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GST FAQ

1. Is issuing a single Show Cause Notice covering multiple financial years statutorily valid under GST Law?

Issuing a **single GST Show Cause Notice covering multiple financial years** is generally **not considered proper practice**, though it is **not expressly prohibited in all situations**. The reasons include:

Limitation Period Issues

- GST law prescribes **different time limits** for issuing SCNs:
 - Section 73 (No fraud / no suppression - only Bonafide error) → 3 years
 - Section 74 (Fraud / suppression / wilful misstatement, intent to evade tax) → 5 years
 - Each financial year has its **own limitation clock**.
- If multiple years are combined:
 - Some years may be **time-barred**, while others are valid.
 - A single SCN may **mask this defect**, which is legally impermissible.
- Common SCN is permissible **only if**:
 - Issues are identical across years
 - Demand is clearly bifurcated year-wise, AND
 - Limitation is independently satisfied for each year.

Ref: M/s Aasawa Brothers Corporate Avenue Vs Union of India (Bombay High Court).

2. What is the GST treatment for sale of capital goods based on the 5-year (60 months) rule?

Under GST, when capital goods (on which Input Tax Credit has been availed) are sold, the tax liability is determined based on a **deemed useful life of 5 years (60 months)**, it is assumed that the asset/machinery will be used for 5 years (60 months).

- A. If the machinery is sold within the 5 year period**, it means that the full credit has **not been “used up”**, so the **unused portion must be paid back**.

Steps to be adopted

1. ITC is “consumed” over time

- ITC is reduced at **5% per quarter (3 months)**
- Over a period of 5 years = 20 quarters = 100% ITC consumed

So, earlier the sale more ITC still “unused”

2. Calculation of reduced ITC

ITC to be reduced based on how long the asset was used.

Formula:

Remaining ITC = Original ITC – (5% × No. of quarters used)

3. Comparison of two values

- Reduced ITC (remaining credit)
- GST on sale price (transaction value)

4. Payment of whichever is higher - key compliance rule

- If **remaining ITC is higher** → the said amount to be paid
- If **GST on sale value is higher** → the said amount to be paid

Why “higher of two” rule?

Because government wants to ensure:

- Assessee **does not benefit from excess ITC**, and
- Assessee **does not underpay GST by selling at a low value**

Example

- ITC claimed: ₹1,00,000
- Sold after 2 years = 8 quarters

ITC reduction = 5% × 8 = 40%

Remaining ITC = ₹60,000

Higher of the two:

- GST on sale value = ₹45,000
- Remaining ITC = ₹60,000

Assessee must pay **₹60,000 (higher amount)**

Departmental **scrutiny is common in this issue** because:

- Many taxpayers **incorrectly pay only GST on sale value**
- Errors happen in:
 - counting quarters
 - ITC calculation
 - ignoring “higher of” rule

This leads to **notices, interest, and corrections**

B. If capital goods are sold after 5 years (i.e., after 60 months):

- The ITC is treated as **fully exhausted**.
- Hence, **no ITC reversal is required** (reduced ITC = NIL).

GST is payable only on the transaction (sale) value at the applicable rate.

3. What is the difference between detention & confiscation of goods during transit under GST and what procedural steps should members adopt?

- **Detention (Section 129)** is for **procedural lapses** during transit (e-way bill errors, minor mismatches). No intent to evade tax is required and goods are released on **payment of tax and penalty**.
- **Confiscation (Section 130)** is a **serious penal action** used only when there is **intent to evade tax** (e.g., fake invoices, unaccounted goods). It requires proper notice & adjudication and **cannot be routinely invoked after detention**.

Advisory:

- Ensure accurate documentation, match goods with invoices/e-way bills and train dispatch teams. If detained, seek release under Section 129 for minor errors. If confiscation is proposed, **contest by proving absence of intent to evade tax**.

4. Is GST applicable on commission paid to foreign agents for export related services?

- Yes. **With effect from 30.03.2026**, an amendment to Section 13(8) of the IGST Act, 2017 has changed the tax treatment of commission paid

to foreign agents. Such services involving procuring export orders or facilitating payment collection etc are now liable to GST under the Reverse Charge Mechanism (RCM).

- Accordingly, the Indian exporter must pay GST at 18% on the commission amount. However, Input Tax Credit (ITC) can be availed on the GST paid, subject to eligibility conditions.

Ref: Clause 141 Finance Bill, 2026/Presidential assent to Finance Bill effective from 30.03.2026

5. With year-end verifications underway, whether a supplier can reduce output tax liability in cases where an invoice was raised in FY 2025–26, but was rejected by the customer (who has not availed input tax credit), and no credit note has been issued till date. If so, what is the appropriate mechanism under GST to claim such reduction?

- ❖ A credit note must be raised on or before the earlier of:
 - 30th November following the end of the financial year in which the original invoice was issued, or
 - Date of filing of the relevant Annual Return (GSTR-9)
- ❖ If the buyer rejects in IMS portal, it can still be justified during audit with Invoice rejection proof, No ITC Declaration and Commercial correspondences.

Or

- ❖ File Refund Application under Section 54 of GST Act, in RFD-01 under the head “Excess payment of tax” / “Tax paid on cancelled supply”, with the following documents/proof:
 - Invoice copy
 - Proof of rejection (email / communication)
 - Ledger showing no receipt
 - Declaration that recipient has not taken ITC
 - proof of rejection in IMS

Refund would be subject to thorough scrutiny and cooperation of the buyer (cancelled/rejected) is equally important.

6. Only payments reflected against the Demand ID in the Electronic Liability Register are considered for pre-deposit. How is the Demand ID

in the Electronic Liability Register relevant for considering payments made through Form GST DRC-03 towards pre-deposit?

- The Demand ID in the Electronic Liability Register is crucial because the GST system recognizes payments for pre-deposit **only when they are linked to that specific Demand ID.**
- Payments made through **Form GST DRC-03** are treated as voluntary payments and **are not automatically tagged to any Demand ID.** Therefore, such amounts do not appear as adjusted liabilities in the Electronic Liability Register and are **not considered by the portal while calculating the mandatory pre-deposit** at the time of filing an appeal.
- To ensure these payments are counted:
 - The taxpayer must file **Form GST DRC-03A** to **link the DRC-03 payment with the relevant Demand ID.**
 - Once linked, the amount gets reflected against the demand in the Electronic Liability Register.
 - The GST system will then **recognize the payment as part of the pre-deposit** and no additional payment will be required to the extent already paid.

7. Whether the pre-deposit for filing appeal can be validly made using the Electronic Credit Ledger, especially when the tax in dispute is output tax? Whether the Revenue's insistence on pre-deposit through only the cash ledger is legally sustainable?

Several Courts have taken a view in favour of the assessee:

- **Union of India vs. Yasho Industries Ltd (Supreme Court)**
 - pre-deposit for appeal under Section 107(6)(b) can be made via the Electronic Credit Ledger, if it relates to output tax.
- **Jyoti Construction vs Deputy Commissioner:**
 - Pre-deposit under Section 107(6) is in the nature of payment of tax.
 - Therefore, it can be discharged using the Electronic Credit Ledger, subject to eligibility of ITC.
- **Oasis Realty v. Union of India:**

- If the liability relates to output tax, ITC utilization cannot be denied.
- Restricting payment only through cash ledger lacks statutory backing.

Ref: CBIC Instruction/Circular F. No. CBIC-20001/2/2022-GST (dated 06.07.2022)

8. Is pre-deposit required to be paid for duplicated ITC demand, while filing appeal before the Commissioner? Whether the amount paid during investigation can be adjusted toward pre-deposit?

Delhi High Court has held as follows:

- Duplicated demands cannot be used to burden assessee with multiple pre-deposits.
- Amounts deposited during the course of investigation are liable to be adjusted against the statutory pre-deposit requirement.

Ref: Section 107 of GST Act and judgement of Delhi High Court in Rajesh Tanwar vs. Commissioner, CGST, Delhi West.

9. Can ITC be denied solely due to mention of an incorrect GSTIN of another branch under the same PAN in the invoice, despite fulfilment of all substantive conditions?

ITC should not be denied merely due to mention of wrong GSTIN of another branch under the same PAN in the invoice and the same should be treated as a procedural/technical error, subject to fulfilment of substantive conditions including:

- The goods have been actually received and used for business purposes
- Possession of tax invoice
- Tax has been paid to the government
- Invoice details furnished by supplier in GSTR-1
- Reflected in GSTR-2B of the recipient (The invoice may appear in GSTR-2B of another branch, not the actual recipient)

Ref: Section 16 of GST Act and judgement of Delhi High Court in B Braun Medical India Pvt Ltd. vs. Union of India.

10. What is the requirement regarding Letter of Undertaking (LUT) for

making zero-rated supplies under GST at the year end?

- Businesses intending to make zero-rated supplies (such as **exports or supplies to SEZ** units/developers) **without payment of IGST** must furnish a Letter of Undertaking (LUT) for the **relevant financial year**.
- Taxpayers planning to undertake such supplies in FY 2026–27 should ensure that the LUT is submitted on the GST portal on or before 31st March 2026, so that zero-rated supplies can continue to be made without payment of IGST from the beginning of the new financial year.

11. What should be checked for Job Work transactions during the GST year-end review?

- Verify that **inputs** sent for job work are returned within 1 year and **capital goods** within 3 years from the date of dispatch.
- Ensure that proper **job work challans** are issued and a **job work register** is maintained to track movement of goods.

Confirm that Form ITC-04 is filed within the due date (i.e) 25th October for the period April to September and 25th April for the period October to March.

12. What should businesses verify at year-end regarding GST compliance under the Reverse Charge Mechanism (RCM)?

- **Review Profit & Loss account and Expense Ledgers** to identify expenses that may be liable for GST under the Reverse Charge Mechanism (RCM). Common categories include security services, advocate or legal fees, Goods Transport Agency (GTA) charges, import of services, renting of residential dwellings for business purposes and other notified transactions.

Ensure that the applicable GST liability has been **properly discharged under RCM through Electronic Cash Ledger**, as ITC cannot be used for payment of RCM liability.

13. Should textile mills review the Input vs Output Ratio at the year end? Why?

- Textile mills should review the Input vs Output Ratio to ensure that the quantity of raw cotton/raw material purchased & stock, consumed, yarn produced & waste generated (such as

droppings, fly waste, hard waste, etc.) are reasonable and properly recorded in the books. **This reconciliation helps demonstrate that the ITC claimed on raw material purchases corresponds with the actual production and stock records.**

- If there are large or abnormal deviations between input consumption and output production, it may raise concerns during **GST departmental scrutiny or audit**, as Authorities may question whether excess ITC has been claimed or whether there are discrepancies in stock records.

Therefore, maintaining a **reasonable and technically justifiable input-output ratio**, supported by production records and industry norms, is an important part of the GST year-end compliance checklist for textile mills.

14. What are the key year-end compliance checks under GST for FY 2025–26, particularly with regard to Input Tax Credit (ITC) and ledger reconciliation?

- Reconcile Purchase Register with GSTR-2B (ITC can be claimed only if it appears in GSTR-2B) Identify:
 - ITC not reflected in GSTR-2B
 - Duplicate ITC
 - Ineligible ITC
- Match ITC General Ledgers with the electronic credit ledger on the GST portal and GSTR-2B. Ensure any ITC not appearing in GSTR-2B is reversed.
- 180 Days Rule - Check aging of vendor payables as of March 31, 2026. Reverse ITC along with interest for invoices unpaid beyond 180 days. This ITC can be reclaimed once payment is made.
- Non-filing by Supplier - Track whether the suppliers have filed their GSTR-3B for FY 2025-26. If they fail to file by 30th September 2026, we must reverse the corresponding ITC by 30th November 2026.
- Check the electronic credit ledger for any ITC that may have been blocked by the tax authorities and take necessary steps to resolve the discrepancies and unblock the credit.

- 1% Cash Payment - Validate if we are required to discharge 1% of the output tax liability in cash. This applies if the outward tax liability exceeds 99% of the electronic credit ledger, unless the assessee is eligible for specific exemptions (e.g., domestic supply below 50 Lakhs or income tax paid > 1 lakh).
- Blocked ITC: Verify that blocked credits under Section 17(5) have not been claimed. If credit availed, reverse them immediately.
- Reverse ITC Where Required (i.e)
 - Non-payment to supplier within 180 days
 - Exempt supplies
 - Personal use
 - Inputs lost/damaged
- ITC on Debit Notes - Ensure ITC on supplier debit notes has been claimed.
- Electronic Cash Ledger - Check:
 - Unutilized balances
 - Wrong tax payments
 - Refund eligibility

Reconcile GST Returns with Books

GST Return	Books
GSTR-1	Sales register
GSTR-3B	Trial balance
GSTR-2B	Purchase register
Electronic Ledgers	GL accounts

- Best practice:
 - Complete this checklist before March 31st and again before September/November ITC deadline to avoid ITC loss.

Ref: GST Rules 37, 37A, 42, 43, 86A, 86B

15. Can a GST Demand Order be set aside by the department, where input tax credit (ITC) was initially claimed under CGST/SGST instead of IGST, but the error was subsequently rectified and duly certified by a Chartered Accountant in GSTR-9C?

Yes

A demand order can be set aside **if the error is merely a clerical or head-wise misclassification (CGST/SGST instead of IGST)** and there is **no excess availment of total ITC**, provided the mistake was subsequently rectified and properly disclosed in GSTR-9C with CA certification.

The demand may survive if:

- Credit was availed in excess of eligibility,
- Cross-utilisation violated statutory provisions in force at the relevant time,
- The correction was made only after issuance of Notice and appears non-bona fide,
- Interest liability arose due to wrong utilisation.

16. Are GST authorities empowered to attach an overdraft (OD) account of a defaulting company under the GST Act for recovery of tax dues?

Under Section 83 and Section 79 of the CGST Act, the GST department can **provisionally attach or recover dues by attaching bank accounts** and this includes an **Overdraft (OD) account**, subject to certain conditions.

However, since an OD account primarily contains **borrowed funds of the bank**, courts have held that:

- Only the **credit balance (if any)** belonging to the assessee can be appropriated.
- The department **cannot compel the bank to pay out of sanctioned but unutilised OD limits**, as those are **not the taxpayer's own funds**.

Madras High Court — *Ratna Café vs. Assistant Commissioner*

- An **overdraft (OD) bank account cannot be attached** for recovery of GST dues because the funds in an OD account are

credit extended by the bank and do not belong to the taxpayer.

An OD account is not a taxpayer's property and therefore **cannot be subject to attachment** under GST recovery provisions.

17. Is reversal of credit in relation to post-sale discounts mandatory?

Under GST, **ITC reversal for post-sale discounts** depends on whether the discount satisfies the conditions under **Section 15(3)** of the Central Goods and Services Tax Act, 2017.

1. When ITC Reversal is Required

ITC reversal becomes necessary **if the supplier reduces the taxable value through a credit note** and the discount qualifies under Section 15(3)(b), i.e.:

- The discount is **established in terms of an agreement entered into at or before the time of supply** and
- It is **specifically linked to relevant invoices** and
- The **recipient reverses proportionate ITC** attributable to the discount.

In this case:

- Supplier issues a **GST credit note**
- Supplier reduces output tax liability
- Recipient **must reverse proportionate ITC**

Thus, reversal is mandatory because the taxable value itself is reduced.

2. When ITC Reversal is NOT Required

ITC reversal is **not required** where:

- The post-sale discount was **not agreed upon at or before the time of supply** or
- It is given as a **financial/commercial credit note without GST impact** and
- Supplier **does not reduce output tax liability**.

In such cases:

- Taxable value remains unchanged

- No GST credit note under Section 34
- Recipient **need not reverse ITC**

Ref: The Central Board of Indirect Taxes & Customs (CBIC) issued Circular No. 251/08/2025-GST, dated 12.09.2025 / Gujarat High Court — *Shree Ambica Auto Sales & Service* and 1st condition of Section 15 (3)(b) removed by Union Budget 2026.

18. Is there any change in the order of utilization of SGST and CGST Credit for paying IGST liability under GST?

Yes, with effect from the January/February 2026 GST filing periods, there is a practical change in how SGST & CGST ITC can be used for paying IGST liability on the GSTN portal.

Before Jan-2026 (Old System)

1. IGST ITC — must be used first
2. CGST ITC — next
3. SGST ITC — only after CGST ITC is fully exhausted

Change Effective January/February 2026

From the January 2026 tax period onwards the GSTN portal has introduced flexibility in ITC utilisation logic when paying IGST liability in Table 6.1 of GSTR-3B.

Current/amended practical order of utilisation:

1. IGST ITC must still be fully utilised first (mandatory).
2. After IGST ITC is exhausted, CGST & SGST ITC can be used to discharge the remaining IGST liability in any order or any proportion at the taxpayer's option.

The statutory provisions (Section 49 & Rule 88A of CGST Rules) continue to govern ITC utilisation, but the portal now reflects practical flexibility in how CGST & SGST credits are applied to IGST once IGST credit is exhausted.

19. Is a separate Recovery Notice mandatory after issuance of an Order determining tax liability under GST?

- No.
- Once an Order determining tax liability is passed, a summary in **FORM GST DRC-07** is issued.

- After issuance of DRC-07, **no separate Recovery Notice is required**. Recovery can be initiated under Section 79 of the GST Act, if the amount remains unpaid (subject to the time limit under Section 78 - **3 months from the date of service of the Order** to make payment).

Ref: Rule 142(6) of GST Rules.

20. Is the GST department legally empowered to undertake “scrutiny” proceedings after completion of a “departmental or special audit” for the same tax period?

Yes, the **GST department can conduct scrutiny even after an audit**, because **audit and scrutiny are independent proceedings** under GST law.

- An audit under **Sections 65 or 66** verifies records, ITC and tax compliance.
- Separately, the officer may initiate **scrutiny of Returns under Section 61** based on data mismatches, risk parameters or other discrepancies.
- Completion of an audit does not legally prevent the department from issuing a **scrutiny Notice (ASMT-10)** or initiating proceedings under **Sections 73/74**.

However, scrutiny must:

- be within the **statutory limitation period** (3 years under Sec 73, 5 years under Sec 74) and
- avoid **reopening issues already examined and settled during audit**, unless fresh evidence exists, as duplication may be challengeable.

Thus, **audit does not grant immunity from scrutiny, but repeated action on the same settled issues can be contested.**

21. Exporters are required to validate their bank account details in the Public Financial Management System (PFMS), the online platform developed by the Controller General of Accounts of the Government of India, for the purpose of receiving export refunds such as IGST refunds and duty drawback. Is this validation required to be updated periodically?

Exporters need to validate their bank account in PFMS only once for export refunds. This validation remains valid **until there is a change in the bank account details.**

Updation and re-validation of the bank account in PFMS is required when:

- There is a change in the bank account number
- There is a change in the IFSC code or bank branch
- The existing account becomes inactive/closed
- If PFMS invalidates it because the account no longer exists in core banking

If the exporter wants the refunds to be credited to a different bank account than the one already validated.

22. Can renewable energy installations such as windmills or solar power plants be sold or purchased without payment of GST? If yes, what is the mechanism to be adopted?

- Yes.
- Under GST law, renewable energy installations can be transferred **without payment of GST** when they are sold or acquired **as a “going concern”**, i.e., as a complete and operational business undertaking rather than as individual assets.
- **Mechanism to be adopted**
- To qualify for GST exemption, the transfer must be structured as a **business transfer (slump sale) of the entire undertaking** and not as a piecemeal sale of equipment.
- The following steps should be followed:
 - Transfer the renewable energy unit as a complete business/undertaking
 - Include all assets — land, plant, machinery, transmission infrastructure, etc.
 - Transfer related liabilities, loans and statutory obligations
 - Assign contracts such as PPAs, grid connectivity agreements and approvals
 - Transfer employees, licenses and operational rights
 - Ensure continuity of operations without interruption
 - Execute a **Business Transfer Agreement (BTA)** or slump sale

agreement

- Fix a lump-sum consideration for the undertaking (not asset-wise values)

Ref: Notification No. 12/2017–CT (R) dated 28.06.2017/ M/s Shilpa Medicare Limited v. Union of India & Ors (Andhra Pradesh High Court)

23. Can the GST Authorities initiate proceedings, if the entire tax liability along with the interest has been paid before issuance of Show Cause Notice?

No. If the taxpayer discharges the entire tax liability along with applicable interest at any time prior to the issuance of the show cause notice, no further payment by way of penalty or additional interest shall be demanded and the proceedings shall be deemed to be concluded.

Ref: Sections 73&74 of GST Act/M/s. Rays Power Infra Private Limited vs Superintendent of Central Tax (Writ Petition No. 298 of 2024) Telangana High Court

24. With effect from 13.01.2026, BRC (Bank Realisation Certificate) tracking has shifted from shipping-bill-centric to GST-invoice-centric, resulting in compliance becoming more transaction-level and data-driven, closely aligned with GST returns, ICEGATE and RBI/EDPMS systems. What are the steps to be adopted by the exporters to avoid mismatches?

- Every export invoice must carry correct and consistent details — GSTIN, invoice number/date, FOB value, currency, port code and shipping bill linkage.
- Ensure one-to-one linkage between documents (i.e)
GST Invoice ↔ Shipping Bill ↔ eBRC ↔ LUT/Bond ↔ GSTR-1
- Ensure correct invoice numbers are captured in FIRC/eBRC

Reconciliation between books of accounts, GST and bank realisations is essential

25. During the manufacture of yarn, invisible loss upto 2% is considered normal as per SITRA Norms. Whether input tax credit (ITC) availed under GST on the corresponding quantity of inputs attributable to such invisible loss is required to be reversed under the provisions of the GST Act?

