: CIF + BCD + SWS</li> </ul>
		<ul style="list-style-type: none"> <li>❖ <u>Dates of commencement of the Anti-dumping duty</u></li> <li>(a) Where no provisional duty is imposed: the date of publication of notification, imposing ADD u/s 9A (1), in the OG.</li> <li>(b) Where provisional duty is imposed: the date of publication of notification, imposing provisional duty u/s 9A (2), in the OG.</li> <li>(c) Where anti-dumping duty is imposed retrospectively from a date prior to the date of imposition of provisional duty: such prior date as may be notified in the notification imposing ADD retrospectively, but not beyond 90 days from the date of such notification of provisional duty.</li> </ul>
Refund of ADD	Section 9AA	<ul style="list-style-type: none"> <li>❖ Anti-circumvention measure in respect of ADD duty (same as section 9(1A))</li> <li>❖ Provisional Imposition permissible: pending determination of normal Value &amp; margin of dumping &amp; refund if collected in excess.</li> <li>❖ No ADD on articles imported by a 100% EOU unless, specifically made applicable/Imported goods cleared into DTA.</li> <li>❖ Retrospective imposition of duty provisionally, but not beyond 90 days from the date of such notification of provisional duty.</li> <li>❖ Duration: ADD shall be effective for a period of 5 years from Imposition, extendable on review by 5 years at a time.</li> <li>❖ If duty is under review on expiry, it shall continue for further period of 1 year.</li> </ul> <p><b>Where an importer proves to the satisfaction of the CG that</b></p> <ul style="list-style-type: none"> <li>• he has paid any anti-dumping duty imposed on any article,</li> <li>• in excess of the actual margin of dumping in relation to such article,</li> <li>• he shall be entitled to refund of such excess duty.</li> </ul> <p>However, the importer will not be entitled for refund of provisional anti-dumping duty under section 9AA as the same is refundable under section 9A (2) of the said Act.</p> <p>Refund of excess anti-dumping duty paid is subject to provisions of unjust enrichment - Automotive Tyre Manufacturers Association v. Designated Authority 2011</p>
No Levy u/s 9 or 9A (CVD on subsidized articles/ADD)	Section 9B:	<p><b>No Levy u/s 9 or 9A in certain cases:</b></p> <ul style="list-style-type: none"> <li>• Both duties cannot be levied together to compensate for the same situation of dumping or export subsidization.</li> <li>• Duties cannot be levied for the reason that the same is exempt from duty borne by a like article when meant for consumption in the country of origin or exportation or by reasons of refund of such duties or taxes;</li> <li>• Import into India of article from a member country of the WTO or most favoured nation, shall not be levied to CVD/ADD unless a determination of injury has been made in the prescribed manner.</li> </ul>
Appeal	Section 9C	<p><b>Appeal shall lie with CESTAT against an order in respect of ADD/CVD on subsidized articles/order imposing safeguard duty.</b></p> <ul style="list-style-type: none"> <li>• Appeal within 90 days of the date of order under appeal, AT may condone delay on sufficient cause being shown.</li> <li>• Appeal shall be accompanied by a fee of Rs 15,000.</li> <li>• AT shall pass order, after providing OBH to the parties.</li> </ul> <p><b>CESTAT: Central Excise and Service Tax Tribunal</b></p>
Social welfare surcharge	Section 110 of Finance Act 2018	<ul style="list-style-type: none"> <li>• <b>SWS is levied @ 10%</b> on all imported goods or all imported goods only (not levied on exports)</li> <li>• Levied to fulfill the commitment of the Government to provide and finance education, health and social security.</li> <li>• Levied on BCD &amp; any sum chargeable under any other sum charged as custom duty, excluding Safeguard duty, CVD on subsidized articles, ADD u/s 9A, SWS, IGST &amp; GST compensation cess.</li> </ul>

## Types of Duties under Customs

Comparison between various Duties *make yourself competent*

Duty Section	Protective duty 6	Safeguard duty 88	Anti-dumping duty 9A
Authority to levy	Levied by CG on recommendation from tariff commission of India	Levied by CG after recommendation from Director General (safeguards) who has carried out detailed investigation.	Levied by CG after recommendation of Director general of Anti-dumping and Allied Duties (DGAD)
What is it?	To protect the interest of any industry established in India and it is <u>permanent</u> relief	Safeguard is a method by which the government some time to domestic industries to become more competitive. This is to deal with fair imports, but when domestic industries are unable to deal with imported products due to increased quantity. It is a <u>temporary</u> relief.	Dumping is an act done by exporters by selling the goods at a very low price for some time so that the domestic industries cannot compete and there by destroy them and later price is raised again. These are as a result of unfair trade practices. <b>Anti - dumping</b> is the measure taken by the government to protect industries against the injury caused by dumping
Purpose of Levy	To protect the interest of any industry established in India	To protect serious injury to domestic industry due to import in increased quantity.	To guard against situation arising out of unfair trade practices. Import from a territory which pays subsidy or exportation of article into India
Rate of duty	On recommendation by tariff council	SGD = Notified amount Generally: Injury Margin	CVD = Amount Notified: <b>Lower of: Subsidy on Imported goods or Injury margin</b>
Provisional	Not Applicable	Duty may be imposed provisionally for a period of 200 days till the time injury not determined	Duty may be imposed provisionally till the time subsidy not determined.
Maximum duration of tariff commission	Based on recommendation of tariff commission	4 years and maximum upto 10 years (i.e. 4+6)	5 years and maximum upto no limit, but max extension at a time is 5 years
Retrospective effect	NA	NA	Upto 90 days before the date of notification.