No

- GST credit need not be reversed for invisible loss up to normal limits (2% as per SITRA norms), provided the loss is inherent to the manufacturing process and properly documented.
- Section 17(5)(h) of the GST Act blocks ITC only in respect of goods lost, stolen, destroyed, written off or disposed by way of gift or free samples.
- Invisible/process loss is not “goods lost”. Invisible loss occurring during spinning (moisture loss, fibre fly etc.) is a natural and unavoidable process loss, not a deliberate or identifiable loss of goods. Such loss is inherent to manufacturing and occurs before the emergence of the final product.
- ITC reversal may arise only if:
 - Loss is abnormal or excessive beyond accepted norms
 - Loss is due to negligence, fire, theft or destruction or
 - The assessee fails to maintain proper records to substantiate normal process loss.

Ref: R.K. Ganapathy Chettiar Vs Assistant Commissioner (ST), Kangeyam vide Order dated 11.8.2021(Madras High Court)

26. Whether refund of accumulated Input Tax Credit (ITC) under GST can be claimed in respect of invoices reflected in GSTR-2B of the current tax period as well as previous tax periods?

- **Yes**
- Refund of accumulated ITC with regard to export or inverted duty structure can be claimed in respect of invoices reflected in GSTR-2B of the current tax period as well as previous tax periods, subject to fulfilment of prescribed conditions.
- CBIC has clarified vide **Circular No. 197/09/2023-GST dated 17.07.2023** that:
 - **refund of accumulated ITC shall be restricted to ITC which is reflected in GSTR-2B.**
 - Such ITC **need not necessarily pertain only to the current tax period** for which refund is being claimed.
 - **ITC reflected in GSTR-2B of earlier tax periods** is also eligible for refund, provided:

- The ITC has been **availed in GSTR-3B**
 - The ITC has **not been claimed as refund earlier**
 - The claim is **within the time limit prescribed under Section 54** (within 2 years from the relevant date)
- This clarification is applicable for refund claims **from January 2022 onwards**, since availment of ITC itself is linked to GSTR-2B from that date.

Ref: Section 54(3) of the GST Act/Circular Nos.197/09/2023-GST dated 17.07.2023 read with Circular Nos.135/05/2020-GST dated 31.03.2020& 125/44/2019-GST dated 18.11.2019

27. Is penalty payable under the GST Act if goods or services or both are supplied without issuing a tax invoice, or if an incorrect or false invoice is issued?

- Yes. Under section 122(1)(i) of the GST Act, 2017, any person who supplies goods or services or both without issuing an invoice, or issues an **incorrect** or false invoice, is liable to a penalty of ₹10,000 or an amount equivalent to the tax evaded, whichever is **higher**.
- Further, as per section 122(1A), any person who retains the benefit of such transaction and at whose instance the transaction is carried out, shall also be liable to a penalty equal to the amount of tax evaded, **even if such person is not the actual supplier**.

28. Can the GST dues of a company be recovered from the personal account of a former Director?

- As a general rule (company is a separate legal entity from its directors), the GST Department cannot attach the personal bank account of a former director for the tax dues of a company.
- It is **possible only in limited circumstances** and can be recovered only after following the specific legal procedure. The conditions as per Section 89 of the GST Act are as follows:
 - The company is a **private limited** company
 - The department first exhausts recovery options against:
 - Company's bank accounts
 - Company's property
 - Stock, receivables, etc.

- The director was in-charge of the affairs of the company during the period when tax became due.
- The director is unable to prove that the non-payment was not due to his/her neglect, misfeasance or breach of duty. If the director proves bona fide conduct, personal liability does not arise.
- The department cannot directly attach a personal bank account, but only after issuing a show cause notice and adjudicating the same.

Ref: Subir Ghosh vs. Deputy Commissioner – Madras High Court

29. Whether Input Tax Credit (ITC) under GST can be denied on the premium paid for insurance taken for business assets, other than motor vehicles?

No

- Credit can be availed on insurance of plant & machinery, factory buildings, machinery breakdown insurance, fire insurance, stock insurance, etc.
- ITC is restricted only where the insurance relates to motor vehicles or life/health insurance falling under blocked credit provisions.
- ITC cannot be denied on GST paid for insurance of business assets (excluding motor vehicles), provided the insurance is used in the course or furtherance of business and the procedural conditions under the GST law are satisfied.

Ref: Sections 16&17 of GST Act/Arraycom (India) Ltd. v. State of Gujarat (High Court) – in connection with insurance paid on stock, premises and equipment/The adjudicating officer incorrectly assumed that the insurance related to motor vehicles and treated the claim as blocked credit).

30. Is an exporter eligible to avail GST export refund, if the Letter of Undertaking (LUT) is filed after the goods are exported, but within the same financial year?

Yes, where zero-rated supplies/export were made before filing LUT and refund claims have been filed, the **delay may be condoned** and the facility for export under LUT can be allowed retrospectively by the Commissioner.

Prescribed conditions:

- the export is completed
- payment in foreign exchange is realised within the prescribed time
- refund application (Form RFD-01) and conditions under Section 54 of the CGST Act are met within the statutory time limit (within two years of export).

Ref: Circular No. 125/44/2019-GST dated 18.11.2019

31. Can wrong PIN Code on GST Invoice be a valid reason for Detention by GST department?

- No, a wrong PIN code on a GST invoice **alone** is not a valid reason for detention of goods.
- Under Section 129 of the CGST Act, goods can be detained only when there is a contravention of GST provisions with an **intention to evade tax**.
- A wrong PIN code is generally treated as a **minor clerical or technical error**, not a tax evasion issue, if:
 - The GSTIN is correct
 - The supplier and recipient details are correct
 - The place of supply is identifiable
 - Tax has been correctly charged and paid
 - E-way bill and invoice substantially match
- **A wrong PIN code may justify detention only if it:**
 - Results in misclassification of State / place of supply
 - Causes wrong tax (CGST/SGST instead of IGST or vice versa)
 - Is coupled with other discrepancies, indicating tax evasion

Ref: CBIC Circular No. 64/38/2018-GST - States that minor mistakes (such as Spelling errors, incorrect address details (including PIN code)) should not result in detention of goods/ Ashok Kumar Maganbhai Patel Vs State of UP and 3 others (Allahabad High Court)

32. Can the credit of GST be denied to a purchaser, if the registration of the supplier is cancelled after the date of transaction?

No. The credit of GST cannot be denied to a purchaser merely because the supplier's GST registration is cancelled at a later date, provided that:

- the supplier was **validly registered at the time of supply**,
- the supply was **genuine**,
- tax was **charged on the invoice** and
- the purchaser has **acted bona fide** and complied with statutory requirements.

Subsequent cancellation of the supplier's registration **cannot retrospectively invalidate** the purchaser's entitlement to the GST credit. The purchaser cannot be made to suffer for supplier-side defaults that are **beyond their control**.

Ref: Saniya Traders Vs Additional Commissioner (Allahabad High Court) - The transaction was documented through a tax invoice and the E-way bill was reflected in the petitioner's GSTR-1 Returns. Tax liability was also discharged through the banking channel and filing of GSTR-1 and GSTR-3B Returns

33. Does the time limit (earlier of the next financial year's November Return or filing the Annual Return of the relevant year) for availing credit also apply when a taxpayer re-claims ITC that was earlier reversed because the supplier had not paid the tax collected from the buyer within 180 days?

- No.
- The time limit prescribed under Section 16(4) does not apply to re-claiming ITC that was earlier reversed for non-payment within 180 days. **Reclaiming the reversed ITC is permissible even after the said deadline**, provided the ITC was originally taken in time and actual payment has been made to the supplier.
- **Reasons:**
 - The credit should have been originally taken within the statutory time limit (i.e., by 30th November following the end of the financial year).
 - When ITC is reversed due to failure to pay the supplier within 180 days, the law treats this reversal as a temporary bookkeeping reversal, not as a loss of eligibility.

- Once the payment to the supplier is made, the taxpayer is allowed to re-avail the same ITC.

Ref: CBIC clarification vide Circular No. 72/46/2018-GST stating that re-availment after payment is not subject to Section 16(4) because the credit was already originally availed within time.

34. If depreciation was initially claimed on the GST portion of capital goods, can ITC be claimed later by reversing the availed depreciation?

Yes.

- ITC can be claimed later, only if the depreciation claimed on the GST component is fully reversed in the books.
- Section 16(3) of the GST Act bars ITC only when depreciation is claimed on the tax component of capital goods.
- Once the taxpayer reverses the depreciation relating to the GST portion (i.e., corrects the earlier claim), the restriction no longer applies and ITC becomes eligible.

Advisory

- ITC should be claimed within the time limit under Section 16(4) for the relevant financial year (earlier of the next financial year's November Return or filing the Annual Return of the relevant year).

Proper documentation and working papers must be maintained to substantiate the reversal of depreciation.

35. Whether ITC can be availed on goods/material like safety jacket, safety shoes, safety helmet and goggles, procured to ensure the safety of employees working in the factory?

Yes, **ITC can be claimed** on goods like **safety jackets, safety shoes, helmets, and goggles** procured for ensuring the safety of employees in the factory, subject to the following conditions under **Section 16 of the CGST Act**:

1. **Goods used in business** – The safety equipment should be used in the course or furtherance of business. In this case, ensuring employee safety in a factory qualifies.
2. **GST paid and invoice available** – ITC can be claimed only if the supplier has charged GST and a valid tax invoice is

available.

3. **Not restricted under ITC provisions** – GST law restricts ITC on items used for personal consumption. However, safety equipment supplied for mandatory compliance (like factory safety) is considered a business expense, **not personal use**, so ITC is allowed.

Reference:

- Section 17(5) of GST Act lists items on which ITC is *not allowed*, mainly for personal use. Safety gear for factory operations does not fall under this category.

Extract of relevant proviso of Section 17 of GST Act

“Provided that the input tax credit ... shall be available, *where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.*

36. **A registered person imported raw materials under Advance Authorisation without payment of duties but failed to fulfil the export obligation. IGST was later paid on reassessment of the Bill of Entry and the materials were used for domestic taxable supplies. Can ITC of this IGST be claimed and what is the time-limit?**

Yes.

- ITC of IGST paid on reassessed Bill of Entry is eligible, because the IGST paid on failure to fulfill export obligation is treated as tax on import, not penalty and the goods were used for taxable domestic supplies.
- For time-limit, Section 16(4) applies with reference to the date of the reassessed / amended Bill of Entry or duty payment challan, not the original import date.

ITC can be taken upto 30th November of the year following the financial year in which the reassessed BOE/duty payment was issued or before filing the Annual Return, whichever is earlier.

37. **Can ITC of GST paid on bank charges be claimed merely on the basis of GSTR-2A/2B, when the bank does not issue a tax invoice?**

- No.
- ITC cannot be claimed solely on the basis of GSTR-2A/2B. For bank transactions, a formal tax invoice is not required, but a bank

statement or any document issued under Rule 54(2) containing GSTIN, service description, value and GST amount is treated as a valid invoice.

- Therefore, ITC on bank charges is allowed only when supported by the said document and not merely because it appears in GSTR-2A/2B.

38. Do liquidated damages or penalties paid by the applicant for breach or non-performance of an agreement qualify as a “supply”? Would such payments be treated as consideration for “agreeing to the obligation to tolerate an act,” and therefore attract GST?

As per the Order of Gujarat Authority for Advance Ruling:

Compensatory payments for breach are outside the scope of GST.

- The payment of liquidated damages under the Agreement represents compensation for breach of contractual terms and not consideration for any activity or forbearance undertaken by the recipient.
- There is no agreement to tolerate an act or situation in return for a consideration, the damages merely arise due to non-performance or breach by the applicant, resulting in compensation.

Ref: Section 7 & Entry 5(e) of Schedule II of GST Act/ CBIC Circular No. 178/10/2022–GST, dated 03.08.2022/In Re: M/s. JBM Ecolife Mobility Surat Private Ltd. dated 03.11.2025 - Gujarat AAR

39. Can a taxpayer claim unavailed Input Tax Credit (ITC) merely by reporting it in GSTR-9, if such ITC was not claimed earlier in the GSTR-3B Returns?

No, ITC cannot be claimed merely by reporting it in GSTR-9 if it was not claimed earlier in GSTR-3B.

- GSTR-9 is a “Summary Return,” not a “Claiming Return.” The Annual Return only summarizes the ITC reported and claimed in the GSTR-3B Return. It does not provide any new opportunity to avail missed ITC.
- Sec. 16(4) of CGST Act restricts availing ITC for any financial year up to the due date of GSTR-3B of November of the

following year (or the date of filing Annual Return, whichever is earlier). Hence, if ITC was not claimed in GSTR-3B within this period, it lapses.

- ITC must be availed through GSTR-3B only, before the statutory deadline.

Any additions/omissions detected at the time of preparing GSTR-9 cannot be used to avail ITC. No additional ITC can be claimed through GSTR-9.

40. If goods are unloaded at a location that is not mentioned in the tax invoice and the taxpayer subsequently applies to add that location as an “Additional Place of Business” in the GST registration, will such unloading be treated as valid?

Where goods were unloaded at a place other than that mentioned in the invoice, subsequent Application for amendment of Registration Certificate for adding the said place of unloading as “Additional place of business” would be considered as a means to escape the penal provisions prescribed under section 129 of the GST Act.

Non-compliances raised by the department in this regard include:

1. **Invoice discrepancy:** The invoice would not match the actual delivery location, leading to raising questions during inspection.
2. **Unloading at an unregistered place** would be viewed as non-compliance with Rule 56 and Rule 58, where the provisions deal with proper maintenance of books of record and storage of goods only at declared premises.
3. **Possible penalties** – In case of interception or audit, Authorities can impose penalties under:
 - **Section 122** (general penalty),

Section 129 (detention/seizure), if goods are in transit or stored improperly.

41. Does a retiring partner remain liable if no intimation of retirement is given to the GST authority?

Yes, a retiring partner would remain liable if proper intimation of retirement is not given.

Legal Position under GST is as follows:

1. Joint and Several Liability:

As per Section 90 of the GST Act, all partners of a firm are jointly and severally liable for any GST tax, interest or penalty owed by the firm.

2. Intimation Requirement:

When a partner retires, either the retiring partner or the firm must intimate the Commissioner in writing about the date of retirement.

3. Overriding power of GST Act:

Being a statutory obligation, even if the partnership deed says otherwise, GST law will override contract terms.

4. Cut-off Liability Date:

- If the intimation is given within 1 month of retirement, then the retiring partner is liable only for GST dues (tax, interest, penalty) up to the date of retirement, even if the exact amount is not determined on that date.
- If no intimation is given within one month, then the retiring partner's liability continues until the date the Commissioner actually receives the notice.

Ref: Harvinder Singh Vs State of Punjab – High Court

42. November being the last month to claim Input Tax Credit (ITC) for FY 2024–25, what should be the practice to be adopted by the assesses?

- As per Section 16(4) of the CGST Act, ITC for any financial year can be claimed up to 30th November of the following year or the date of filing the Annual Return, whichever is earlier.
- If ITC is not claimed within this period, the credit becomes permanently ineligible and cannot be availed later.
- Any ITC not availed by the due date will be irreversibly lost, directly increasing the taxpayer's cost.

Advisory:

1. Reconcile GSTR-2B with Purchase Books.

Check if all eligible ITC appearing in GSTR-2B has been accounted for in the purchase records.

2. Record all pending Purchase Invoices

Ensure every eligible invoice, debit note and expense entry is properly booked.

3. Follow up with Vendors for Missing Invoices

If any invoices are not reflected in GSTR-2B, immediately contact suppliers, asking them to upload them.

4. File an accurate GSTR-3B on time

Make sure the GSTR-3B filed for November incorporates all pending eligible ITC.

43. What best practices can be adopted by the buyer to avoid disputes arising due to non-deposit of tax by the supplier?

- Ensure **accurate records** of payments and receivables.
- Respond **promptly** to any notice from GST Authorities.
- Seek **clarification or modification** of notices when factual errors exist.

Maintain **communication** between defaulter, debtor, and department to avoid double payments or wrongful recovery.

44. Can credit of GST paid through DRC-14 be availed as credit?

- Form DRC-14 is a certificate issued by the GST Authorities, when tax dues are recovered from a third party under GST, **including recovery from the buyer for the default of the supplier.**
- **Credit of GST paid through DRC-14 cannot be availed as input tax credit (ITC).**
- Reasons for denial of credit:
 - The amount paid via DRC-14 is a liability payment, **not a tax paid on inward supplies.**
 - Section 16(1) of the CGST Act allows ITC only on tax paid on **supply of goods or services used in the course of business** and not on tax paid under demand or recovery proceedings.
 - Rule 36 specifies that ITC can only be taken if the tax is reflected in the supplier's GSTR-2B or GSTR-2A, which is not the case for payments made through DRC-14.

Ref: Rules 145 /146 of the CGST Rules, 2017

45. What happens if the debtor (including buyer) fails to comply with the “demand to pay” raised in the notice?

If the debtor (including buyer) fails to comply with the recovery notice:

- The debtor becomes **personally liable** to the government for the amount specified in the notice (to the extent of money owed to the defaulter).
- The amount can be recovered from the debtor as if it were the buyers/debtors own tax dues under GST.

The department may issue recovery notices to **multiple debtors** of the same defaulter to ensure full recovery of the outstanding amount, subject to the total dues payable.

46. What is the procedure for recovery of unpaid GST from the debtor?

The **GST officer** issues a **notice in writing** to the debtor under Section 79(1)(c), directing that:

- The debtor must pay (Form DRC-14) to the government the amount specified in the notice
- Payment must be made within the time specified therein
- The amount paid will be treated as payment made on behalf of the defaulter
- If a debtor has **already paid** the amount to the defaulter **before receipt of notice**, they cannot be held liable again. The officer must verify payment records before issuing recovery directions.

Submitting a reply to the Show Cause Notice is mandatory.

47. Can the GST department recover the tax dues from the debtors of a defaulter? Can a buyer be considered a ‘debtor’ of the defaulting supplier under GST?

- **Yes**
- Under **Section 79(1)(c) of the CGST Act, 2017**, the GST officer is empowered to recover tax dues of a defaulting taxpayer by requiring **any other person (debtor)**, who owes money to the defaulter, to pay such amount directly to the government instead of paying the same to the defaulter.
- A **debtor** is any person who:

- Owes money to the defaulter or
- Holds money on behalf of the defaulter or
- Is likely to pay money to the defaulter in the future (e.g., customers, clients, or business associates) or

Buyer of the defaulting supplier.

48. What is the statutory position under GST Enactment, if the supplier has not paid the tax to the Government, which has been collected from the purchaser and what are the best practices to be adopted by the recipients to avoid ITC reversal due to supplier's default?

- If the supplier has not remitted the tax to the Government, the **Input Tax Credit (ITC)** claimed by the recipient must be **reversed** and **interest under Section 50(1)** becomes payable on the reversed ITC. However, the recipient may **re-avail such ITC** once the supplier actually pays the tax to the Government, as per the **proviso to Section 16(2)(c)** of the CGST Act.
- To avoid ITC reversal due to supplier's default, recipients should adopt the following **best practices**:
 - **Vendor Due Diligence:** Verify the supplier's GST registration status and compliance record before entering into contracts.
 - **Regular Reconciliation:** Frequently reconcile **GSTR-2B** with books of accounts and **GSTR-3B** to identify mismatches or defaults early.
 - **Protective Contract Clauses:** Include tax compliance and indemnity clauses in supplier contracts.

Timely Follow-up: Act promptly on any discrepancies between **GSTR-2B** and ITC availed to prevent disputes or reversals.

49. Is there any recent Supreme Court Judgment on ITC eligibility, when the seller has failed to deposit the tax collected from the purchaser?

- **Yes**
- In *Commissioner of Trade & Tax, Delhi Vs. M/s Shanti Kiran India Pvt. Ltd.*, the Supreme Court vide its judgement dated 9.10.2025, has held that a **bona fide purchaser is entitled to Input Tax Credit** (Delhi VAT Act), even if the seller fails to deposit the collected tax, provided that:
 - The seller was registered at the time of sale

- The buyer paid the tax against a valid invoice
- The transaction is genuine and verifiable

The said principle applies to similar issues arising under the GST Act as well.

Ref: The Commissioner, Trade & Tax, Delhi vs. M/s Shanti Kiran India Pvt. Ltd.

50. Can a company claim credit of GST discharged on rent paid for a director's residence?

No, a company **cannot claim GST Input Tax Credit (ITC)** on rent paid for a director's personal residence.

Reasons:

1. Blocked Credit under Section 17(5) of CGST Act, 2017

- ITC is not available on expenses incurred for **personal consumption**.
- A director's residence is considered a personal benefit, not used in the course or furtherance of business.

2. ITC is allowed only if the service is used for business purposes.

- Rent for an office premises is eligible but not for personal dwelling.

However, if the accommodation is provided to the Director (as an employee) in terms of contract, as a perquisite, credit of GST paid on rent is eligible.

51. Whether refund of accumulated ITC on exports can be denied on the ground that Bank Realisation Certificates (BRCs)/Foreign Inward Remittance Certificates (FIRCs) do not match invoice-wise with each export transaction, despite aggregate remittance being established?

- No
- BRCs/FIRCs need not match invoice by invoice or transaction by transaction. It is sufficient if foreign exchange remittances are received on a cumulative/periodic basis and the aggregate remittance covers the total export benefit claimed.

Ref: Transformative Learning Solutions Pvt Ltd Vs Commissioner, CGST, Delhi East & Anr (Delhi High Court)

52. Under GST, what is the treatment if rent is charged at a concessional rate?

If landlord and tenant are unrelated

- GST is payable on the **concessional rent actually charged**, even if it is below market rate.

If landlord and tenant are related persons (e.g., family members, group companies, subsidiaries)

- Valuation Rules under GST apply.
- In such cases, GST would be payable on the **open market value (OMV)** of the service, or if OMV is not available, on value of like kind and quality.

Ref: Rule 28 of GST Rules

53. What is the GST implication when a landlord takes a security deposit?

In GST, security deposits taken by a landlord at the time of leasing or renting a property are treated differently depending on their nature.

1. Pure Security Deposit (Refundable):

- If the deposit is taken only as a security and is **refunded at the end of the lease**, without being adjusted against rent or other charges, then it is **not considered consideration for supply**.
- Hence, **no GST is payable** on such security deposits.

2. Security Deposit Adjusted Against Rent or Other Dues:

- If part or the entire deposit is adjusted towards rent, maintenance, or any other payment, then the amount adjusted is treated as **consideration for renting of immovable property**.
- In such case, **GST is applicable at the time of such adjustment**.

GST is levied on the supply of services of renting and not on the mere collection of refundable deposits.

54. Is GST applicable to services provided by co-working spaces?

Yes @ 18%

- GST is applicable on co-working space services, since they are considered as "Renting of Immovable Property Services" or "Business Support Services."
- The co-working operator (landlord or service provider) raises invoices on clients using the space.
- The recipient (businesses using co-working space) can claim ITC on the GST paid, provided it is used for business purposes and not for personal consumption.
- In co-working spaces, the operator usually provides not just space, but also a package of facilities like Internet / Wi-Fi, Printing & scanning, Housekeeping, Security, Reception services, Conference/meeting rooms and Utilities (electricity, water, AC, etc.). These services are treated as **composite supply** and GST applies cumulatively @ 18%.

55. My company owns a guest house. What is the status under GST, if the said premises is used by the employees?

- If a company maintains a guest house for its own employees/guests and does not operate it commercially for the public, GST **will not apply** (since it is not a supply to outsiders).

Extract from CBIC Circular No. 172/04/2022-GST dated 6.07.2022

“Perquisites provided by the employer to the employee in terms of contractual agreement entered into between the employer and the employee, will not be subjected to GST when the same are provided in terms of the contract between the employer and employee”.

56. Is there any change in the GST rate with regard to the service of Job work, in lieu of changes notified with effect from 22.09.2025?

- No – **All textile job work is subject to 5%.**
- Earlier there was disparity in rate of tax specifically with regard to the job work/conversion activities (i.e) job work activity of cotton yarn was subject to 5% & that of synthetic/polyester yarn, garment and made-up segment (irrespective of the base material being cotton or synthetic) was subject to 18%.
- The GST Council has declared in its 20th GST council meeting held on 5.08.2017 that the rate of tax under GST on “Job work services in respect of the textiles and textile products (including MMF yarn, garments, made-ups, etc. **falling in Chapters 50 to 63**)” has been

reduced to 5% from 18%, which has been given effect to vide Notification No. 20/2017-Central Tax (Rate) 22.082017.

57. With the reduction of GST on Viscose/Polyester Fibre from 18% to 5% and on MMF Yarn from 12% to 5%, will refund of accumulated Input Tax Credit under the inverted duty structure be available?

- Yes, although the rate of **GST on MMF fibre & yarn is 5%**, refund under inverted duty structure can be claimed, since the inputs involved in the manufacture of MMF yarn includes consumables, spares and packing materials, which are subject to GST @ 5%/18%, resulting in inverted duty structure. Therefore, **manufacturers of MMF yarn are eligible to claim refund under inverted duty structure.**
- The refund claim has to be filed within 2 years from the date of filing GSTR- 3B for the period in which refund arises.

58. Should the e-waybills for goods in-transit be cancelled and generated afresh, when the new GST rates have come into effect from 22.09.2025?

- No, e-waybills for goods already in transit (before/as on 22.09.2025) need not be cancelled or regenerated. Only invoices (and corresponding e-waybills) raised **on or after** 22.09.2025 must reflect the new GST rate.
- For goods already dispatched before the rate change, **no cancellation is required**, as the tax treatment is based on the invoice date (supply time) and not delivery date.

59. What will happen to the ITC for purchases made before changes in GST rates came into effect? Will I get ITC at reduced rate now?

- Section 16(1) of CGST Act entitles a registered person to take credit of the input tax charged on his inward supplies, which he uses or intends to use in the course or furtherance of his business, subject to conditions and restrictions which may be prescribed and in the manner provided under section 49 of the CGST Act 2017, which gets credited to his e- credit ledger.
- Accordingly, if a registered person receives an inward supply and tax has been duly charged on it, at a rate which is in consonance with the rate prevailing at the time of such supply, the said registered person is entitled to the credit of such tax paid, subject to the other conditions/ restrictions and manner specified in section 49 of the CGST Act 2017.

60. If goods transportation charges are shown separately in the invoice,

should a distinct/separate GST rate and Services Accounting Code (SAC) also be specified in the GST invoice?

Under GST, the treatment of transport charges separately mentioned in the invoice depends on the nature of supply:

1. Transport is ancillary to supply of goods (i.e) seller arranges transport for delivering the goods)

- In this case, the transport charges are considered part of the **value of supply of goods** under **Section 15 of CGST Act** (since incidental expenses like freight are includible).
- **No separate GST rate or SAC** is required.
- The transport charges should be added to the taxable value of goods and GST should be charged at the same rate applicable to the relevant goods, though separately shown as a line item in the invoice, (i.e) **applying the principle of “Composite Supply”**. **When goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is treated as a principal supply.**
- The supplier cannot charge different GST rates on freight charges and for the supply of goods in same invoice, but has to statutorily show the transportation of goods under the same HSN code which is applicable to the goods.

2. Transport is a distinct service (Goods transport service provider)

- Here, transport is an **independent supply of service** and must be shown separately in the invoice.
- A **separate SAC** (for GTA service) and the applicable **GST rate (5% or 18% depending on conditions)** must be mentioned in the invoice.

Ref: Section 2(30) of the CGST Act

- 61. With new GST rates proposed to be effective from 22.09.2025, tracking supply date, invoice date and payment date is essential to ensure correct GST rate application and avoid disputes. What are the parameters to determine the same?**

The applicability of GST rates as per the provisions of the GST Law

are as follows:

Goods/Services supplied before 22.09.2025

Invoice Date	Payment Date	GST Rate Applicability
Before 22.09.2025	Before 22.09.2025	Old Rate (prevailing today)
After 22.09.2025	After 22.09.2025	New Rate
Before 22.09.2025	After 22.09.2025	Old Rate (prevailing today)
After 22.09.2025	Before 22.09.2025	Old Rate (prevailing today)

Goods/Services supplied after 22.09.2025

Invoice Date	Payment Date	GST Rate Applicability
Before 22.09.2025	Before 22.09.2025	Old Rate (prevailing today)
After 22.09.2025	After 22.09.2025	New Rate
Before 22.09.2025	After 22.09.2025	New Rate
After 22.09.2025	Before 22.09.2025	New Rate

Date of payment = date of credit in bank or date of entry in books, whichever is earlier.

Ref: Section 14 of GST Act

62. What is the status of lying input tax credit, when GST rates have been reduced on the inputs (lying stock) from a prospective date (22.09.2025)?

When **GST rates on inputs are reduced prospectively**, the treatment of the **lying input tax credit (ITC)** in the Electronic Credit Ledger is as follows:

1. No lapse of credit

- The ITC already availed and lying in the credit ledger **does not lapse** merely because of a rate reduction from 18% to 5%.
- Manufacturer is entitled to carry forward the balance ITC and utilize it for payment of output tax.

2. Utilization after rate change

- Even after the rate reduction (except where the rate of outward supply is nil), the accumulated ITC balance can

be utilized against output tax liability.

- However, if the reduced rate leads to a situation where **inverted duty structure no longer exists**, fresh accumulation of credit would stop.
- Refund of accumulated ITC is allowed only for the period **up to the date of change**, as clarified in **CBIC Circular No. 135/05/2020-GST dated 31.03.2020**.

Therefore, lying ITC remains safe and can be utilized for future GST liabilities, but refund of accumulated credit is restricted only to the period **before** the rate change (i.e) till 21.09.2025.

Thus, no reversal of lying ITC is needed if tax rate is only reduced but goods/services remain taxable. Reversal is required only if the supply becomes exempt.

Extract from the faqs posted by Ministry of Finance on 3.09.2025

- 63. What is the accurate 6 digit HSN Code for Double Yarn of Cotton (carded and combed)?**



Goods & Services Tax

What is the accurate 6 digit HSN Code for Double Yarn of Cotton (carded and combed)?

85% or more by weight of Cotton

5205 31

Double yarn Karded counts

(warp/weft/hosiery/hank/compact/oe)

Other than sewing thread

5205	31	<u>Below 2/8.3s Ne</u>
5205	31	10 Grey
5205	31	20 Bleached
5205	31	30 Dyed
5205	31	90 Other
5205	32	<u>2/8.3s - 2/25.4s</u>
5205	32	10 Grey
5205	32	20 Bleached
5205	32	90 Other
5205	33	<u>2/25.4s-2/30.7s</u>
5205	33	10 Grey
5205	33	20 Bleached
5205	33	30 Dyed
5205	33	90 Other
5205	34	<u>2/30.7s-2/47.2s</u>
5205	34	10 Grey
5205	34	20 Bleached
5205	34	30 Dyed
5205	34	90 Other
5205	35	<u>above 2/47.2s</u>
5205	35	10 Grey
5205	35	90 Other

85% or more by weight of Cotton

5205 41

Double yarn Combed counts

(warp/weft/hosiery/hank/compact/oe)

Other than sewing thread

5205	41	<u>Below 2/8.3s Ne</u>
5205	41	10 Grey
5205	41	20 Bleached
5205	41	30 Dyed
5205	41	90 Other
5205	42	<u>2/8.3s - 2/25.4s</u>
5205	42	10 Grey
5205	42	90 Other
5205	43	<u>2/25.4s-2/30.7s</u>
5205	43	10 Grey
5205	43	20 Bleached
5205	43	90 Other
5205	44	<u>2/30.7s-2/47.2s</u>
5205	44	10 Grey
5205	44	20 Bleached
5205	44	90 Other
5205	46	<u>47.2s- 55.5s</u>
5205	46	10 Grey
5205	46	20 Bleached
5205	46	30 Dyed
5205	46	90 Other
5205	47	<u>55.5s - 70.9s</u>
5205	47	10 Grey
5205	47	20 Bleached
5205	47	30 Dyed
5205	47	90 Other
5205	48	<u>Above 70.9s</u>
5205	48	10 Grey
5205	48	20 Bleached
5205	48	30 Dyed
5205	48	90 Other

64. What is the accurate 6 digit HSN Code for Single Yarn of Cotton (carded and combed)?



Goods & Services Tax

What is the accurate 6 digit HSN Code for Single Yarn of Cotton (carded and combed)?

85% or more by weight of Cotton

5205 21

Single yarn Combed counts
(warp/weft/hosiery/hank/compact/oe)
Other than sewing thread

5205 21	Below 8.3s Ne
5205 21 10	Grey
5205 21 20	Bleached
5205 21 30	Dyed
5205 21 90	Other
5205 22	8.3s - 25.4s
5205 22 10	Grey
5205 22 20	Bleached
5205 22 90	Other
5205 23	25.4s - 30.7s
5205 23 10	Grey
5205 23 20	Bleached
5205 23 90	Other
5205 24	30.7s - 47.2s
5205 24 10	Grey
5205 24 20	Bleached
5205 24 90	Other
5205 26	47.2s - 55.5s
5205 26 10	Dyed
5205 26 20	Bleached
5205 26 90	Other
5205 27	55.5s - 70.9s
5205 27 10	Dyed
5205 27 20	Bleached
5205 27 90	Other
5205 28	Above 70.9s
5205 28 10	Dyed
5205 28 20	Bleached
5205 28 90	Other

85% or more by weight of Cotton

5205 11

Single yarn Karded counts
(warp/weft/hosiery/hank/compact/oe)
Other than sewing thread

5205 11	Below 8.3s Ne
5205 11 10	Grey
5205 11 20	Bleached
5205 11 30	Dyed
5205 11 90	Other
5205 12	8.3s - 25.4s
5205 12 10	Grey
5205 12 20	Bleached
5205 12 30	Dyed
5205 12 90	Other
5205 13	25.4s - 30.7s
5205 13 10	Grey
5205 13 20	Bleached
5205 13 30	Dyed
5205 13 90	Other
5205 14	30.7s - 47.2s
5205 14 10	Grey
5205 14 20	Bleached
5205 14 30	Dyed
5205 14 90	Other
5205 15	Above 47.2s
5205 15 10	Grey
5205 15 20	Bleached
5205 15 30	Dyed
5205 15 90	Other

65. Proper classification of goods under the appropriate HSN code is essential to ensure accurate GST compliance, prevent mismatches in Returns and avoid disputes or penalties. Based on the classification adopted in the GST Tariff, can a standard “Conversion table from Decitex to Ne count” be prepared?

Conversion table from Decitex to Ne count

DECITEX	Ne
714.29	8.3s
232.56	25.4s
192.31	30.7s
125	47.2s
106.35	55.5s
83.33	70.9s

66. Under GST, is classification of cotton yarn based on Ne (English count) or decitex?

- GST classification of textile yarns is based on “decitex” to align with the World Trade Organisation’s (WTO) HSN (Harmonised System of

Nomenclature) system adopted globally.

- **Cotton yarn** under GST (Customs/Excise earlier) is still classified based on *count in Ne (Number English)* rather than decitex by the industry for the following reasons:
- **Historical Trade Practice**
 - Cotton has been spun, traded and taxed in India for centuries in **English Count (Ne)** system.
 - Mills, traders and weavers are accustomed to Ne, not decitex.
 - Ne is still the **commercial language of the industry** used in contracts, mill production and buyer orders.
- However, statutory documents under GST and Customs Act should mandatorily classify the yarn under decitex and the conversion formula is as follows:

Decitex → Ne

$$\text{Ne} = 5905/\text{dtex}$$

Ne → Decitex

$$\text{Dtex} = 5905/\text{Ne}$$

Example

- **Yarn:** 30 Ne
- **Calculation:** dtex = 5905 / 30 = 196.8 dtex.

67. Under the GST law, provisional attachment is a protective measure available to tax authorities to safeguard government revenue, in cases where there is an apprehension that the taxpayer may dispose off the assets (including bank accounts) to evade tax dues. This power can also be exercised during the pendency of proceedings. Is there a prescribed validity period for such Provisional Attachment Order?

Yes.

Period of Validity of a Provisional Attachment Order

- Every provisional attachment **ceases to have effect after 1 year** from the date of the Order.
- Even if the proceedings are pending beyond one year, a fresh Order of provisional attachment must be passed, if necessary.

Ref: Section 83 of GST Act/M/s Aashna Singhal Vs Principal

Commissioner of GST And Ors (Delhi High Court)

68. If packing charges are shown separately in the invoice, should a distinct/separate GST rate and Services Accounting Code (SAC) also be specified in the GST invoice?

1. Normal / Standard Packing

- Any **packing that is ordinarily necessary for putting the goods in marketable condition** (e.g., carton, bale, bag, cone, spool, box) is considered **part of the value of goods**.
- It is **not a separate supply**.
- Hence, it falls under the **HSN of the goods** (not under a separate SAC).

2. Special / Optional / Additional Packing

- If a buyer specifically requests **special packing** (e.g. wooden crates, corrugated boxes with branding, export-quality packing or protective packing beyond normal market practice), and it is **charged separately, packing shall be treated as a composite supply of the principal goods supplied**.
- The Customs Act also upholds the same principle. Rule 5(b) of the General Rules of Interpretation of the First Schedule of Import Tariff reads as follows:

“Packing materials and packing containers presented with the goods therein shall be **classified with the goods** if they are of a kind normally used for packing such goods”.

3. If the Input Tax Credit reflected in GSTR-2A is higher than that availed by assessee and reflected in GSTR-3B Return, can the department direct payment of GST on the excess amount reflected in GSTR-2A Return?

- GSTR-2A is an **auto-populated, dynamic report** showing details uploaded by suppliers in their GSTR-1.
- It is **not a Return filed by the assessee** and is **not conclusive evidence** of ITC entitlement.
- Availment of credit is based on **assessee's own books & documents**, and not on GSTR-2A figures.
- If **ITC in GSTR-2A > ITC in GSTR-3B**, it means the assessee

has claimed **lesser ITC** than what is reflected by suppliers.

- In such a case, there is **no revenue loss to the Government**, because the assessee has only taken a lower credit.

Thus, directing payment of GST on the “excess amount appearing in GSTR-2A but not availed in GSTR-3B” is incorrect.

Ref: Section 16 of GST Act/Larsen & Toubro Ltd. vs Assistant Commissioner (ST)(FAC), Kancheepuram (Madras High Court)

69. In a 'Bill To – Ship To' model under GST, does the responsibility to generate the e-way bill lie with the supplier, the buyer or the actual recipient?

In a "Bill To – Ship To" transaction under GST, the responsibility to generate the e-way bill generally lies with the **"person causing movement of goods"**.

1. If Bill-To Party causes movement:

- **A (Bill To)** orders goods from **B (Supplier)** and asks B to deliver to **C (Ship To)**.
- If **A** is causing the movement by instructing **B** to deliver directly to **C**, then **A** should generate the e-way bill.

2. Supplier causes movement on his own:

- If Supplier B takes responsibility for the transport and arranges the delivery directly to **C**, then **B** may generate the e-way bill.

Ref: per Rule 138 of the GST Rules

70. In the context of a job work transaction under GST, who is responsible for generating the E-Way Bill – the principal or the job worker?

Scenario	E-Way Bill to be generated by
Principal despatches the goods to job worker	Principal
Job worker returns goods to principal	Job worker (if registered) or the principal
Goods moved directly from supplier to	Principal or supplier

job worker on principal's direction (Bill To – Ship To transaction)	
Goods sent from one job worker to another	Job worker or the principal

Advisory

- Link EWB generated for return of goods by the job worker to the principal with original challan.
- Maintain records to prove the statutory period for return of goods (inputs to be returned within 1 year and capital goods within 3 years).
- Avoid mismatch in quantity or HSN between Delivery Challan and EWB.
- Do not claim RoDTEP benefit without proper documentation, if goods are exported from job worker's premises.
- Proper endorsement necessary on the Delivery Challan during movement across multiple job workers.

71. **E-Way Bill compliance in the context of RoDTEP (export) claim ensures seamless verification of the movement of goods for which the export benefit is being claimed. What is the checklist that needs to be followed?**

1. Evidence of Movement of Goods

E-Way Bill serves as proof of movement of goods from the manufacturing unit or warehouse to the port or ICD/CFS for export. Non-generation or incorrect generation of the E-Way Bill may raise questions on the genuineness of the export, which can lead to denial or delay in disbursement of RoDTEP benefits.

2. Supporting Documentation for Customs

During customs examination, proper E-Way Bill documentation helps substantiate:

- The origin and transport route of the goods
- Compliance with GST and transportation Rules

3. GST and RoDTEP Interlink

As RoDTEP aims to refund embedded/non-creditable taxes,

including those incurred in the domestic leg of supply (like electricity duty and transportation-related taxes), E-Way Bill compliance ensures that claims are supported by proper tax-paid evidence.

4. Avoidance of Discrepancies

Discrepancies in Vehicle numbers, places of dispatch & delivery and taxpayer credentials can flag the transaction for review, possibly resulting in RoDTEP claim rejection or scrutiny.

5. Documentation Consistency

For a valid RoDTEP claim:

- The details in Shipping Bill, GST invoice, E-Way Bill and Transport documents must match.
- Any inconsistency may lead to query being raised by Customs or denial of benefits under RoDTEP.

Advisory: Best Practices to be adopted by the Exporters

- Generate accurate and timely E-Way Bills for all export consignments.
- Maintain digital records of E-Way Bills for audit/tracking.
- Ensure that the vehicle number, HSN and place of supply matches across all documents.
- Periodically reconcile E-Way Bills with shipping bills filed under RoDTEP.

72. For ensuring effective compliance, training logistics team, using automated ERP-integrated EWB solutions and conducting periodic audits is essential, in addition to the responsibilities borne by the Accounts department of the organisation. What would be a preferable SoP to be followed by the in-house team?

Department wise Task Assignment for E-Way Bill Compliance (by whatever title the team or staff are designated) and cross verification is essential to avoid lapses or departmental actions

A. Sales / Marketing Department

- Prepare and issue commercial invoice with accurate GSTIN (buyer/seller)/Item descriptions/ quantity/rate/ HSN

codes/Applicable GST rates (CGST/SGST/IGST)

- Mention correct place of supply and delivery location.
- Share invoice and dispatch schedule with Logistics and EWB team.
- Coordinate with buyer regarding mode and timing of dispatch.

B. Accounts Department

- Verify correctness of invoice values, tax calculations and GST implications.
- Ensure buyer/seller GSTIN is valid and active.
- Check for spelling/typographic errors and entries in appropriate columns.
- Separate EWB to be generated for each invoice.
- No mismatch of details in invoice and EWB.
- Verify that correct document type is chosen in EWB (Tax Invoice, Bill of Supply, Delivery Challan, Bill of Entry)
- Grant approval for dispatch, only after confirmation of details.
- Reconcile E-Way Bill data with GSTR-1 periodically.