→ Post Trade Practice  
→ No Retrospective Effect

→ Unfair Trade Practice  
→ Retrospective Effect ✓



includes **Unaccompanied baggage** but doesnot include **motor vehicle**



**Sec 77:** Owner of Baggage to make declaration of its content in **baggage declaration form**

**Sec 78:** Rod & tariff value applicable to baggage shall be as on the date of filing declaration w/s TR

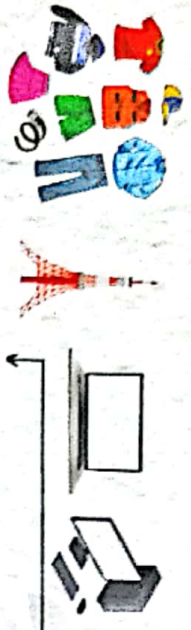
- BCD on baggage exceeding GFA is 100%,
- however Owing to exemption current Rod 35%
- 100% duty applicable on Fire Arms, Cartridges > 50,
- CTR > 100/25 sticks / 125 gms, Courier Imports

**Sec 79:** Bonafide Baggage is exempted from duty Ro shall allow bonafide baggage to pass duty free :

- Article which has been used by **Passenger/ crew member**
- Article for use of **passenger / family / gfi / Souvenir** within limit (as per rules)

**Sec 80:** Temporary detention of baggage

- where baggage of passenger contains dutiable prohibited goods and True declaration has been made w/s TR
- Po may, at request of passenger, detain Such article & return it to him on his leaving India
- If passenger unable to collect : Returned through other authorised passenger / as cargo.



3 kind of articles

Used personal effects (inexcess personal effect means used)

- Travel Souvenirs (bonafide purpose)
- Laptop Computer for passenger > 18 yrs (no value limit)

Exempted from Import duty

**Note:** Personal effect means things for satisfying daily necessities but excludes Jewellery.

Personal effect & travel Souvenir no limit.

Computation of Custom duty

Covered in General free allowance (GFA)

CCT upto 100/25 sticks/125gms

AL/wines upto 2 litres

Ornaments (within limit of Rate 5)

other articles (not personal effect)

Total :

Asss GFA (allowed as per rule 314)

Custom duty @ 35% + 10% :->

Other articles



Not covered in GFA (Annexure I items)

- Fire arms
- AL/wines > 2 litres

- Cartridges > 50
- Gold/Silver in any form (other than Ornaments)
- Flat panel TV (LCD/LED)

100% BCD  
10% SWS

35% BCD  
10% SWS



**Rule 3:** Passenger arriving from Countries other than Nepal, Bhutan, Myanmar (NBM)

- An Indian resident
- A Foreigner residing in India
- A tourist of Indian origin

- Gen. Free allowance (Excl. Ammunition I Item) Rs. 50000
- Foreign Tourist (Excl. Ammunition I Item) Rs. 15000
- Infant (Child upto 2 yrs age) NIL

**Notes:**

• Be very alert when question of baggage is related to NBM.

- Passenger arriving by land from NBM: **Only used personal effect (No GFA)**
- Single article cannot be claimed by 2 passengers: GFA not allowed to be pooled
- Resident: **Person holding valid passport & normally residing in India**
- Tourist: **Person not normally resident in India, enters India for stay upto 6m in 12m period for legitimate non-immigrant purpose**
- For Infant: **Only used personal effect allowed duty free.**
- Laptop can also be termed as Laptop Computer, notebook Computer.

**Rule 3:** Application of Baggage rules to Crew members

- On duty: Crew members allowed to bring chocolates, cheese, cosmetics, gift items for self/family use upto Rs 1500
- On termination from job: Baggage rules applicable to crew member as if he/she is a passenger.

**Baggage Rules 2016**

**Rule 4:** Passenger arriving from Nepal, Bhutan, Myanmar (NBM) (except by Road i.e. air route)

- An Indian resident
- A Foreigner residing in India
- A tourist of Indian origin

- Rs 15000
- Rs 15000
- NIL



**Rule 5: Jewellery**



Check Period of stay in India

≤ 1yr  
Include in 50k benefit (general free exemption)

> 1yr  
GPA: 50000 ⊕  
Additional benefit

Max: 20 gms (upto value Rs 5000)  
Lady: 40 gms (upto value Rs 10000)

coins, bars etc  
Ammunition - item  
Duty on full amount (no exemption)

**Example:**

Passenger	Jewellery weight	Jewellery Value	Duty free Allowance	Assessable value	Rate of Duty
Mr Tejas	18 gms	54000	50000	4000	@ 38.50%
Mrs Tejas	35 gms	120000	100000	20000	@ 38.50%
Mr Alden	24 gms	48000	40000	8000	@ 38.50%

Note: Assuming stay > 1yr ⊕ General exemption 50k Utilised.