C. GST Compliance team / EWB Team

- Generate E-Way Bill on the portal using details from invoice and logistics data.
- Update Part-B (vehicle number) before goods movement.
- Validate correctness of GSTINs, HSNs, place of delivery and vehicle info.
- Share EWB copy with driver/transporter and attach with invoice.
- Maintain digital register of all EWBs.
- Cancel EWB immediately on identifying a mistake, since it cannot be corrected/edited/modified but can only be cancelled within 24 hours of generation and before verification by an officer.
- Extend the period of EWB on assessing that the goods would not reach the destination during the predicted period.
- Directing transporter to amend part B if vehicle changed due to

breakdown or other valid reason.

D. Logistics / Dispatch Department

- Finalize transporter or own vehicle for each dispatch.
- Share vehicle number and transporter ID with EWB team.
- Ensure driver carries EWB and invoice copy.
- Ensure dispatch is done strictly as per EWB details (origin, destination, vehicle).
- Monitor vehicle movement to ensure timely delivery within EWB validity.
- Inform EWB team of an enroute delay or change in vehicle for updating Part-B.

E. Transporter

- Carry valid E-Way Bill and invoice/delivery challan during movement.
- Ensure movement only starts after Part-B is filled.
- Follow declared route and deliver goods to the correct consignee.
- Cooperate in inspections by GST officers, if any.

F. IT / ERP Support

- Ensure EWB module is functional and integrated with billing/dispatch software.
- Support teams in case of EWB portal downtime or data mismatch.
- Maintain backups and EWB history securely in system.

G. Internal Audit / Compliance Officer

- Conduct quarterly audits to verify:
 - Accuracy of generated E-Way Bills
 - Timely generation and usage
 - Recordkeeping and cancellation compliance
- Highlight lapses and recommend process improvements.

73. Even minor errors /procedural lapses without involvement of fraud or

intention to evade taxes leads to detention/seizure of goods. In this scenario, what are the common errors relating to e-waybill compliance that have been adjudicated by the judicial forums till date?

Common e-way bill errors under GST that have been identified and adjudicated till date include the following:

Error Type	Description	Impact / Adjudication
1. E-Way Bill Not Generated	Movement of goods without generating e-way bill when mandatory (value > Rs.50,000/Rs.1 lakh or as per state rules).	Treated as a contravention. Goods and vehicle detained/penalty levied.
2. Incorrect Part-A Details	Wrong invoice number, date, value, HSN code, consignee details, place of delivery, etc.	Treated as evasion attempt/attracts penalty. Some courts have given relief if error is minor or typographical.
3. Incorrect Part-B (Vehicle Details)	Wrong vehicle number or not updated in time (especially for multi-modal transport or vehicle change).	Vehicle detained/penalty imposed. However, courts have ruled in favour of taxpayers in cases of minor mistakes.
4. Expired E-Way Bill	E-way bill validity period expired but goods still in transit.	Detention of vehicle with goods. Relief granted in cases of delay due to unavoidable circumstances (e.g., strikes, floods).
5. Multiple Invoices, Single EWB	Clubbing multiple invoices of different consignments under a single e-way bill.	Violates e-way bill rules. Penalty imposed.
6. EWB Not Matching with Invoice details	Discrepancy between details in e-way bill and accompanying invoice (e.g., quantity/value	Treated as suppression or misstatement/penalty imposed.

	mismatch).	
7. Transportation without Document	E-way bill generated, but driver does not carry it (physically or electronically).	Penalty of Rs. 10,000 or tax amount, whichever is higher.
8. Incorrect Distance / Wrong PIN Code	Incorrect distance leads to shorter e-way bill validity.	If delay occurs, vehicle detained. Some relief provided for minor PIN code errors.
9. Inter-State Movement with Invalid Registration	Goods sent inter-state without proper registration or e-way bill (especially unregistered suppliers/transporters).	Deemed offence/penalties imposed/adjudications mostly against the taxpayer.
10. Transport after Cancellation of EWB	Goods transported even after e-way bill is cancelled.	Considered as serious violation/penalties imposed and goods/vehicle confiscated.
11. Loading/unloading goods at unauthorized or unmentioned locations	Place of dispatch and delivery being contained in the documents, to be strictly adhered to.	Detention and seizure of the vehicle and goods, subject to adjudication.

74. Is issuing GST invoices with Dynamic QR Code compulsory?

- A Dynamic QR Code is a **machine-readable code** that contains the invoicing details like supplier's GSTIN & UPI ID, Payee's bank account number & IFSC, Invoice number & date, Total invoice value, GST amounts (break up of CGST, SGST/UTGST, IGST) and other payment related information, to enable digital payments through scanning.
- Dynamic QR Code is **applicable for B2C invoices** issued by large registered taxpayers (turnover > Rs. 500 crore).
- **Dynamic QR Code is not required for:**
 - **B2B Invoices (e-invoicing with IRN is applicable for B2B).**

- **Export invoices**
- Supplies made to SEZ units/developers & Government departments
- Where payment is made in cash or via any mode and the invoice already has a cross-reference (like UPI/payment link).
- Input Service Distributors.

Ref: Rule 46(r) of the GST Rules, 2017/Notification No. 14/2020 – CT, dated 21.03. 2020/Circular No. 146/02/2021-GST dated 23.02.2021.

75. Refund filing for Deemed Exports (Advance Authorization Scheme) has been simplified by GSTN. What is the procedure to be adopted?

- **Chronological Filing done away with**

Taxpayers **no longer need to specify “From Period” and “To Period”** or file refund claims in the order of tax periods, thus eliminating complications caused by mismatches in tax periods.

- **Mandatory Return Filing**

Before filing a deemed export refund claim, **all GST returns (GSTR-1, GSTR-3B, etc.) must be filed up to the date of Application.** Applications will be accepted by the system only if all requirements are fulfilled.

- **Revised ‘Amount Eligible for Refund’ Table with Auto-Populated Data** –The structure of the ‘Amount Eligible for Refund’ table has been updated to include **auto-populated fields**, thereby reducing manual errors. The revised table will display the following:

- **Balance in the Electronic Credit Ledger (ECL)** across all tax heads (IGST, CGST, SGST), thereby supporting refund calculation process.
- **Net Input Tax Credit (ITC)** specifically attributed to deemed export transactions
- **Eligible refund amount**

Advisory:

- Ensure all invoices are thoroughly verified before uploading, as once uploaded, they get locked and cannot be modified.
- Use the editable “Claimed Refund” field to adjust amounts based on ECL availability.

- If denied, correct issues or withdraw & re-upload Statement 5B.
- Monitor refund status and raise grievances promptly if needed.

Ref: as per Circular No. 125/44/2019-GST, dated 18.11.2019

76. Is GST payable on the compensation received for the compulsory acquisition of land by the State Government?

No, **GST is not payable on compensation received for the compulsory acquisition of land by the State Government**, for the following reasons:

- Land transaction is not a supply under GST (Schedule III of the GST Act, 2017)
- Compensation is not consideration for a taxable supply:
 - Compensation for compulsory acquisition is paid under the “Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (RFCTLARR Act)”.
 - It is not a consideration for any taxable supply/service rendered, but it is a **statutory compensation**.

Ref: Circular No. 177/09/2022-GST dated 03.08.2022/Smt. Asha. R vs. Assistant Commissioner of Commercial Taxes (Karnataka High Court)

77. What are the GST compliance requirements applicable when credit notes are issued for an amount exceeding Rs. 5 lakhs?

Under GST, issuing credit notes for amounts exceeding Rs.5 lakhs involves certain key compliances to ensure proper input tax credit (ITC) adjustments and documentation (specifically with regard to post-sale discounts, returns or rate changes), which are as follows:

Documentation

A credit note must be issued for reduction in **taxable value or tax amount**, which contains invoice reference, Tax amount, GSTIN of supplier & recipient and reason for issuing credit note.

Reporting in GSTR-1

- The supplier must declare the credit note in GSTR-1 for the month in which it is issued.
- The credit note must reflect in the GSTR-2B of the recipient to ensure corresponding ITC reversal or adjustment.

- If the credit note is issued after November following the end of the financial year, output tax liability cannot be reduced.

Reversal of ITC by Recipient

- If ITC was availed on the original invoice, the recipient must reverse proportionate ITC as per the credit note value.
- This becomes especially significant when the value exceeds Rs.5 lakhs, potentially triggering audit or verification.

CA Certificate Requirement (in specific cases)

- While not generally mandatory, a Chartered Accountant's certificate may be required:
 - During refund claims involving large-value credit notes.
 - In cases of mismatches where the data of supplier & recipient differ and the department seeks certification to ensure that the tax has been paid correctly.

Record-Keeping

- Maintain **proper audit trail and justification** while issuing high-value credit notes.
- GST authorities may scrutinize such transactions during assessments or audits.

No Reduction of Tax Liability (If Conditions Not Met)

- If the recipient does not reduce the ITC or the credit note is not declared within the prescribed time, the supplier cannot reduce output tax liability.

Ref: Section 34 of the GST Act, 2017/ Rule 53 of the GST Rules

78. Is it mandatory for the assessee to furnish a Chartered Accountant (CA) certificate to the department in cases of GST credit mismatch?

Under GST, a **Chartered Accountant's (CA) certificate is not mandatory in all cases of input tax credit (ITC) mismatch**. However, it may be required in specific circumstances depending on the nature and quantum of the mismatch, particularly to certify that the supplier has discharged the tax liability on the disputed supplies. Such **certification becomes relevant in the following cases:**

- ❖ **General Credit Mismatch (GSTR-2A/2B mismatch with**

GSTR-3B)

- No CA certificate is generally required.
 - The recipient can reconcile differences, follow up with the supplier to file correct Returns or provide other documentary evidence (like invoice copy, payment proof etc).
 - GST officers may issue notices (DRC-01A) seeking explanation or reversal of credit wrongly availed.
 - **Compulsory if ITC claimed in Form GSTR-3B exceeds the amount reflected in Form GSTR-2A by over Rs. 5 lakhs (Rs. 2.5 lakhs each for CGST/SGST).**
- ❖ **Refund Claims involving mismatch (deemed exports, ITC mismatch with supplier Returns)**
- In such refund cases, if the claimed ITC is not reflected in GSTR-2A/2B and refund is claimed based on other supporting documents, a CA or Cost Accountant certificate is necessary, **if refund amount exceeds Rs.2 lakhs**, certifying that the incidence of tax has not been passed on (No unjust enrichment).
- ❖ **In response to GST audit or adjudication**
- If the mismatch involves large amounts or disputed ITC, the GST Officer may demand a CA certificate to support genuineness of ITC.

Ref: Circular Nos. 183/15/2022-GST dated 27.12.2022 and 193/05/2023-GST dated 17.07.2023.

79. Is service of GST Notice through Wapp valid?

Under GST law, a notice **sent through WhatsApp is not considered as a valid service.**

A decision, order, summons, notice or other communication is considered to be **validly served**, if delivered through any of the following modes only:

1. **By hand delivery** (directly or via messenger)
2. **By registered post or speed post**
3. **By email** (to the registered email ID)

4. **Uploading on the GST portal**
5. **Publication in a newspaper** (if other means fail)
6. **Affixing at a conspicuous place** (in extreme cases, such as the last known place of business or residence)

Ref: Section 169 of CGST Act, 2017/Mathai MV vs. The Senior Enforcement Officer & Anr. (High Court)

80. What is the status of the mandate to include “Document Identification Number” (DIN) in all communications issued by the GST department?

- With effect from 8.11.2019, it was mandated that any search authorization, summons, arrest memo, inspection notice or letter issued during inquiries must quote a computer-generated DIN, in the absence of which the document would be considered as invalid.
- Exceptional scenarios (technical issues, urgent matters outside office hours etc) allow short-term exemption, but such communications must be stated as DIN-less, have a recorded justification and be regularized later.
- The Supreme Court and GST Council issued advisories urging all States to adopt DIN for transparency.
- **However, CBIC has now clarified the non-applicability of DIN for documents issued through the GST common portal, which already carry a Reference Number (RFN).**

- Accordingly, there is no requirement to separately quote DIN on notices or orders issued through the portal, as these contain a system-generated RFN, which can be verified using the 'Search > Orders/Notices' feature available on the portal.
- **All other communications not generated through the GST portal, such as physical letters, email correspondence or manually issued documents must include a valid DIN.**

Ref: Circular Nos. 122/41/2019-GST dated 5.11.2019/ 128/47/2019-GST dated 23.12. 2019/ 249/06/2025-GST dated 9.06.2025

81. If a supplier collects interest/penalty for late payment of the sale price of the product from the purchaser, is GST chargeable on the same? If so, what would be the GST rate?

- Yes, GST is chargeable on the interest or penalty collected by a

supplier for late payment of consideration by the purchaser. Such interest or penalty is treated as a consideration for the original supply.

- Therefore, GST is applicable at the same rate as applicable on the principal supply of goods or services.

Ref: Section 15(2)(d) of the GST Act, 2017

82. Can second GST proceeding be initiated by Central GST department on the same issue, if State GST department had already adjudicated the same?

- The Delhi High Court has held In the Case of “Shanti Swaroop Nikhil Kumar Vs Additional Commissioner CGST North”, (decided on 25-4-2025) as follows:
- Where proceedings had already been initiated and adjudicated by State GST Department, a second proceeding by Central GST department on the same subject matter for same time period would be barred under Section 6(2)(b).

Ref: Section 6 read with section 74 of Central Goods and Services Tax Act, 2017

83. Can a recovery notice be issued by the GST department directly to a third party/bank without notifying the assessee?

- No, a GST recovery notice cannot be issued directly to the bank without notifying the assessee.
- The GST law mandates a legal Procedure for recovery as per Section 79 and the due process is as follows:
 1. Issuance of demand Order under Section 73 or 74.
 2. If payment is not made within the specified period, the department can initiate recovery proceedings.
 3. Recovery from third parties (e.g., banks) is permitted only after:
 - A demand order has been issued.
 - The assessee has failed to pay the dues within the statutory time limit (3 months from the date of service of the Order, unless specified otherwise).
 - Notice in Form GST DRC-13 is then issued to the bank.

Ref: M/s Galaxy International Vs UoI (Bombay High Court - Order dated 24.06.2025)

84. Can I claim ITC on invoices which are rejected in the Invoice Management System (IMS), but filed in GSTR-3B?

Yes

Steps to be adopted:

- Request supplier to re-report the **same invoice** (unchanged) via GSTR-1A.

Accept it in IMS → Recompute GSTR-2B → Full ITC gets reflected again.

85. Is filing of appeal against an Order passed by the GST officer subject to pre-deposit and fees?

Yes

- **First appeal (Commissioner/Joint Commissioner):** To pay admitted amount + 10% of disputed amount (capped at Rs. 20 crores)
- **Second appeal (Tribunal):** same structure as given above + filing fee of Rs.1,000/Rs.1 lakh (capped at Rs.25,000)

Ref: Sections 107 & 112 of GST Act.

86. Can all decisions/Orders passed by the GST Officers be appealed against?

No.

Appeals cannot be filed against the following Orders passed by a GST officer:

- An Order to transfer the proceedings from one officer to another officer.
- An Order to seize or retain books of account and other documents.
- An Order sanctioning prosecution (initiation of criminal proceedings) under the GST Act.
- An Order allowing payment of tax and other amounts in instalments.

87. Taxpayers have the flexibility to modify the pre-filled values in GSTR-3B. Is this procedure subject to any change?

Yes.

- **From July 2025 onwards (Returns filed for the period**

pertaining to July 2025, which is due in August 2025), this manual intervention will no longer be permitted. Any discrepancy must be addressed through amendments in **GSTR-1A** only.

- Auto-populated values in Table 3 (details of outward supplies and the corresponding tax liability) of GSTR-3B sourced from GSTR-1 will become **non-editable**.
- Objective of this amendment is to enforce strict consistency between GSTR-1 & GSTR-3B and is aimed at reducing errors and mismatches.

Advisory:

- Match GSTR-1 entries with the internal sales registers, ERP records and e-invoicing data before filing GSTR-3B.
- In case of errors or omissions in previously reported outward supplies in GSTR-1, use GSTR-1A to make necessary amendments before filing GSTR-3B.

Ref: Sections 37 & 39 of GST Act and Rules 59, 60 & 61 of GST Rules, 2017

88. Can GST credit be denied to a bona fide purchaser who received tax invoices, paid consideration including tax through banking channels, however, supplier failed to deposit the tax or file Returns?

The Allahabad High Court in its judgement dated 30.05.2025 has held that:

- The purchaser cannot ensure that the seller files GSTR-1 or pays taxes.
- A purchaser cannot compel the seller to file Return or deposit tax with the government.
- **The purchaser cannot be penalized for the supplier's default.**

Reliance placed upon judgments in the case of M/s Suncraft Energy Pvt Ltd (Supreme Court) and D.Y. Beathel Enterprises (Madras High Court)

Ref: Section 16(2)(c) of GST Act/ M/s R.T. Infotech Vs Additional Commissioner (Case No. Writ Petition No. 1330 of 2022 dated 30.05.2025)

89. Can GST Notice be issued under Section 61 of GST Act, merely on the basis of difference between sale price and market price?

- Section 61 deals with **Scrutiny of Returns**, which states that the proper officer may scrutinize the Return and related particulars furnished by the registered person to **verify the correctness of the Return and inform the discrepancies** noticed, if any, in such manner as may be prescribed and seek explanation thereto.
- Clear objective of section 61 is to enable an Assessing Officer to point out discrepancies and errors which are occurring in Return filed by a registered person with that of related particulars.
- **Notice under section 61 cannot be issued comparing particulars at which assessee has sold its goods with that of prevalent market price.**

Ref: Sri Ram Stone Works V/s State of Jharkhand (High Court)

90. Under GST, what is the Composition Scheme for Small Restaurants?

- **Eligibility:** Annual turnover up to ₹1.5 crore.
- **GST Rate:** 5% without ITC.
- **Conditions:**
 - Exclusively engaged in restaurant services.
 - No interstate outward supply of goods.
 - No sale of non-GST items like alcohol^[8].
- **Note:** Composition dealers cannot collect GST from customers and cannot issue tax invoices.

91. What is the applicable GST Rates for Restaurants and its credit eligibility (Amended up to June 2, 2025)?

The GST rate structure for restaurants has undergone significant amendments with effect from April 1, 2025. The key changes are:

- **Abolition of "Declared Tariff":** GST is now levied on the **actual value** of supply (transaction value) of accommodation services, not on a published or declared tariff.
- **Specified Premises:** Hotels are considered "specified premises", if any unit of accommodation was sold/rented for more than ₹7,500 per day in the preceding financial year, or if the hotel opts for the 18%

GST rate by filing a declaration.

Updated GST Rates for Restaurants:

Type of Restaurant/Service	GST Rate	ITC Eligibility	Remarks
Standalone restaurants (AC/Non-AC, takeaway, QSR)	5%	Not available	Applies to all standalone restaurants, including those with air conditioning.
Restaurants within hotels (room tariff < ₹7,500)	5%	Not available	Unless the hotel opts for 18% with ITC by filing a declaration.
Restaurants within hotels (room tariff ≥ ₹7,500)	18%	Available	"Specified premises" as per actual value of supply in preceding year.
Outdoor catering services	18%	Available	Applies to most outdoor catering serving industry, except with certain exemptions.
Restaurants serving alcohol (standalone or in hotels)	(PI see note)	(PI see note)	Not a separate category; depends on location and tariff as above.
Indian Railways/IRCTC catering	5%	Not available	

Restaurants serving alcohol are not automatically subject to 18% GST unless they are located within "specified premises" (room tariff ≥ ₹7,500) or are part of outdoor catering. Standalone restaurants (even if serving alcohol) are generally subject to 5% GST without ITC, they can opt for 18% with ITC by filing a declaration.

92. What is the applicable GST rates and ITC eligibility for for hotel stays?

Room Tariff (per night)	GST Rate	ITC Eligibility
Less than ₹1,000	Nil	Not applicable
₹1,000 – ₹7,500	12%	Eligible
₹7,501 and above	18%	Eligible

ITC is available for stays at hotels with room tariffs of ₹1,000 or more, provided the specified conditions are satisfied.

93. Can GST paid for Hotel Stays for Business purpose be availed as credit?

Businesses can claim Input Tax Credit (ITC) on GST paid for hotel accommodation if the stay is for official purposes, provided all the following conditions are met:

- **Possession of a valid tax invoice or debit note** issued by a registered supplier.
- **Actual receipt of services** (the stay or restaurant service must be availed).
- **Supplier has paid the tax** to the government.
- **GSTR-3B return** has been filed by the recipient.
- **Services are used for business purposes** (not for personal consumption).
- **ITC is not blocked** under Section 17(5) of the CGST Act.

Invoice is in the name of the registered business, not in the name of an employee personally.

94. When the vehicle carrying the goods reaches the place of destination during the period of validity of e-waybill itself (before the expiry), but the vehicles could not be unloaded on the same day and were being unloaded on the following day, should the e-way bills be valid even at the time of unloading?

- Unloading of transported goods without any further transit cannot be challenged, when the GST provisions permit further extension of

validity of an e-waybill by eight hours after the expiry.

- Thus, **e-waybill should be valid during the transit till the goods are unloaded.**

Ref: Section 129(3) of GST Act/ Rule 138(10) of GST Rules

95. What is the status in GST for sale of used Air Conditioner by the textile manufacturer, which was used in the office building?

Scenario	GST Rate and credit status
Sold as scrap (non-functional)	18%/credit eligible
Sold as second-hand (functional)	28%, payable on the difference in purchase and sale value, if no credit was availed at the time of purchase
Sold to unregistered individual (scrap merchant)	18% under RCM, since also contains metal scrap
Sold by unregistered individual (purchased in the personal name of the MD)	NIL/GST not applicable

Ref: HSN Code 7204 (for metal scrap) / Rule 32(5) of CGST Rules, 2017 (margin sales)

96. Can both Late Fee and General Penalty be charged for belated filing of GST Returns?

- The Madras High Court has ruled that taxpayers cannot be charged both a late fee (Rs. 200 per day subject to a maximum late fee of Rs. 10,000/-) and a general penalty (Rs. 50,000) for delayed filing of GST Returns.
- General penalty is imposable only in the event where there is no prescription of specific penalty for a default under the Act.

Ref: Sections 47 & 125 of GST Act/ Tvl. Jainsons Castors & Industrial Products vs. The Assistant Commissioner (ST)

97. GST Department conducts audits spanning several years and issues a consolidated Show Cause Notice (SCN) for all the audit periods. Can a single SCN be issued for multiple assessment years?

No.

- The proper officer should issue separate SCNs to cover

different financial years, as the time limit applicable for adjudication of the SCNs is based on the due date of furnishing of Annual Return.

- Consolidated SCNs covering multiple assessment years can only be issued when there is a common period for initiation and completion of the adjudication.

Ref: Sections 73 & 74 of GST Act/Joint Commissioner (Intelligence & Enforcement) Vs M/s Lakshmi Mobile Accessories (Kerala High Court)

98. Sale of “Duty Credit Scrips” issued under various export promotion schemes (MEIS, RoDTEP etc) is exempt from GST. Should proportionate credit of GST paid on inputs and services used in relation to duty credit scrip (common credit) be reversed?

- **No.**
- The value of Duty Credit Scrips **should not be considered as part of the value of exempt supply**, while calculating GST ITC reversal in relation to **common** inputs/input services, used in the manufacture of taxable and exempt goods.

Ref: Notification 14/2022-CT dated 5.7.2022 and the Order passed by the Authority for Advance Ruling (AAR), Telangana in the case of M/s. Kaveri Exports.

99. Under the GST law, pre-deposit of 10% of the disputed tax amount is a condition for filing an appeal before the Commissioner (Appeals). Can the accumulated ITC lying in the Electronic Credit Ledger (ECL) be used for payment of the pre-deposit?

- **Yes.**
- Upholding the Gujarat High Court decision, the Supreme Court of India has allowed the businesses to use their accumulated ITC from the Electronic Credit Ledger (ECL) to make the mandatory 10% pre-deposit for filing an appeal under the GST law.

Ref: Section 107(6)(b) of CGST Act/ M/s Yasho Industries vs. Union of India (SC)

100. Can the department deny the refund of GST with regard to export of goods without payment of duty for the reason that the invoice is not reflected in GSTR-2B of same month?

No, the department cannot legally deny refund of GST merely because

the invoice is not reflected in GSTR-2B of the same month, provided that the claimant is otherwise eligible and all substantive conditions under the GST law for claiming refund are satisfied.

- Exports are zero-rated supplies under Section 16 of the IGST Act, 2017. A registered person making a zero-rated supply without payment of IGST (under LUT) is eligible to claim refund of unutilized ITC under Section 54 of the CGST Act.
- Rule 89 of the CGST Rules outlines the procedure for refund and does not require GSTR-2B matching.
- GSTR-2B is not a mandatory return. It is an auto-drafted return generated for businesses registered under the Goods and Services Tax (GST) Act and is intended to provide businesses with information on the input tax credit available based on the supplier's invoice.
- Non-reflection of an invoice in GSTR-2B cannot override the substantive right to claim ITC or refund if other conditions are met.
- ITC is not restricted to invoices in the same month's GSTR-2B, but it must be available in any valid GSTR-2B filed within the eligible time limit (i.e) 30th November of next financial year or filing of Annual Return, whichever is earlier.
- GSTR-2B is merely a static statement generated monthly, showing eligible ITC based on supplier GSTR-1 filings.
- GSTR 2B is a facilitative tool, not a condition for refund.
- The denial of refund solely on procedural grounds is against the spirit of law and hampers genuine exporter interests.
- The purpose of GSTR 2B is to ensure compliance with Rule 36(4) (i.e) ensuring that availment of ITC by a taxpayer for invoices not uploaded by vendors cannot exceed by more than 10%.
- The issue is sub-judice (dispute raised and pending).

Best Practice

- Maintain invoice-wise reconciliation between books, GSTR-2B, and refund claims.
- Ensure supplier compliance (timely GSTR-1 filing) to avoid delay in reflection in GSTR-2B.

Ref: Section 16(2)(aa)/Rule 36 & Circular No. 197/09/2023-GST dated 17.07.2023

101. What are the recent important changes in the refund filing process incorporated by GSTN in relation to filing of refund claim by supplier of Deemed export?

- The requirement to select a specific tax period ('From' and 'To') while filing refund Applications has been removed. The taxpayers can now directly proceed with selecting the refund category and click on "Create Refund Application."
- Taxpayers must ensure that all the Returns (GSTR-1, GSTR-3B etc) due till the date of refund Application are filed.
- The refund category has been changed from 'Tax Period based filing' to '**Invoice based filing**'.
- The invoices once uploaded with a refund Application will be locked for any further amendment and will not be available for any subsequent refund claims.
- The said invoices will be unlocked only if the refund Application is withdrawn or a deficiency memo **is issued**.

102. When should the intermediary and ancillary services (loading/unloading, packing/unpacking, transshipment/temporary warehousing etc.) provided in relation to transportation of goods by road be treated as separate/independent supplies?

If:

- The **ancillary services are contracted separately**, or
- **Different service providers** are involved (e.g., transporter and third-party packers/loaders), or
- The services are **not naturally bundled** with transportation (standalone or optional)
- Charges for the services are **invoiced separately**

then they are to be treated as **independent supplies** and **taxed separately** as per their nature under GST.

Ref: Section 2(30) of CGST Act/CBIC Circular No. 234/28/2024-GST dated 11.10.2024 which clarifies that ancillary services, if bundled with transportation, will form part of composite supply with transportation as principal supply.

103. Are intermediary and ancillary services (loading / unloading, packing / unpacking, transshipment etc.) provided in relation to transportation of

goods by road to be treated as part of GTA service, being a composite supply?

If the ancillary services are:

- **Naturally bundled** with the principal supply of transportation,
- **Provided by the same service provider** (GTA),
- And supplied in conjunction with the transportation as part of a **single contract/price**,

then these services will be treated as a **composite supply**, where the **principal supply is transportation of goods by road (GTA service)**.

Tax Implication:

- The entire supply (including loading, unloading, etc.) is taxed at the rate applicable to **GTA services** (i.e) 5%.

- 104. Input tax credit (ITC) can be claimed only if the tax charged on the supply (collected from the purchaser of the goods) has been actually paid to the government. Although favourable judgements exist reiterating that the purchaser is not liable to reverse the credit for non-deposit of tax by the supplier, what is the proactive approach to be adopted by the mills?**

Include the following crucial clauses in the Vendor Agreements:

- Supplier must ensure timely GST payment as per the law.
- Supplier shall file the GST Returns (GSTR-1&3B) within the stipulated time.
- Indemnity clause to protect the recipient in case of ITC denial due to non-payment by the supplier or mismatch or incorrect reporting.
- If the ITC is denied to the recipient of goods due to the vendor's failure, the vendor shall be liable to reimburse the entire amount of ITC loss within ____ days of denial of the credit along with cost.

Blanket Clause:

- The recipient reserves the right to withhold any payment in case of any non-compliance related to GST
- The recipient reserves the right to terminate the Agreement due to violation/repeated violations by the vendor in relation to GST

and in case of such termination, the vendor shall immediately clear the outstanding GST liabilities/compensate if the recipient was forced to reverse the ITC claimed/return advance payments for undelivered goods or services.

Ref: Section 16(2)(c) of the GST Act

105. The GST rate on used cars sold by a company was 12%. Has the rate undergone any change?

- The GST rate on the sale of used car has been increased from 12% to 18%, which is calculated on the profit margin of the transaction.
- The increased rate is **effective from 16.01.2025**.
- The Government has exempted Compensation Cess on sale of old/used motor vehicles, if the seller has not claimed ITC.

Ref: Notification No. 04/2025-Central Tax (Rate) dated 16.01.2025/ Notification No. 1/2018- Compensation Cess dated 25.01.2018

106. What are the documents required to be carried during the movement of goods under GST?

Type of Movement	Documents to be carried	Common Document
Taxable Supply (Outward/Inward)	Tax Invoice (Bill of Supply if goods are exempt or the supplier is under composition scheme) + E-waybill	Transporter's ID / Lorry Receipt (LR) / Goods Receipt (GR) Issued by the transporter for tracking and ownership during transit.
Export	Export Invoice + E-waybill	
Import	Bill of Entry + E-waybill	
Sales Return	Delivery Challan + E-waybill	
Despatch for jobwork	Delivery Challan + E-waybill	
Return from jobwork	Endorsed Challan +	

	Job worker's invoice + E-waybill	
Inter-branch transfer	Tax Invoice (Bill of Supply if goods are exempt or the supplier is under composition scheme) + E-waybill	
Goods for own use	Delivery Challan + E-waybill	
Exhibition/Fair or Repair/Maintenance or Testing/Quality Check	Delivery Challan + E-waybill (invoice later if sold)	

107. Can goods in transit be seized solely on the ground of undervaluation under GST?

- Interception by the Department and seizure of the goods in the truck on the allegation of **deliberate undervaluation**, when:
- Goods are accompanied by valid invoices but **without an e-way bill** (due to the consignment value being below the prescribed exemption limit of ₹1,00,000) or other ancillary evidence such as toll receipts or vehicle trail etc to indicate actual interstate movement, the Court observed as follows:
 - **Driver's initial statement holds more evidentiary value.**
 - **If undervaluation is deliberate and aimed at tax evasion, seizure under Section 129 is justified.**
 - **Valuation issues must be dealt with under Sections 73/74 (show causes notice and other adjudication/appeal procedures) and not just Section 129.**

Ref: M/s Jaya Traders v. Addl. Commissioner (Allahabad High Court)

108. How important is the verification of jurisdiction of the officer issuing Show Cause Notice?

If the proper officer issuing the SCN does not have the jurisdictional authority, the notice would be considered as invalid and the entire proceeding is liable to be quashed.

Advisory:

On receipt of a GST SCN and if jurisdictional error is suspected:

- **Verify the designation and notification** under which the officer is acting.
- Cross-check the **GST jurisdiction of the company** on the GST portal.

Include the jurisdictional issue as a **preliminary objection** in the reply to the SCN.

109. Whether CGST Authorities can initiate scrutiny and demand proceedings under Section 74 (for activities with fraudulent intention to evade) of the Act, when SGST Authorities had already conducted an Audit? If so, whether the Audit conducted by the State Authorities would be considered as a “Proceeding”, thereby barring the Central Authorities from initiating a separate proceeding?

The Odisha High Court has held as follows:

- **CGST Authorities cannot initiate separate proceedings under Section 74, once an Audit has been completed by the SGST Authorities.**
- The Order passed by the CGST Authorities had been quashed, stating that it was a barred proceeding.
- Each case to be analyzed in the light of the prevailing facts.

Ref: Section 6(2)(b) of the GST Act/Bipin Kumar Agrawal Vs The Commissioner, CGST

110. Is Show Cause Notice/Order valid if the same is not signed by the departmental officer?

The Telangana High Court has ruled as follows:

1. Rule 142(5) of GST Rules, 2017 mandates that GST forms like DRC-01 and DRC-07 must be signed by the Proper Officer and the condition is not optional.
2. Unsigned Notices/Orders are void ab initio (invalid) and action initiated on the basis of the document has no legal effect.
3. Absence of signature is not a mere technical irregularity (Section 160 of the GST Act).
4. The Information Technology Act, 2000 also reinforces the need for **digital/physical** authentication.
5. The Court rejected reliance on the GSTN Advisory dated

25.09.2024, which justified that SCN/Orders generated on the common portal from the login of the officer, who logs in through Digital Signatures is valid even though issued without signature of the officer and held that the Advisory is contrary to law.

Advisory: Members should verify as to whether the Show Cause Notice/Order is either digitally or physically signed on receipt of the same, since the proposal in the Notice or the decision in the Order does not hold good, if the document is not signed.

Ref: Bigleap Technologies and Solutions Pvt. Ltd. & Ors. v. State of Telangana

111. In contrast to manual scrutiny prevalent under pre-GST period, currently assesses are under continuous digital scrutiny by the GST department. What are the data analytics tools adopted by the department?

GSTN Tracks Mismatches and Red Flags in the following ways:

1. GSTR-1 vs GSTR-3B Mismatch

→ High outward sales declared, but low tax paid.

2. GSTR-3B vs GSTR-2B ITC Mismatch

→ Claiming excess ITC that doesn't reflect in 2B.

3. HSN-Wise Risk Profiling

→ Department checks the HSN codes vs industry norms
- Turnover Vs Tax paid analysis

4. E-Invoice + E-Waybill + GSTR-1 Cross Mapping

→ Even one invoice mismatching across platforms can flag as high-risk transaction.

5. PAN-Level Risk Ratings

→ This rating decides the eligibility of the company to get ITC refunds without much delay or face scrutiny.

Preparatory steps to be adopted to score well:

- Reconcile books of accounts with Returns and figures on portal on monthly basis.
- Reconciliation tools may be used in addition to the manual reconciliation.

- Engage in monthly GST health reviews (third party advisory).
- Maintain digital audit trails of all Returns and invoices.

112. Is there any statutory provision for rounding-off of tax amount to be deposited by the assesses?

Section 170 of GST Act – The amount of tax or interest or penalty or fine or any other sum or refund shall be rounded-off to **nearest Rs. 1/-**

Section 288B of Income Tax Act – Income tax or interest or penalty or refund shall be rounded-off to **nearest Rs. 10/-**

Section 154A of the Customs Act – Customs duty or interest or penalty or refund shall be rounded-off to **nearest Rs. 1/-**

113. If my Company is headquartered in one State, with branches in other States, is it mandatory to obtain “ISD Registration” from 1.04.2025?

Yes

- **With effect from 1.04.2025**, the HO must register as an **Input Service Distributor (ISD)** for ITC distribution on common input services. Cross charge is no longer permitted.

Key Differences between ISD and Cross Charge:

Purpose:

ISD: Distributes ITC on common services (e.g., audit, software).

Cross Charge: Allocates costs of internal services (e.g., HR, IT support)

Registration Requirement:

ISD: Requires separate ISD registration under GST.

Cross Charge: No separate registration needed.

Invoicing & Compliance:

ISD: Uses GSTR-6 invoice for ITC distribution.

Cross Charge: Requires tax invoice issued by HO to branches.

Valuation Method:

ISD: ITC distributed based on branch turnover (Rule 39 of GST Rules).

Cross Charge: Valued as per Rule 28 (can be NIL if full ITC

available).

Outcome of non-compliance:

ITC Loss – HO loses ITC claims if not distributed following ISD mechanism.

Penalties – ₹100/day under Section 47 of GST Act.

Cash Flow Issues – Incorrect ITC allocation affects working capital.

114. What is the first element to be verified to assess the validity of the Show Cause Notice issued alleging tax violation?

Limitation Period – Check whether the Notice is issued within the prescribed time limit:

- **Section 73** (for non-fraudulent cases) – Within **3 years** from the due date of Annual Return.
- **Section 74** (for fraudulent cases) – Within **5 years** from the due date of Annual Return.

Ref: Andhra Pradesh High Court in M/s Cotton Corporation of India v. Assistant Commissioner

115. If my Company is directed to pay GST by the department without issuing a proper Show Cause Notice, but by issuing a Summary of Show Cause Notice in Form GST DRC-01, am I bound to deposit the demanded tax?

No

- The Gauhati High Court has upheld that the **Summary of the Show Cause Notice in GST DRC-01 is not a substitute to the Show Cause Notice (although Statement attached) to be issued in terms of Section 73** of the GST Act.
- The demand would be set aside for non-compliance with the procedure, if the issue is raised before the High Court.

Ref: Dihingia Motors Pvt. Ltd. Vs Union of India and 4 Ors (Gauhati High Court)

116. Difference in original/physical stock and stock-in-book is bound to happen at times. What is the status, if the difference is noticed during inspection by the GST Authorities?

If there is a discrepancy between the physical stock and the stock recorded in the books of accounts during an inspection by the GST

Authorities, consequences would be:

- Show cause notice demanding GST on the unaccounted stock would be issued along with interest and penalty alleging suppression of sales or tax evasion.
- ₹10,000 towards penalty or the amount of tax evaded, whichever is higher.
- If no specific penalty is prescribed, a general penalty up to ₹25,000 may be imposed.
- If serious tax evasion attempt is alleged, the goods may be seized and confiscated.
- If the tax evasion exceeds ₹5 crore, criminal prosecution and imprisonment may apply.

Practical steps to handle stock discrepancy issue and mitigate penalties:

- Analyse difference between the physical stock and book stock (Clerical errors, Goods in transit, wastage, pilferage, damage, unrecorded sales or purchases).
- Maintain proper documents.
- Reconcile the differences.
- Voluntary Disclosure & payment, if violation detected.

Ref: Sections 73/74, 122, 125 of GST Act

117. Can GST credit be denied to a buyer, due to the clerical or arithmetical errors committed by the supplier in their GST Return?

No

The **Supreme Court of India** has upheld as follows:

- **Businesses have a fundamental right to rectify clerical or arithmetical errors** committed in tax filings.
- Seller's mistake in reporting GST details should not lead to the denial of Input Tax Credit to the buyer, especially when the tax has already been paid to the government.
- Rectification should be allowed if there is no loss of revenue.

Ref: The Union of India & Ors. Vs. Brij Systems Ltd & Ors. [SLP (Civil) Diary No. 6334/2025]

118. What does the “30-days’- Rule” with regard to invoice mean?

- For **Goods** – The **Tax-Invoice** must be issued before or at the time of

removal/delivery of goods ((i.e.) before transportation begins).

- **e-invoice** to be created on or after the **Tax-Invoice** date but before the filing of GSTR-1 Return (i.e) compliance of the timeline of 30 days.

119. Does the premium for allotment paid to SIPCOT (Industrial Development Corporation) amount to “supply of Service”, requiring payment of GST@18%?

- No.
- The scope of ‘supply of services’ would not include transfer of leasehold rights as supply of service, since it is a transfer of ‘immovable property’ (i.e) a benefit arising out of immovable property consisting of land and building.
- Clause 5 of Schedule III of CGST Act, 2017 provides that sale of land cannot be treated as supply of goods or services and leasehold rights which are to be considered as sale of land would be out of purview of supply as per Section 7 of the CGST Act, 2017.

Ref: Gujarat Chamber of Commerce and Industry & Ors. v. Union of India & Ors – (High Court)

120. What is the status of GST exemption with regard to transport of goods (i.e) If the transportation charge for goods in a single carriage is ₹1,500 or less, or if the charge for a single consignee in cumulative load is ₹750 or less?

With effect from 18.07.2022 both the above exemptions have been withdrawn vide Notification No. 04/2022- CT (R) dated 13.07.2022.

121. What is Multi Factor Authentication (MFA) for E-invoice and E-waybill mandated from 1.04.2025?

- MFA implies **secured login to the e-invoice and e-way bill portals** for generation of e-invoice and e-way bills using username, password and One-time password (sent to the registered mobile number or Sandes App or NIC-GST-Shield App).
- From 1.04.2025 MFA is mandatory for all GST taxpayers accessing the E-Way Bill and E-Invoice portal **without any Turnover limit**.

122. As per the provisions of GST Law, eligible credit should not be denied to the purchaser due to retrospective cancellation of supplier's GST registration. The Department has been issuing Show Cause Notices demanding the reversal of credit by the purchaser for the fault of the supplier. Are there any supportive judgments on this issue?

Yes.

- Arise India Limited v. Commissioner of Trade & Taxes - Impossible for buyer to determine which seller has not deposited tax and bona fide purchaser cannot be punished for supplier's default - Supreme Court [SLP(C) No. 36750/2017].
- Bright Star Plastic Industries v. Additional Commissioner- ITC cannot be denied unless proven connivance between supplier & recipient and Department must prove fraud by recipient to deny ITC – Orissa High Court
- M/s. D. Y. Beathel Enterprises v. State Tax Officer - GST cannot be demanded from buyer for seller's fault of non-payment - Strict action should be taken against defaulting seller instead – Madras High Court.
- Sri Ranganathar Valves Private Limited v. Assistant Commissioner - ITC restriction on buyer due to seller's default in paying taxes cannot be sustained, emphasising that buyer should not be penalized for seller's defaults.

Gherulal Balchand v. State of Haryana - The purchaser cannot be fastened with the liability in the event of non-payment of tax by the seller unless and until there is collusion and connivance between seller and the purchaser. In the absence of any mala fide Intention, connivance or wrongful association of the assessee with the selling dealer or any dealer earlier thereto, no liability can be imposed adopting the principle of vicarious liability.

123. Is producing Tax Invoice, E-waybill and proof of payment for the goods being transported sufficient to prove actual movement of goods?

No

- GST credit will be denied by the department if the assessee fails to prove the actual movement of goods.
- Mere production of tax invoices, e-way bills and payments through bank are not sufficient to prove the movement of goods.
- Additional evidences like freight payments, delivery acknowledgments, toll receipts, etc are required.

Ref: Supreme Court judgment in the case of State of Karnataka vs. M/s Ecom Gill Coffee Trading Pvt. Ltd. (reaffirming the fixation of burden of

proof on the purchaser) and **M/s Anil Rice Mill vs. State of UP & Ors (Allahabad High Court)**.

124. Can the genuineness of a transaction be suspected and penalty imposed for the mentioning of SAP Document Number in the E-way bill instead of the Tax Invoice Number inadvertently?