SWS → other duties  
→ IGST

goods imported & duty has been paid  
→ Normal exp, Baggage, Post

# Duty Draw back

Sec 74: DBK on re-export of Duty paid goods



74(1): Export as such  
Export as normal exports/ Baggage/ Post  
98% of duty paid

74(2): Export After use  
Notification: 19/1985

but subsequently exported

DBK is reduced

All other goods

- Conditions:
1. Goods identified by A/C/DC as goods imported
  2. Goods entered for export within 2 yrs from date of payment of duty on importation (extension only by CBIC)
  3. No requirement to realize forex

## Sec 75: Drawback on imported material used in manufacture of exported goods

Goods imported, import duty paid, used in manufacturing goods & new product is exported.  
Export as normal export (gilling shipping bill), Baggage, Post.  
No criteria of identification, no time limit to export, value addition criteria stipulated, Forex must be realized in time.

Underlying Principle: Govt gives a rate per unit of article as the DBK

Rule 3: All Industry Rate \*

DBK allowed at a prescribed % of FOB or fixed rate per unit.

Average amount fixed by Govt taking the data of an industry.

Max DBK: 1/3<sup>rd</sup> of Indian MS market price.

Rule 4: Revision of all industry rate.

Govt may revise AIR fixed via 3.

Rule 6: Brand rate

AIR - Not fixed for a product Apply to Principal c/c

(within 2 months of LAD) for Provisional DBK.

Provisional dbk may be provided.

Rule 7: Special brand Rate

AIR < 80% of Actual taxes & duties on imports Exporter may apply to principal c/c for fixation of Special brand Rate Provisional dbk may be provided.

Rule 9: Upper limit of DBK

Maximum DBK = 1/2 of the market price of export product

No DBK if: Export value of goods < value of imported material used or

Export value doesnot exceed such % of the value of imported RM used. (as notified by CG on specified gds)

Wearing Apparel

Tea Check

Exposed cinematography films

Unexposed photographic films, papers & plates, x-ray films

Motor Car (anyone) + Goods imported by individual for personal/private use

DBK: Import duty

4% for 1st year (xx)

3% for 2nd year (xx)

2.5% for 3rd year (xx)

2% for 4th year (xx)

(In case of import) DBK XXX

Note: DBK shall be allowed after 2 yrs

Only if calc extends period beyond 2 yrs

\* No DBK after 4 years

All other goods

up to 3 → 95%

> 3-6 → 85%

> 6-9 → 75%

> 9-12 → 70%

> 12-15 → 65%

> 15-18 → 60%

> 18 → Nil

\* All industry rate does not consider duties like ADD, CVD, Safeguard duty etc.

## Section 75A: Interest on Drawback

Drawback upto 75% is not paid within 1 month of submission of claim, interest @ 6% p.a. shall be paid

From the date after the expiry of 1 month till date of payment.

DBK paid erroneously/becomes recoverable it shall be demanded if not paid within 2 months, interest @ 15% payable

From date of payment till date of recovery of dbk.

## Section 76: Prohibition & regulation of DBK in certain Cases

No DBK shall be allowed if: The market price < DBK

where DBK < Rs 50

No DBK if CG is of the opinion that goods are likely to be smuggled back

# Customs (Import of goods at Concessional rate of duty) Rules 2017

End use based Exemption: Concessional rate of duty allowed to be paid on imported goods if the end use is as specified in exemption notification.

Customs Port

③ Forward 1 set to A/C/DC at Port

Jurisdictional A/C/DC (having Jurisdiction over Premises where imported gds put to use for manufacturing goods/providing service)

⑤ Allows concessional Rod 1 issues Clearance Order

⑦ File BoE + Self assessment + Pay duty + 1 Set of information to A/C/DC at port

- ② Provide information, in Duplicate (2 sets)
  - Address where imported gds shall be put to use
  - Estimated quantity & value of goods
  - Particulars of exemption notification,
  - Port of import
  - + Bond with Surety/Security



① Information of receipt within 2 days



① Import of goods

⑥ Receipt of imported goods in premises

- ③ Maintain account (BoE wise) & produce to A/C/DC on demand
- ④ Submit quarterly return to Jurisd. A/C/DC by 10th day of next Qtr

Re-export unutilized/defective goods within 6m from Date of import with permission of Jurisd. A/C/DC

Refund of duty



IF used for Manufacture of gds Provisioning of Service (Specified in notification)

No problem

Clear unutilized/defective goods within 6m from Date of import with permission of Jurisd. A/C/DC

OR

Failure to perform intended use/re export Pay differential duty along with Interest @ 15% p.a. From date of import till date of payment