No

- The Allahabad High Court has held that no penalty can be imposed when e-way bill contains SAP Document Number instead of Tax Invoice Number, if intention to evade tax is absent.
- Existence of intention to evade payment of tax is to be identified from the accompanying documents including tax invoice, the validity of which cannot be denied by the department if not cancelled during the period of interception by the officers, thus justifying the genuineness of the transaction.
- The objective of raising e-way bill is only to enable the department to assess the actual movement of the goods.

Advisory: Cumulative/collective cross verification and compliances of all fields in all GST related documents is required to avoid issue of show cause notices by the department (invoking penal provisions).

Ref: section 129 of the GST Act

125. What is the procedure to be adopted if B2B invoice is inadvertently reported as B2C in GSTR-1 (resulting in non-reflection of the transaction in GSTR-2A)?

- The outcome of the wrong reporting would be difference in credit claimed in GSTR-3B and that available in GSTR-2A.
- The correction is to be carried out by filing GSTR-1A in the same month after filing of GSTR-1 and before filing of GSTR-3B.
- The GST officer shall verify the relevant invoices, with the objective of identifying as to whether the transaction reported was genuine or fake (including directing the production of a certificate from the Chartered Accountant).
- In case, the error was detected after the expiry of the time limit for filing GSTR-1A, the assessee can approach the High Court by way of a writ petition, praying for an opportunity to submit fresh GSTR-1, with a direction to the concerned GST officers to provide access to the

portal.

Ref: Circular No.183/15/2022-GST 27.12.2022

126. When a contract is cancelled, wherein refund of the GST paid by the supplier on the advance is sought, can the department deny the refund on the ground that the credit note has not been issued by the vendor?

Refund cannot be denied on the ground that the credit note has not been issued for the following reasons:

- The duty to issue credit note arises only when the goods are delivered
- The contract was cancelled and
- The price paid in advance was retrieved by encashing the bank guarantee.

Ref: The Joint Commissioner of Commercial Taxes Vs M/s Nam Estates Private Limited (Karnataka High Court)

127. Financial year-end checklist for 2025 - Update

- **Year-end reconciliation of Outward and Inward Supplies** (Turnover per books of accounts vs turnover per GST returns/ITC closing balance per books vs ITC per the GST portal/Pending mismatched ITC with GSTR-2B and its adjustment).
- **Annual ITC reversal** for inputs that have been used partly in making taxable supplies and partly in making exempt supplies or used for a non-business purpose.
- Textile units exporting without payment of IGST should renew Letter of Undertaking (**LUT**) in Form GST RFD-11 for FY 2025-26 before 1.04. 2025, to continue availment of the benefit.
- **Reset Invoice Number Series** - taxpayers must start unique invoice series for the new financial year.
- **Compliance for availing eligible ITC for FY 2024-25** – (Reconcile the E-Credit Ledger with books of accounts/verify tax calculations under RCM (import, GTA, director fees, security services, cab rentals, advocate fees, etc)/ensure suppliers have filed their GSTR-3B to avoid ITC mismatches in GSTR-2B/ensure goods sent on an approval basis have either been returned within six months or invoiced/adjust GST paid on advances received against supplies made or agreed upon).
- **Mandatory registration of Input Service Distributors (ISD)** for Companies having Presence in multiple states.

- **Buyer's rejection of Credit Notes** - from 1.04.2025 a supplier can reduce their tax liability only if the buyer accepts the credit note. If the buyer rejects the credit note, the supplier must pay the equivalent amount in the following month.
- **Filing of pending Annual Return** (if any) for the financial years 2017-18 to 2022-23 on or before 31.03.2025 (late fee waived for delayed filing till then).

Ref: Rule 46 of GST Rules/ Notification No. 08/2025 – CT dated 23.01.2025

128. When there is a discrepancy between the credit claimed by an assessee in the GSTR-3B and the credit available as per GSTR-2A or GSTR-2B, ITC mismatch occurs. What is to be done in case there is an ITC mismatch?

In case there is a mismatch, the following action is to be taken:

- Avail input tax credit in Form GSTR-3B as per the amount of input tax credit reflected in Form GSTR-2B, reason being that the registered person is not allowed to avail the input tax credit which is not reflected in Form GSTR-2B
- Reconcile and figure out the reasons for the difference
- Point out the reasons to the relevant supplier and ask him to correct the same while filling GST Return in the future period, at the earliest.

Advisory: Adopting the above said process is required to prevent the department issuing Show Cause Notice directing reversal of mismatched credit with interest and penalty.

129. Is e-way bill required for movement of empty cargo container?

No, such movement has been exempted from the statutory provision of generated e-way bill.

Ref: Rule 138 of GST Rules

130. Whether GST has to be paid on “No Claim Bonus” offered by the Insurance Companies?

Insurance companies offer a “No Claim Bonus” as a **reward or discount** at the time of policy renewal, when no claims have been made during the insurance period. This bonus is deducted from the premium amount to be paid.

GST is not chargeable on the amount pertaining to “No Claim

Bonus”, the reasons being:

- The policyholders purchase insurance to protect themselves from potential loss or injury
- There is no contractual obligation for the insured to avoid making claims.
- Not making a claim is not considered as a service to the insurance company.
- Being a discount, the same is recorded in the invoice itself.

Ref: Section 15(3)(a) of GST Act and Circular No. 186/18/2022-GST dated 27.12.2022.

131. Renting of office space is a common commercial practice. Is GST applicable on the electricity charges collected by the lessor/owner from the lessee/commercial tenant?

- **If the lessor collects actual electricity charges, charged by the Electricity Board (on the basis of reading in sub meter), the same shall not be subject to GST**, subject to condition that a separate Bill of Supply/invoice has been raised for the same. The reason being that the relationship between the lessor and lessee is on a principal-to-principal basis in respect of renting of immovable property and that of a pure agent (cannot make profit out of dealings he has with third party (EB) on behalf of the receiver of the service (tenant)) in respect of other ancillary services (electricity supply).
- **If the lessor collects electricity charges along with rent and maintenance charges, 18% GST has to be discharged on the cumulative amount**, the reason being that the principal supply is renting of immovable property and/or maintenance of premise, and the supply of electricity is an ancillary supply. The general practice adopted by the composite service providing lessor has been to collect electricity charges based on the reading recorded in the sub-meters, thereafter, charging for the current consumption in addition to other electricity related charges (proportionate meter rent etc) and alternate power supply (Gensets) cumulatively, which condition would also be incorporated in the rental agreement.

Advisory: Reconsider the clauses in the rental agreement and adopt conditions mandated to claiming exemption.

Ref: Circular No. 206/18/2023-GST dated 31.10.2023

132. Small spinners/weaving units/traders, without the facility for storing the goods received, utilise the godown of the transporter for warehousing and move it to their units as and when required. Is this practice acceptable under GST?

- Yes, subject to the condition that the transporter's godown is declared as an "additional place of business" by the units (amending and incorporating in the core field in the GST portal).
- The validity of e-way bill need not be extended between the period the goods reach the godown and delivery of the same is taken by the weaver/trader to his premises (i.e) the period during which the goods are lying in the godown/warehouse.
- E-way bill has to be generated on the initiation of the movement of goods from the transporter's godown to any other place of the consignee / recipient.
- The transporter is required to maintain appropriate accounts and records as a 'warehouse keeper'.

Ref: Section 35 of the GST Act/Rule 56 and 57 of GST Rules/Circular No. 61/35/2018-GST dated 4.09.2018

133. On understanding that GST has to be paid for the transport of raw cotton, since the exemption that prevailed during the Service Tax regime was not extended under GST, my unit voluntarily paid the GST on the said GTA transaction. Consequently, a Notice was issued demanding interest and/or penalty by the department. Am I eligible for the waiver under Section 128A of the CGST Act (waiver of interest and penalty if tax paid on or before 31.03.2025)?

- Yes.
- However, waiver is not applicable where interest is on account of delayed filing of Return or delayed reporting of any supply in the Return, i.e., self-assessed liability falling under Section 75(12) of the CGST Act.

134. My textile unit has filed the GST Annual Return (GSTR-9), but belatedly filed the Reconciliation Statement (GSTR-9C). Should late fee be paid? Is there any waiver for the late fee?

- Every registered person whose aggregate turnover during a financial year exceeds Rs. 5 crore rupees must file the Reconciliation Statement (enables department to identify

discrepancies and ensures the accuracy of GST declarations) along with the GST Annual Return.

- Filing Annual Return without Reconciliation Statement is considered to be an incomplete / belated filing and is subject to penalty.
- Penalty for belated filing is **late fee of Rs.200/- per day** during which the default continues (Rs. 100/- under CGST + Rs. 100/- under SGST), **capped to a maximum amount of .50%** (0.25% under CGST + 0.25% under the SGST) **of turnover in the State.**
- **CBIC has announced a waiver of late fees for filing Reconciliation Statement/ GSTR-9C for the financial years 2017-18 to 2022-23, if filed on or before 31st March 2025.**

Ref: Notification No. 8/2025-CT dated 23.01.2025 & Circular No. 246/03/2025-GST dated 30.01.2025

135. Can penalty be imposed on employees/Authorised Signatory/Taxation Manager for GST related violations?

- **No**
- Employees cannot be held liable for the employer's actions without clear evidence of personal involvement or benefit.

Ref: Sections 122(1A) & 137 of GST Act/ Judgement of the Supreme Court of India in the case involving employees of M/s Maersk Line India Pvt. Ltd, who were issued a show cause notice for a tax demand of ₹3,731 crores due to wrongful ITC claims - Union of India & Ors. Vs Shantanu Sanjay Hundekari & Anr.

136. What is the status of arrest provisions under GST Act?

Corporal punishments / imprisonment is imposable for high-value fraud related cases, the details are:

Tax amount involved in (Rs.)	100-200 lakhs	200-500 lakhs	Above 500 lakhs
Jail term	Upto 1 year/Bailable	Upto 3 years/Bailable	Upto 5 years/non-Bailable
Fine/monetary penalty	Imposable in all three cases		

Non-bailable offences include the following:

- Supplies of any goods/services without an invoice with intention to evade tax
- Issues any invoice without supplying any goods/services, thus taking input tax credit or refund by fraudulent means
- Collects GST but does not deposit it with the government treasury beyond a period of three months from the date on which such payment becomes due.

Ref: Sections 69, 76 & 132 of GST Act.

137. The Directorate General of GST Intelligence (DGGI), Central Board of Indirect Taxes and Customs (CBIC) has the power to summon a taxpayer for proposed GST violation. While online scams are on the rise in our country, is there chance of fraudsters issuing fake and fraudulent summons for GST violations? What are the precautions to be adopted by the assesses?

- Instances have been reported about fraudsters creating and sending fake summons to the taxpayers who may or may not be under investigation process of DGGI, CBIC.
- The fake summons closely resembles the original one, due to use of Department's logo and Document Identification Number (DIN).
- **The government has clarified that taxpayers can easily verify the genuineness of any communication (including Summons) issued by any officer of CBIC by using the 'VERIFY CBIC-DIN' window on the CBIC's website <https://esanchar.cbic.gov.in/DIN/DINSearch>.**
- In case of suspicion of bogus summons, taxpayers have been advised to immediately report to DGGI / CGST formations.

Ref: Circular No. 122/41/2019-GST dated 5.11.2019 & Government Press Release dated 24.01.2025.

138. If the landlord is unregistered and the tenant is registered, GST is liable to be paid by the tenant under reverse charge mechanism, with regard to renting of commercial property. Does the status continue as such even today?

- The liability to pay GST under RCM with regard to **renting of commercial property** is effective from **10.10.2024**.
- To support Composition taxpayers (**majority of textile jobworkers**

fall under this category), the RCM provision has been amended as follows:

For Composition Taxpayers (turnover upto Rs. 1.5 crores per annum)

- **Exclusion from RCM:** Composition taxpayers are no longer liable to pay GST under RCM for renting of immovable property services.

For Registered Recipients (Non-Composition Taxpayers):

- Registered taxpayers (not under composition) remain liable to pay GST under RCM for such transactions (renting) with unregistered supplier/landlord.

Ref: Notification No. 07/2025-Central Tax (Rate) dated 16.01.2025

139. The Supreme Court of India Suo Moto (on its own motion) directed exclusion of the COVID period for the purpose of calculating limitation in relation to all statutory filings (Returns / Refund Applications / Appeals / Recovery Proceedings) under any law including GST. What was the said period?

Directions of Supreme Court given during Covid period for computing period of limitation by excluding the COVID period was **15.3.2020 to 28.2.2022.**

Ref: Articles 141/142 of the Constitution of India/ Supreme Court Order dated 23.03.2020/ CBIC Circular No. 157/13/2021-GST dated 20.7.2021/Notification No. 13/2022 dated 5.7.2022/ Notification No. 9/2023 dated 31.3.2023/ Notification No. 56/2023 dated 28.12.2023/Notification No. 118/2023 dated 25.8.2023/ Notification No. 170/2023 dated 17.12.2023/ Notification No. 35/2020 dated 3.4.2020/ Notification No. 14/2021 dated 1.5.2021 and CBIC Instruction No. 2/2021, dated 22.9.2021.

140. When the job-worked goods are detained by the Enforcement wing of GST department, during transport of the processed goods to the factory from the premises of the job worker, for the reason that the premises of the job worker is not registered as an “Additional place of Business”, can the proposal to impose a penalty of 200% of tax payable by the department be challenged?

- The Madras High Court has taken a view that **“Unless there was a**

variance between quantity in the invoice & the E-way bill and the actual seizure made, the question of imposing penalty under Section 129(3) of CGST Act would be harsh under the given facts and circumstances of the case”.

- **Non-registration as an “Additional place of Business” is considered to be a procedural irregularity.**
- The **Commissioner of Commercial Taxes, Tamil Nadu** has clarified as follows:

"9. Circumstances where no penalty shall be levied by the Roving Squad:

- i. Where the amount involved in the offence is less than Rupees Five Thousand.
- ii. **Where a mistake or omission in documentation is easily rectifiable and has been committed without fraudulent intent of gross negligence or is not backed up with any sort of malicious intent to evade taxes.**
- iii. Where the issue relates to rate of tax, classification of goods, place of supply disputes, valuation of goods etc., instead of levying tax and penalty on the spot, these types of cases shall be referred to the assessment circle concerned for further action, without detaining the goods and conveyance. However, in respect of newly registered taxpayers where the roving squad officers are able to establish that the taxpayer had failed to file returns for two or more tax periods, this instruction would not apply and the vehicles of such taxpayers may be detained for further action, wherever appropriate."

Ref: Section 129 of GST Act / Circular No.10/2019, Q1/17253/2019 dated 31.05.2019 / M/s.Creamline Dairy Products Ltd Versus State Tax Officer (Mad).

141. What is the status of the Tax amount paid by the assessee without demand being raised through a Show Cause Notice or Demand Notice on the date of inspection/investigation/enquiry?

- Considering the principles of natural justice, **refund can be obtained**, subject to approaching the High Court by way of Writ Petition.
- Show Cause Notice issued thereafter would be adjudicated to assess

the violation, if any.

Ref: Shiva Structures Pvt. Ltd Vs Union of India (Bombay)

142. Factory owners are also into commercial construction activities (not linked with textile manufacturing). What is the impact of GST on joint development of land (JDA) of commercial property?

- **Joint Development Agreement (area sharing or revenue sharing)** is an arrangement between a developer (building contractor) and a landowner, where the landowner transfers the development rights of the land to the developer, while the developer undertakes the responsibility of developing the property.
- **The implications of GST on JDA are as follows:**
 - **Supply and Consideration:** The transfer of development rights by landowners to the developers is considered as supply of Service, attracting GST.
 - **GST on Development Rights:** Developers are liable to pay GST on the value of development rights at the time of completion or first occupancy, whichever is earlier – 18%.
 - **Reverse Charge Mechanism (RCM):** Developer has to discharge the tax liability on or before transferring the property or first occupation whichever is earlier - 18% for ongoing project.
 - **Construction Services:** The activity of construction of property by developers, subsequently handed over to landowners is a supply of Service, liable to GST.
 - **Input Tax Credit (ITC):** Developers can claim ITC on inputs and input services used for construction, reducing the overall tax liability.
 - **Valuation:** The valuation of development rights and constructed property must comply with GST valuation Rules (i.e) GST is to be paid on the transaction value. **Value of land shall be deemed to be one-third of the total amount charged and deducted from the consideration.**

Ref: Schedule II & III of GST Act/ Notification No. 3/2019-CT (R) dated 29.03.2019

143. The business transactions of my company are carried out on the land and building obtained by way of lease. Should GST be paid on the lease amount (one time upfront lump sum/premium for using the property

over a long lease period) paid to the lessor? Does the recent GST exemption granted by the Gujarat High Court apply to all lease transactions?

- The GST exemption granted by the Gujarat High Court applies only to lease transactions (99-year lease agreements) involving transfer of leasehold rights to a third party relating to **industrial land leased out by Industrial Development Corporations**, which are State owned government corporations, on the ground that it constitutes a transfer of immovable property.
- GST is already exempt on the original upfront amount payable for long term lease (thirty years or more) of industrial plots under Entry No. 41 of Exemption Notification 12/2017 dated 28.16.2017.

Thus, the original assignment of leasehold rights of State owned Industrial Corporations and the further assignment to a third party-assignee by the original lessee are not subject to GST

GST @ 18% is leviable on the lease transactions involving parties other than Industrial Development Corporations.

Ref: Schedule III of GST Act

144. What is the new Rule for generation and extension of validity of e-way bills?

Till 31.12.2024

- No time limit prescribed for generating e-way bills. However, validity period has been prescribed for e-way bills (For a distance of less than 100 Kms the e-way bill will be valid for a day from the relevant date. For every 100 Kms thereafter, the validity will be additional one day from the relevant date).

With effect from 1.01.2025

- **180 days Rule**
The generation of E-Way Bill permissible only if the base documents (tax invoice or bill of sale or delivery challan) are dated within 180 days from the date of generation. For instance, documents dated earlier than 5.07.2024 will not be eligible for E-Way Bill generation.
- **360 days Rule**
The extension of E-Way Bills will be limited to 360 days from their

original date of generation. For example, an E-Way Bill generated on 1.01.2025 can only be extended up to 25.12. 2025.

- **The new system introduces error codes and alerts for validation purposes:**

Error Codes:

- 820:** E-Way Bill cannot be generated for documents dated older than 180 days.
- 821:** E-Way Bill extensions are limited to 360 days.
- 4043:** E-Way Bill cannot be generated via E-Invoice API for document dated older than 180 days.

145. Can a Writ Petition be filed against a Show Cause Notice or an Order, when remedy is available before the GST Appellate Authorities?

The existence of appellate remedy is not an absolute bar, but the **provision to approach the High Court through Writ Petition (under Article 226 of the Constitution of India) can be exercised only in exceptional circumstances**, which may be as follows:

1. Breach of **fundamental rights** (Right to carry on business/trade subject to reasonable restrictions imposed by the State).
2. Violation of **principles of natural justice** (Order passed without **hearing** the assessee/Notice or Order not served as mandated/seek condonation of delay if the appeal could not be filed within the prescribed time limit due to reasonable cause/if Order passed by the GST authorities without considering the points or justification submitted in the reply/reissue of notice for already concluded issue/Decision making authority was biased and did not act in good faith/Denial of facility or benefit granted under the GST Act to the assessee without issuing a Notice etc).
3. Authority exercising power beyond the permitted **jurisdiction**.
4. Provision of the GST Act not in alignment with the provisions of the Constitution of India or **abuse of the power** delegated to the Authorities.
5. The error being pointed out by the assessee relates to **question of law** and not purely of fact.
6. If the appellate authorities are **not functional** (GST Tribunal is to

be operational from 2025)

Ref: Mahendra Sponge & Power Limited vs Assistant Commissioner State Tax (Chhattisgarh High Court)

146. At the time of preparing GSTR-9, if any additional liability arises, on which tax has not been paid till date, can the assessee skip such additional liability from reporting?

- No, the assessee cannot skip such additional liability.
- The details should be mandatorily reported in GSTR-9 in Table 4.
- Such tax liability shall be paid only through electronic **cash** ledger.

Note: After reporting in Table 4, there will be a difference in tax payable of Table 9 and tax already paid through GSTR-3B. Such additional tax liability shall be paid by selecting “Annual Return” in the drop down provided in FORM DRC-03.

147. Can credit of GST paid on subscription/membership fee to the Association be availed as credit?

- Credit of GST is specifically blocked only in relation to the membership subscription paid to club, health and fitness centre.
- Since the subscription paid to SIMA, an Industry Association is in relation to furtherance of business, **availment of credit is permissible.**

Ref: Section 17(5)(b)(ii) of GST Act

148. Can I revise the GSTR-9 (Annual Return) that has already been filed?

No, unlike the provision granted to revise the monthly GST Return (GSTR 1 through GSTR 1A), Annual Return filed in Form GSTR-9 cannot be revised.

Note: Non-filing of GSTR 9C (Reconciliation Statement for reconciling values between GST Annual Return and the audited financial statements) would lead to imposition of penalty, even if GSTR 9 is filed on time.

149. What would be the impact of GST, if my factory was subject to a fire accident?

- Fire insurance premium is subject to GST @ 18%.
- When there is a loss of stock or capital goods, the gross loss amount claimed from the insurance company is inclusive of GST paid by the insured.

- Tax cost can be indemnified to the insured, in case the Policy covers the GST liability also.
- ITC will not be available if the goods are destroyed and the same has to be reversed, which should also be reported in the GST Return to be filed by the insured.

Ref: Section 17(5)(h) of GST Act

150. Is my textile unit eligible for export related benefits for export to Nepal when the payment has been realized in Indian currency as against freely convertible foreign currency?

Export of goods to Nepal will be treated as zero rated supply under GST, even if the payment/export proceeds has been realized in Indian currency and consequently the **transaction is eligible for export related refund**. The same has been clarified by the department through its statutory Circular.

Ref: Circular No. 8/8/2017-GST dated 4.10.2017

151. What would be the impact of GST, if my factory was subject to a fire accident?

- Fire insurance premium is subject to GST @ 18%.
- When there is a loss of stock or capital goods, the gross loss amount claimed from the insurance company is inclusive of GST paid by the insured.
- Tax cost can be indemnified to the insured, in case the Policy covers the GST liability also.
- ITC will not be available if the goods are destroyed and the same has to be reversed, which should also be reported in the GST Return to be filed by the insured.

Ref: Section 17(5)(h) of GST Act

152. Mismatches between invoices filed by suppliers and Returns submitted by recipients is one among the major disputes being raised during audit by the GST Department. Is there any common communication platform/mechanism for interaction between the supplier & the purchaser/receiver for enabling verification and reconciliation?

- ❖ A new feature, Invoice Management System (IMS) has been rolled out by the Government on the GST portal.
- ❖ The IMS dashboard has been activated on 1.10. 2024 and enabled to

be used by the taxpayers with regard to invoices/Credit & Debit Notes issued from 14.10.2024.

- ❖ Currently, the usage of the feature is optional/voluntary.
- ❖ The prescribed process relating to IMS is as follows:
 - Suppliers to submit and save GSTR-1 by the 11th of every month or amend the submitted invoice using GSTR-1A in the GST portal. (GSTR-1A can be submitted until the time a taxpayer files GSTR-3B for the relevant tax period).
 - Once the supplier saves and submits the recorded invoice, it will appear in the recipient taxpayer's IMS dashboard and eventually in the GSTR-2B.
 - The recipient taxpayer will be given three options: ACCEPT, REJECT, or keep PENDING, which must be acted upon within the time the supplier uploads the invoice in their GSTR1/1A and the recipient files their GSTR-3B by the 20th of the corresponding months.
 - If the recipient chooses to ACCEPT, the accepted invoice becomes part of the recipient's auto-generated ITC statement or GSTR-2B, which is generated on the 14th of every month.
 - Suppose the recipient decides to REJECT an invoice saved by the supplier, the said invoice does not become part of the recipient's ITC report or GSTR-2B.
 - When the recipient decides to keep an invoice PENDING, the portal does not count it as part of GSTR-2B for that month. IMS carries it forward to next month.
 - Suppose a recipient does not take action on an invoice, the system considers it as "deemed acceptance" and automatically adds it to the recipient's GSTR-2B.
 - If the supplier amends an accepted or pending invoice, the amended invoice will replace the old invoice. The recipient must act on the newly updated invoice.
 - When suppliers make amendments in GSTR-1 through GSTR-1A, the updated information flows through IMS to the recipient's GSTR-2 B, but only in the subsequent month.

Taxpayers can avail of PENDING invoices in any future months

subject to the maximum limit as per Section 16(4) of the GST Act (i.e) on or before 30th of November of next financial year.

153. Will GST credit lying unutilised in the books of account be refunded at the end of the financial year?

- ❖ There is no provision to allow refund of such unutilized ITC at the end of the financial year in the GST Law.
- ❖ **It shall be carried forward to the next financial year.**
- ❖ **Refund has been permitted only in the following scenarios:**
 - Export of goods or services
 - Refund of accumulated Input Tax Credit on account of inverted duty structure
 - Refund of CGST & SGST paid by treating the supply as Intrastate supply which is subsequently held as interstate supply and vice versa
 - Supplies to SEZs units and developers
 - Deemed exports (Advance Authorisation/EPCG/Supply to EOU or SEZ)
 - Refund arising on account of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court
 - Finalisation of provisional assessment
 - Refund of pre-deposit while filing appeal
 - Excess payment due to mistake

Ref: Sections 54 & 77 of GST Act.

154. Can former/Ex-Directors be held liable for GST demand raised against the company, in relation to transactions concluded after their resignation?

- **No blanket protection** is available to the Directors who have resigned from the directorship of the company.
- The **former directors must establish their non-liability before the Assessing Officer**, if called by the department by way of show cause notice, substantiating that the assessed/disputed transactions were concluded after their resignation and that they were not involved with the said transactions either directly or indirectly during their tenure as directors.

Ref: Rishi Kant Jha Vs Union of India (Patna High Court)

155. In the wake of major upcoming modifications to the GST Portal which

are restrictive in nature, the company needs to be prepared to manage the GST compliance. What are the notified portal related updates?

- **Hard Locking of GST ITC: From January 2025, the GST portal would lock auto-populated tax liabilities in GSTR-3B.** Ensuring all data is accurate before submission is necessary.
- **Archival of GST Data: As per GST portal data policy, data for view of taxpayer would be retained for seven years only.** Hence, downloading and saving GST related data should be adopted as a continuous process (to be back worked from 1.07.2017).
- **Barring of GST Returns: Starting from 2025, GST returns (GSTR-1, GSTR-3B, GSTR-9, etc.) can no longer be filed after three years from their due date.**

Action Required: Reconcile GST related records and adopt a regular updating routine.

156. What are the criteria based on which the exporters can be declared as risky exporters (which also has an impact on the suppliers to the said exporters)?

The mechanism to tag exporters as risky, lacks transparency. The criteria based on which the exporters can be declared as risky exporters could be:

- Exporters have claimed tax refunds on the basis of fraudulent invoices.
- Exporters have fraudulently claimed an excess refund of ITC.
- Exporters have claimed refunds on the basis of invalid documents.
- Huge difference exists between their FOB value and the taxable value of the exports.
- The exporter has received the supplies from a risky supplier.
- The exporter does not operate his business from the principal place of business.
- The exporter has not received the BRCs with respect to the exports made by him and still claims the refund of the unutilized ITC on the account of such exports.

157. What is the impact of an exporter being classified/notified as a “Risky Exporter”?

- The Directorate General of Analytics and Risk Management (DGARM) will **identify potential risky exporters and their suppliers** using data analysis and risk criteria.
- On the Indian Customs EDI system, DGARM will post an **all-India alert** on riskier exporters along with the explanation, also based on the **verification report submitted by the GST Authorities**.
- Risky exporter tag would be removed, if based on the verification report, NOC has been issued by DGARM.
- **After an Alert is activated in relation to a risky exporter, the system will:**
 - **withhold** the IGST **refunds**, duty drawback, RoDTEP and other export-related benefits.
 - every export consignment transacted by the notified risky exporter would be subject to **rigorous verification**.
 - DGARM would periodically review whether the entities should remain or be removed from the watch list based on ongoing compliance and risk assessment.

Ref: Rule 96 of GST Rules/Instruction No 04/2022-GST dated 28.11.2022

- 158. An appeal against the Order passed by the GST officer confirming the tax liability proposed in the Show Cause Notice can be filed only on depositing 10% of the disputed tax. Can my company use the GST credit accumulated and lying in the books of account to pay the pre-deposit amount for filing the appeal or should the same be paid by cash?**

Payment of pre-deposit of disputed tax using the credit lying in the Electronic Credit Ledger of the assessee, which is mandatory for filing appeal, is permissible under GST.

Ref: Sections 49,107 of GST Act/Rule 86 of GST Rules/Circular No. 172/04/2022-GST dated 6.07.2022/Judgement in the case of M/s Ford India Pvt Ltd (Madras High Court)

- 159. If any refund (export/inverted duty/advance authorisation) is wrongly sanctioned by the department (based on the claim submitted) and the said amount is repaid by my mill along with interest and penalty, the same should be re-credited to the mill's Electronic Credit Ledger by the department. Is there any prescribed procedure to address this**

scenario?

- The defective/incorrect refund amount (along with interest and penalty (if imposed)) to be deposited by the assessee by **debiting the electronic cash ledger** through Form GST DRC-03.
- The reason for the payment to be entered in the given text box.
- A written request to be made to the jurisdictional GST officer to re-credit the amount equal to the amount of refund (i.e) pay back into the Electronic Credit Ledger.
- **The department shall re-credit an amount in Electronic Credit Ledger, equivalent to the amount of erroneous refund so deposited by the assessee, by passing an order in FORM GST PMT-03A.**
- The said amount to be recredited by the department, **within a period of 30 days** from the date of receipt of request for re-credit of erroneous refund amount or from the date of payment of full amount of erroneous refund along with interest and penalty, whichever is later.

Ref: Section 50 of GST Act/Rule 96(10) of GST Rules/Circular No. 174/06/2022-GST dated 6.07.2022

160. If the All Industry Rate (AIR) of Duty Drawback is lower than the duties discharged by me on the raw material/components used in the manufacture of export goods, what is the course open to avail drawback of actual duty suffered?

- If the All Industry Rate (AIR) of Duty Drawback (common rate) is **less than 80% of the duties paid on the raw materials/components used in the manufacture of the export goods**, the exporter should apply in writing to the Commissioner of Customs for determination of the **Drawback on the basis of actual incidence of duties**, within 60 days from the date of "Let Export Order" issued by the Customs officer for the relevant Shipping Bill, which may further be extended by 30 days if the Commissioner is satisfied the exporter was prevented by sufficient cause from filing the application within sixty days.
- The Drawback so claimed is called "Brand Rate of Duty Drawback".

Ref: Section 75 of The Customs Act/Rule 7 of the Drawback Rules, 1995

161. Whether income generated from the sale of scrips issued under Merchandise Exports from India Scheme (MEIS) is taxable under the Income Tax Act?

- **No**
- The Income Tax Appellate Tribunal, Chennai has ruled that the income from the sale of MEIS scrips is a **non-taxable capital receipt and not revenue receipt**. The basis for the exemption is that the MEIS scrips were rewards granted under the Foreign Trade Policy (FTP) 2015-20 to help exporters **offset infrastructural inefficiencies & expand markets and not to generate immediate profits**.

Ref: Order of the Chennai Bench of the Income Tax Tribunal relying upon the Supreme Court decision in the case of M/s Ponni Sugars & Chemicals Limited.

162. If the sale proceeds of exports have not been realised or only partly realised, what would be the impact on the claim of Duty Drawback?

- If Duty Drawback has been granted and the sale proceeds have not been received within nine months from the date of export, Show Cause Notice would be issued by the Customs department proposing to recover the amount of Drawback paid to the claimant/exporter **with interest @ 15%**.
- Recovery of drawback amount shall be **proportional** to the realisation of the sale proceeds.
- If the **sale proceeds are realized by the exporter after the amount of drawback has been recovered** and the exporter produces evidence about such realisation within a period of three months from the date of realisation of sale proceeds, the amount of drawback so recovered would be repaid to the exporter.

Ref: Sections 28AA&75A of Customs Act/ Notification No. 33/2016-Customs (N.T.) dated 1.03.2016

163. My mill imported cotton under Advance Authorisation Scheme without payment of IGST & Customs Duty by availing the exemption granted. In this scenario, can I export goods manufactured using the said exempted cotton by paying duty and claim IGST refund?

- **Yes, subject to payment of IGST on the imported cotton with interest.**
- Eligibility for availing the exemption from payment of Basic Customs Duty remains untouched, even if IGST is paid, at a later date on the imported cotton.
- Rule 96(10) of GST Rules has been deleted with effect from 8.10.2024

enabling the availment of the benefit prospectively.

- The Kerala High Court Order in the case of M/s Sance Laboratories Pvt. Ltd. Vs. Union of India has held that the benefit is applicable for the period prior to the amendment also.
- The crux of the issue is that if input imported without payment of GST/Customs duty is used in the manufacture of goods and the same is exported on payment of duty and refund claimed, the transaction amounts to availment of double benefit.

Ref: Rule 96(10) of GST Rules deleted vide Notification No. 20/2024-CT dated 8.10. 2024/Circular No. 233/27/2024-GST dated 10.09.2024

164. In respect of procurement of goods or services from an unregistered person attracting GST under the Reverse Charge Mechanism, as a registered person my mill is required to issue a self-invoice. Is there any time limit to issue the RCM invoice?

With effect from 1.11. 2024:

- Self-invoice should be issued within a period of 30 days from the date of receipt of goods (cotton from farmer) or services (Lorry freight service if the GTA is unregistered) or both
- The option available to a registered person to issue a consolidated self-invoice at the end of the month for the transactions involving reverse charge mechanism has been removed.

Ref: Section 31(3)(f) of GST Act/GST Rule 47A/ Notification No. 20/2024-CT dated 8.10.2024

165. When the Chargesheet is issued containing multiple charges against the workmen and only one charge is proved, whether the management can impose punishment?

It is not necessary that all the charges are to be proved for imposing punishment. Even a single act of grave misconduct merits dismissal.

Ref: State of Punjab and Ors vs Ram Singh, AIR 1992, 2188

166. After issuing the second show cause notice proposing punishment of increment cut, can the management issue another show cause notice (second) proposing the dismissal. Is that valid in Law?

The same is valid on the basis of the judgement of the supreme court

judgment.

Ref: Maharashtra Seed Corporation Ltd Vs Haridoss AIR 2006 SC 1480

167. Is it mandatory for the employer to issue second Show Cause Notice proposing the punishment?

- Under Labour Law, the first Show Cause Notice is nothing but a letter seeking explanation about the misconduct, which has been alleged against any employee by the employer and the employee concerned has to submit his written explanation for such allegation, based on which further course of action should be decided.
- There is no provision of law mandating the issue of second show cause notice for proposing the punishment. However, **if the Standing Order specifically mentions the issue of the second Show Cause Notice as a condition precedent, it must be satisfied.**

168. Whether an employer is required to remit the bonus to an employee in case he does not turn up for collecting the same? In such case, whether the same is to be deposited with the Authorities under the Payment of Bonus Act?

- According to the provisions of The Payment of Bonus Act, 1965 and its Rules, employers are not obligated to remit/pay the unpaid bonus to employees who fail to collect it (not in employment).
- Notably, some States require employers to deposit unclaimed bonus amounts into their respective Labour Welfare Funds, such as the Tamil Nadu Labour Welfare Fund.

169. Whether casual employee/temporary/ probationer/part time employees are eligible for payment of Bonus?

- Yes, as far as payment of bonus under The Bonus Act is concerned, even a daily wager or casual or probationer or part time employee would be entitled to bonus, provided he is drawing wages below the prescribed wage ceiling.
- The Act does not make any difference between a regular and temporary employee. Hence, even probationers would be eligible for bonus, as there is no such exclusion in the definition of employee under The Payment of Bonus Act, 1965.

170. Whether a provisional refund would be given even in those cases where the proper officer prima-facie has sufficient reasons to believe that there are irregularities in the refund Application, which would result in

rejection of whole or part of the refund amount so claimed?

- Where the GST officer has sufficient reasons to believe that there are irregularities in the refund Application, which would result in rejection of whole or part of the refund amount claimed, even **in such cases, the GST officer shall refund on a provisional basis ninety percent of the refundable amount of the claim (amount of refund claim less the proposed inadmissible portion of the refund).**
- Show Cause Notice for the inadmissible portion would be issued, which should be satisfactorily substantiated by the exporter, for obtaining refund of the disputed amount.

Ref: Section 54 (6) of the CGST Act.

171. Payment of GST for the transportation of goods including “Cotton” is the responsibility of the recipient/mill under Reverse Charge Mechanism. If GST on lorry freight has not been paid from the inception of GST regime (July 2017) and if the said non-payment of GST is pointed out by the audit party, can the GST be paid now, without interest/penalty by raising a self-invoice?

- **GST must be paid under RCM on lorry freight with effect from 1.07.2017 @ 5%.**
- **Exemption applicable only for transport of agricultural produce (i.e) unginned/non-baled raw cotton.**
- Exemption granted under the Service Tax regime has not been extended under GST.
- **Liability to pay GST** arises either on the date of payment or immediately after 60 days (61st day) from the date of issue of invoice by the unregistered supplier (**earliest** of the said events).
- **The relevant financial year for calculation of time limit for availment of ITC in relation to raising self-invoices would be the financial year (though belatedly) in which the invoice has been issued by the recipient of services, by way of amended provision.**
- **Waiver of Interest or Penalty or both, for delayed payment of GST for the Financial Years 2017-18, 2018-19, and 2019-20 (due to ignorance without an element of fraud) on or before 31.03.2025 has been granted, where show cause notice has been issued or appeal is pending (not applicable if just query has been raised by the GST Audit Officer).**

Ref: Sections 9(3),16(4), 31(3)(f) of GST Act and Rule 36(1)(b) of GST Rules / GST Circular Nos. 211/5/2024-GST dated 26.06.2024 & 238/32/2024-GST dated 15.10.2024

172. To promote exports, the goods manufactured by my mill is sent out of India for exhibition or on consignment basis for discussion with prospective foreign buyers. In such cases, what are the compliances required to be adhered to?

- A record of such goods to be maintained separately.
- The said activity is in the nature of **“sale on approval basis”**
- The specified goods shall be accompanied with a Delivery Challan.
- Execution of a Bond or LUT, as per the IGST Act, is **not** required.
- The said goods are required to be either **sold or brought back within six months** from the date of removal.
- The sender should issue a Tax Invoice on the date of expiry of six months from the date of removal, if the specified goods have **neither been sold nor brought back**.
- **Refund can be claimed after issue of Tax Invoice in lieu of confirmed sales.**

Ref: Section 31 of GST Act/Rules 46, 55 of the CGST Rules

173. What are the common problems that can arise with regard to export refund at the scroll generation stage, if so, what are the prescribed solutions?

An eligible shipping bill receives a temporary scroll number first, followed by a final one. **The final scroll number is automatically transmitted to the exporter’s bank, after which the refund is credited in their bank account.** The common problems that may arise at the scroll generation stage include:

- **Shipping bill appears in temporary scroll but not in final scroll:** which may be due to the reason that the exporter’s bank account details have not been properly validated by the Public Financial Management System (PFMS), the government’s financial management platform for direct benefit transfers and the solution would be to **update** the bank account details on ICEGATE (Customs Portal) by furnishing the appropriate documents.

Scroll generated is for an amount lower than IGST paid for

export: which may be due to data entry error in the shipping bill by the exporter or an error by the customs officer while sanctioning the refund, which can be resolved by submitting a “**Revised Refund Request**” (RRR) seeking the differential refund amount on ICEGATE.

174. Can I sell the goods manufactured by my mill to a merchant exporter (trader who buys and sells goods for export) at reduced rate of GST?

- To encourage exports, the government has permitted selling goods by manufacturers to merchant exporters at reduced rate of GST @ **0.1%** or regular rate of GST.
- Cotton is subject to 5% GST and if yarn is sold to merchant exporters @ 0.1%, the transaction results in **inverted duty structure**.
- **Refund can be claimed by the merchant exporter** (export without payment of duty).

Ref: Section 54(3) of the GST Act/Notification Nos. 40/2017-CT (Rate), 41/2017-IT (Rate), and 40/2017 (rate) dated 23-10-2017

175. Due to lack of understanding of the GST provisions during the initial years from 2017, GST was not paid by my mill for certain transactions, but the same was set right in the coming years by depositing the tax with interest and penalty. Am I eligible to avail the credit of tax paid at later date?

Yes, the **relaxation of the time limit to avail input tax credit** is subject to the following conditions:

- Benefit applies to the transactions relevant to financial years 2017-18, 2018-19, 2019-20 and 2020-21.
- Entitled to take input tax credit in any return (GSTR 3B), which is filed **upto the 30.11.2021**.
- The effective date for availing the said benefit is on and from 1.11.2024.

Ref: Section 16 of GST Act & Notification No. 17/2024–CT dated 27.09.2024.

Note: Members can make use of the beneficial Notification, if the department has raised the issue during the audit or issued Notices, consequent to which the matter may be pending for adjudication before the GST Authorities.

176. Is GST applicable on gift vouchers?

Vouchers do not have intrinsic value and they **represent the value of**

future goods or services to be redeemed.

- Only if gift vouchers are issued for specified or identified goods **and** for a specified value, GST is payable at the time of issuance.
- In cases where the goods or services remain unidentified for future purchase, **GST is only applicable at the time of sale (i.e) upon redemption.**

Ref: Section 12 & Schedule III of GST Act/ M/s Kalyan Jewellers India Ltd (Madras High Court)

177. Transmission or distribution of electricity by TANGEDCO is exempt from GST. Are all other services provided by TANGEDCO also exempt?

Only **notified services** provided by TANGEDCO are exempt from GST.

Exempted ancillary services include (With effect from the 10.10.2024):

- Supply of services by way of providing metering equipment on rent
- Testing for meters/transformers/capacitors etc
- Releasing electricity connection
- Shifting of meters/service lines
- Issuing duplicate bills

Ancillary services already under exemption category include:

- Belated Payment Surcharge
- Dishonoured cheque service charge

Ref: Notification number 12/2017 – CT (R), dated the 28.06.2017 amended by Notification No. 08/2024- CT (R) dated 8.10. 2024

178. The ginner/trader/textile mill purchasing raw cotton from an agriculturist is bound to discharge GST @ 5% by way of “Reverse Charge Mechanism”. Has this issue been disputed? If so, what is the status?

- Raw cotton, if procured from an **agriculturist/farmer**, is chargeable to GST @ 5% and the GST-registered purchaser (ginner / trader / textile mill) is bound to pay the same by way of **RCM**.
- Raw cotton was included in the schedule of Goods requiring discharge of GST under RCM **with effect from 15.11.2017.**

- Dispute raised by the Cotton traders challenging the liability to pay GST under RCM in the absence of a Notification prior to 15.11.2017 has been **rejected by the Supreme Court of India, with a direction to pay the disputed tax with interest and penalty.**

Ref: Notification No. 13/2017-CT (R) dated 28.06. 2017 as amended vide Notification No. 43/2017-CT (R) dated 14.11. 2017/ M/s Anjani Cotton Industries (SC)

179. GST has been applicable on the renting of commercial property, if the landlord was registered a person and exempt if the landlord was unregistered. Does the status continue as such even today?

With effect from 10.10.2024, the GST exemption granted for the rental service provided by the unregistered landlord has been withdrawn. The current status is as follows:

Particulars	Status of landlord	Status of Tenant	GST Applicability
Renting of property for commercial purpose	Registered	Registered / Unregistered	Taxable @18% under Forward charge
Renting of property for commercial purpose	Unregistered	Registered	Taxable @18% under Reverse charge

Ref: Exemption Notification No. 13/2017- CT (R) dated 28.06. 2017 as amended by Notification No. 09/2024 – CT (R) dated 8.10.2024.

180. Upward or downward price revision due to changes in international indices or contractual terms is inevitable in exports. What is the status of IGST refund in such scenario?

Upward Price Revisions (refund of additional IGST paid eligible):

- Exporters must file refund Application electronically using FORM GST RFD-01 on the common portal for **additional IGST paid, due to post-export price increases.**
- Until a specific category is developed, these claims should be filed under “Any other” category with relevant remarks and documents.
- The jurisdictional GST officer would process the Applications based on the submission of prescribed documents including

copies of shipping bills, original invoices, contracts necessitating price revisions, debit notes/supplementary invoices, proof of additional IGST payment and certificates from practicing chartered accountants or cost accountants.

Downward Price Revisions (proportionate repayment of refund received from the department with interest):

- In cases of downward price revisions post-export, exporters must deposit/repay the proportionate IGST amount received, including applicable interest.

Ref: Section 54 of GST Act/Rule 89 of GST Rules/Circular No. 226/20/2024-GST dated 11.07.2024

181. Is the GST officer bound to issue refund Order within 60 days of filing the refund Application?

- As per Section 54(7) of the GST Act, the GST officer is bound to issue refund Order within 60 days from the date of receipt of Application, **complete in all respects.**
- The High Court of Calcutta has ruled that the **timeline of 60 days is only directory and not mandatory**, since interest (6%) is payable by the department for the delayed refund, if any.

Note: Assessee/Refund Applicant to cautiously file the Refund Application, since the department would seek protection under the law declared by the court and justify the delay on the ground of cross verification or other procedures, more so, when the interest rate does not compensate the financial strain caused due to the delayed refund.

Ref: Sections 54 and 56 of the GST Act/M/s Suraj Mangar Vs Assistant Commissioner of West Bengal State Tax

182. Can the credit accumulated on account of Education Cess, Secondary and Higher Education Cess and Krishi Kalyan Cess that prevailed under the pre-GST taxation regime, be claimed as refund in the current GST regime?

Yes, the CENVAT credit pertaining to the Cess, which could not be transferred/transitioned into GST regime will **not lapse automatically** for the reason that the said Cess has been abolished or subsumed. Hence, **cash refund is permissible.**

Ref: Hubergroup India Pvt Ltd Vs Commissioner of CE & ST (CESTAT)/

Section 142 (3) of CGST Act, 2017 read with Section 11 B of CE Act, 1944.

183. Can a second GST refund Application be filed, after the first Application was filed and refund granted?

- **Yes**, the company can file another refund application for the same period under “Any Other” category, **subject to fulfilment of conditions relating to time limit and ITC eligibility.**
- Relevant scenarios include where refund amount has not been claimed / **missed due to:**
 - Inadvertent/arithmetical/technical errors in the first refund application.
 - Changes in circumstances entitling higher refund.

Ref: Judgement in the case of M/s Shree Renuka Sugars Ltd vs State of Gujarat / Sections 16 & 54 of GST Act

184. Should GST be discharged on business expenses reimbursed to employees?

- Various expenditures incurred by employees in the course of business which are claimed as reimbursements include travel expenses on business tours, food expenses, Hotel and Accommodation expenses, Meeting expenses, mobile/telephone expenses etc.
- Salary paid by employer to employee for rendering services in the course of employment is outside the ambit of GST
- **Reimbursable expenditure incurred by the employees in the course of employment is not taxable**
- Reimbursement of expenses which are **outside the purview of employment contract** and policy of the company shall be **subject to GST (credit not eligible)**
- Credit for reimbursable expenses (in the course of business) would be available subject to condition that the **tax invoice contains the name and GSTIN of employer.**

Ref: Section 7/ Schedule I & III of GST Act

185. Is GST payable on Liquidated Damages?

Liquidated Damages is the compensation for any loss or damage caused due to breach or non-performance of contract (Section 73 of

the Contract Act, 1972)

- GST **not** leviable, if the payment is only a **compensation for the loss**, as agreed earlier and do not constitute consideration for a supply
- GST **leviable**, if the payment constitutes a **consideration for the supply of a facility** like amounts paid for acceptance of late payment, early termination of lease or for pre-payment of loan or the amounts forfeited on cancellation of service by the customer etc, though supplementary to the principal service for which the contract is concluded.

Ref: GST Circular No. 178/10/2022 dated 3.08.2022

186. Is receiving the service of “supply of security personnel” by a company subject to GST?

Yes

- ❖ GST is chargeable @ 18% (credit eligible)
- ❖ Liability to deposit GST is fixed on:
 - Service providing agent – upto 31.12.2018
 - Service receiving company/textile mill – From 1.01.2019
- ❖ **Liability to pay tax on:**
 - Service providing agent – upto 31.12.2018 – Forward charge
 - **Service receiving company / textile mill – From 1.01.2019 – Reverse Charge**

Ref: Notification No. 13/2017 -Central Tax (R) dated 28.06.2017 as amended by Notification No. 29/2018-Central Tax(R) dated 31.12.2018

187. Engagement of workers through contractors is a common practice adopted by the industry. Is the service provided by the manpower supplier subject to GST?

Yes

- The applicable rate of GST is **18%**
- **The mill is eligible to avail the credit of GST paid**
- Liability to pay GST is on the manpower supplying agent (Forward charge)
- **Service receiving mill is not liable to pay under RCM on behalf of agent**, even if he is unregistered.

Ref: Notification No. 12/2017-CT(R) dated 28.06.2017

188. What is the eligibility to claim credit of GST paid on product related insurance?

- “**Product Liability and Product Recall Insurance**” are opted by the business houses and the risk covered through the Insurance Policy is in relation to manufacturing activity, thereby addressing the **financial risks of manufacturer**.
- Credit of GST in relation to the above said insurance **can be availed**, based on the principle “in the course or furtherance of business”.

Ref: Sections 2(60) and 16 of GST Act

189. Can credit be availed of GST paid on the premium in relation to Health Insurance and Accidental Insurance for the employees?

- Under the GST Law, availment of credit of GST paid on life insurance and health insurance service taken for employees is **blocked**.
- Credit can be claimed on GST on health insurance and accidental insurance availed for its employees **only if it is statutorily mandated under any labour law** in India.
- Provisions contained in ESI Act, 1948 and Employees Compensation Act, fix the responsibility on the employer to cater to the health/life related eventualities, however, **with no mandate to take insurance policy**.
- Hence, **credit of GST paid on such insurance not available**.

Ref: Section 17(5) of GST Act, 2017.

190. Can insurance be claimed on the value inclusive of GST on loss of goods (stock or machinery)?

GST Act directs reversal of credit of GST, if availed, when insurance is claimed in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples.

Modality generally adopted by textile manufacturers:

- At the time of purchase, the ITC would be availed, accounted for in the books and reflected in GST Returns.
- The insurance claim for loss would thus be excluding GST.
- Reversal of credit of GST not required as the claim is exclusive of GST.

If GST department issues notice to reverse the ITC with reference to the settled claim:

- Reverse the ITC.
- Claim insurance for the value inclusive of GST.
- Substantiate with books of account, GST Returns and CA certificate, if dispute raised by insurance company.

(Practical difficulty is that GST audit would be after settlement of insurance claim by the Insurer)

Ref: Section 17(5)(h) of GST Act

191. What are the steps to be adopted if the vehicle carrying the goods breaks down, the validity of the e-waybill expires and extension is not possible?

- e-Way bills expire at 11:59:59 on the validity date mentioned on the e-Way bill. An e-Way bill can be extended from 4 pm on the day of expiry till 8 am of the next day of expiry i.e. **8 hours before expiry and 8 hours post expiry.**
- e-waybill portal does not permit extension beyond the above said period and the option available to justify the breakdown would be issuing Delivery Challan from the point of breakdown to the destination under the “own use” option.
- **Mills are advised to adopt logical approach with regard to e-waybill extensions and devise an internal process including the following steps:**
- Create awareness among the team about the validity and expiry period of e-waybill, documents required for seeking extension, initiate the process for e-waybill extension in advance, submit the extension request in-advance before the expiry of the current e-waybill and maintain the records of all e-waybill extensions for 6 years along with associated documentation, to be produced if demanded by the department.

Ref: Sections 68 & 129 of GST Act and Rule 138 of GST Rules

192. What are the steps to be adopted if the vehicle carrying the goods breaks down and the validity of the e-waybill expires?

- The validity of the e-waybill to be extended by using the “Extension facility” in the e-waybill portal, parallelly selecting the 'In Movement'

tab.

- The number of the new vehicle and Pin code of the place, where the vehicle had a breakdown to be updated on the portal.
- The validity of the e-waybill would get extended for the remaining distance.
- Non-extension of the validity is liable for penalty @ 200% of tax payable.

Ref: Sections 68 & 129 of GST Act and Rule 138 of GST Rules

193. What is the GST rate on renting of Commercial Property and what are the prevailing exemptions?

- When a property is let out for non-residential use, it is meant as a service and would attract GST at **18%**. This rule applies for **all types of properties** be it industrial, commercial or residential properties let out for business purposes.
- The exemption is applicable for properties managed and owned by **registered religious or charitable trusts**, if they fulfil the given specific conditions:
 - The rent of rooms is less than ₹1,000 per day.
 - The rent of shops is less than ₹10,000 per month.
 - The rent of any open area or community hall is less than ₹10,000 per day.

194. How should the value of construction of services provided by the promoter to land owner in lieu of transfer of development rights be arrived at, when the land owner is not registered?

Value of construction services provided by the promoter to land owner shall be determined based on the **total amount charged** by the promoter for similar apartments in the project from independent buyers, other than the landowner, nearest to the date on which such development right etc. is transferred to the promoter, **less the value of transfer of land**, which is 1/3rd of the total consideration.

Ref: Notification No.11/2017-CT(R) dated 28.06.2017.27.

195. What is the effective rate of GST applicable (w.e.f 1st April 2019) on the construction of commercial apartments [shops, godowns, offices, etc.]

in a real estate project?

Description	Rate (after deduction of the value of land)
Commercial Apartments in Residential Real estate Project (RREP) where the construction has commenced on or after 1st April 2019 or an ongoing project where the promoter has opted for new rates	5% without ITC on the total consideration
Commercial Apartments in Real estate Project (REP) other than RREP or an ongoing project where the promoter has opted for old rates	12% with ITC on the total consideration

196. Is the sale of land taxable under GST?

- No. As per Schedule III of the CGST/SGST Act, sale of land (whether as is or after certain development activities) is neither considered a sale of goods nor a supply of services.
- Activities for **development of plots** like leveling and laying drainage lines, are subject to GST.
- **Transfer of development rights** by landowners in exchange for land development services is taxable, the liability for GST falls on the promoter.

Ref: Schedule III of GST Act/Circular No. 177/09/2022 dt:03.08.2022

197. Apart from statutory audit, will the GST department officials conduct surprise visits to my business premises? If so, how should my unit be prepared to meet the departmental inspection?

- On the instructions of the Central Board of Indirect Taxes and Customs, a “**Special All India Drive**” has been launched by all Central and State Tax administrations from **16.08.2024 to 15.10.2024** to detect suspicious/fake GST registrations and weed out fake invoices, by conducting physical verification, so as to prevent tax evasion, thereby safeguarding Government revenue.

Advisory to the mills to face inspecting officials:

- **Maintain Proper Documentation** of all relevant GST related

documents (including invoices, purchase & sales records, stock register and tax Returns). Ensure that these documents (electronic mode) are organized and easily accessible, so as to demonstrate the legitimacy of our business during the scrutiny.

- **Conduct Internal Audits regularly** to identify any potential compliance gaps and rectify the identified issues at the earliest.
- Books of Accounts to be maintained in the **Principal place of business** and where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business.

Ref: Section 35 of GST Act/ Rule 56 of GST Rules/ Instruction No. 02/2024-GST dated 12.08.2024

198. Which party is responsible for any violation in the Bill To Ship To transaction?

- Bill To Ship To transaction involves several parties and although each party is responsible for GST compliances (including documentation) with respect to their mandatory compliance portion, however, penal provisions are being invoked even against the supplier, who is in the first leg of the transaction for violations, if any, on the part of players in the continuous chain.
- To avoid the same, an **SoP may be framed internally and implemented**, to have a check on the entire transaction.
- **Creating a network for communication with all concerned in the transaction to assess their respective compliance is necessary.**

199. How should the “Place of Supply” be determined under “Bill To Ship To” transaction to decide as to whether IGST or CGST+SGST is to be paid? Who is eligible to avail the credit of GST paid?

Place of Supply: If the goods are supplied by the supplier/consignor to the ultimate recipient on the direction of the buyer/consignee, it will be deemed that the buyer/consignee has received the goods and the place of supply will be the **principal place of business of the buyer/consignee.**

Supplier	Bill To party	Ship To Party (Recipient)	Place of Supply	GST
Tamil Nadu	Tamil Nadu	Tamil Nadu	Tamil Nadu	CGST+SGST

Tamil Nadu	Karnataka	Tamil Nadu	Karnataka	IGST
Tamil Nadu	Tamil Nadu	Karnataka	Tamil Nadu	CGST+SGST
Tamil Nadu	Karnataka	Karnataka	Karnataka	IGST

Input Tax Credit: The buyer/consignee (under whose instructions goods are supplied to ultimate recipient) can take credit of GST charged by supplier, who can in turn charge GST from the ultimate recipient in bill to ship to transaction if the last leg of the transaction is a sale and not mere transfer to the buyer's job worker.

Ref: Section 10 (b) of IGST Act/ M/s Umax Packaging (A unit of Uma Polymers Ltd.), In re [2018] (AAR- Rajasthan)

200. What are the documents required in a “Bill To – Ship To” transaction, when goods are purchased by a manufacturer and directed to be shipped to his own job worker, whose premises has been incorporated as “additional place of business” in the GST portal?

Issue of invoice and Delivery Challan

In a Bill to Ship to transaction, as two transactions are involved between three parties, **two statutory documents** are to be issued by the concerned parties:

- **Invoice** - By the Supplier/consignor - in the transaction between buyer/consignee and the Supplier
- **Delivery Challan** - By the buyer/consignee - in the transaction between the buyer and the recipient Job worker (on the direction of the consignee).

E-Way Bill

- Only one e-Way Bill is required to be generated, either by the Supplier or the buyer/consignee.
- Mandatory to generate e-waybill even if the value of goods is less than threshold limit (1 Lakh in Tamil Nadu) if the goods are shipped to an interstate location.

Ref: GST Rule 55/CBIC Press Release dated 23.04.2018

201. What are the documents required in a “Bill To – Ship To” transaction, when goods are purchased by a manufacturer and directed to be shipped to his customer who is another manufacturer (not a job worker or trader)?

Issue of invoices

In a Bill to Ship to transaction, as two transactions are involved between three parties, **two invoices** are to be issued by the concerned parties:

- By the Supplier/consignor - in the transaction between buyer/consignee and the Supplier
- By the buyer/consignee - in the transaction between the buyer and the recipient (on the direction of the consignee).

E-Way Bill

- **Only one e-Way Bill** is required to be generated, either by the Supplier or the buyer/consignee.
- Mandatory to generate e-waybill **even if the value of goods is less than threshold limit** (1 Lakh in Tamil Nadu) if the goods are shipped to an interstate location.

Ref: Rule 138A of GST Rules/CBIC Press Release dated 23.04.2018

202. How can sale transactions be classified under GST depending upon the number of parties involved in the billing and movement of the goods?

1. **Regular:** In a normal transaction, Billing and goods movement happen **directly** between two parties – **from consignor to consignee**.
2. **Bill To - Ship To:** In this type of transaction **three parties** are involved. **Billing takes place between consignor and consignee**, but the **goods move from consignor to the recipient as per the request of the consignee**.
3. **Bill To - Ship From:** In this type of transaction also, **three parties** are involved. Billing takes places between consignor and consignee, but the goods are moved by the supplier/consignor from a third party to the consignee.
4. **Bill-From Ship-From:** This scenario applies when the goods are dispatched from a place different from the place of business of the supplier (Bill-From) and the recipient (Ship-From) is also not the same as the person on whom the invoice is raised, thus involving **four parties**.

Ref: Section 10 of IGST Act

203. Can I claim credit of GST paid on Insurance for the staff employed in

the factory/office?

- Input tax credit shall have been statutorily denied for GST paid by the employer in respect of life Insurance and health Insurance except where government notifies such services as obligatory for an employer to provide the same to its employee under any law.
- So, ITC cannot be claimed until unless it is made compulsory for employers.
- As far as textile mills are concerned, insurance is being governed by ESI Act and Employees Compensation Act, which covers claims regarding death and disability of workers due to accident only, with no reference to life insurance or health insurance.

Ref: Section 17(5)(b)(iii) of GST Act.

204. Is there any provision to amend the GST Return filed in Form GSTR-1, which contains sales (outward supply) details?

- Yes, through Form GSTR-1A
- Assessors can revise or add records post-filing GSTR-1 and before filing GSTR-3B (for the related current period only).
- There is no late fee for filing GSTR-1A as it is optional.
- FORM GSTR-1A would be available to all the taxpayers from August 2024, through which details furnished in FORM GSTR-1 for the month of July 2024 can be amended.

Ref: Rule 59 of GST Rules/CBIC Notification 12/2024 dated 10.07.2024

205. On obtaining GST refund along with claiming Duty Drawback in relation to export of textile goods, can I further claim drawback if the General (All Industry Rate-AIR) rate does not fully neutralise the duties suffered by the export product?

Yes.

- Brand Rate of duty drawback can be claimed on the basis of **actual incidence of duties**, if the exporter considers that AIR of duty drawback does not fully neutralise the duties suffered by the export product.
- In addition to the Brand Rate fixation, payment of **provisional AIR of duty drawback** in cases of export under claim for Brand Rate is permitted.
- A facility to obtain a **provisional Brand Rate** is also available on request being made by the exporter.

Ref: Section 54 of GST Act & Duty Drawback Rules, 2017

206. If a wrong e-way bill is generated, what is the procedure to correct the same?

- The e-way bill, once generated cannot be edited or modified.
- Only Part-B (transporter details - Vehicle number and transporter ID) can be updated.
- If e-way bill is generated with wrong information, it can be cancelled and generated afresh.
- The cancellation is required to be done within twenty four hours from the time of generation.

Ref: Section 68 of GST Act

207. Whether audit can be done by SGST Authorities if the same subject matter is pending before the CGST Authority?

SGST **Audit wing** shall keep all proceedings in abeyance/pending, if subject matter is pending before CGST Authority.

Ref: Section 6(2)(b) of GST Act/Mahabir Prasad Kedia v. Assistant Commissioner of State Tax (Calcutta High Court)

208. Whether refund can be claimed of ITC reversed earlier for non-deposit of tax collected from the purchaser, when taxes are subsequently paid by the supplier?

Yes

- Refund of the credit reversed with interest by the purchaser can be claimed at a later date (as per prescribed limitation), subject to the condition that the GST Returns have been filed by the Supplier and the tax collected from the purchaser has been remitted to the Government.
- The provision regarding re-availment of such credit is applicable prospectively from 1.10.2022.

Ref: Section 41 of GST Act/ Order in Writ Petition in the case of M/s Pedersen Consultants India Pvt. Ltd. Vs union of India & ors. (Delhi High Court)

209. Whether ITC is permissible when the payment is settled through book adjustment (sale and buy back transactions)?

Yes

- There is no restriction under GST to settle payments through book adjustment. Validity of non-monetary settlements affirmed*.
- The input tax credit is admissible when consideration is paid through book adjustment, subject to the condition that proper tax invoices are issued for supplied goods and tax payments are made within the stipulated 180 days from the invoice date**.

***Senco Gold Ltd, 2019 - (AAR-WB)**

****Paragon Polymer Products (P.) Ltd., 2023 – (AAR-WB)**

210. Do I need to generate e-invoice for transactions involving Reverse Charge Mechanism (RCM) also?

- **Yes**, in respect of supplies attracting reverse charge under Section 9(3), namely purchase of cotton, GTA, remuneration paid to the director (other than salary) and other notified goods or services.
- No, where services or goods are received from an unregistered person or through import of services.

Ref: Section 9(3)&(4) of GST Act.

211. Can I defer payment of import duty on inputs and capital goods?

Yes, by following the Manufacturing and Other Operations in a Customs Bonded Warehouse (MOOWR) Scheme.

- The duty on both imported capital goods and inputs stands deferred till their clearance from the warehouse (factory as a whole can be registered as warehouse for the purpose of the scheme).
- In case of clearance of capital goods to domestic market, deferred duties will become payable.
- In case of clearance of finished goods into domestic market, GST (credit available) on finished goods along with import duties on imported inputs are payable.
- **In case of export of capital goods or finished goods, the duty on imported inputs stands remitted.**
- **No export obligation is prescribed.**

Ref: Notification No. 44/2019-Customs (N.T.) New Delhi, the 19th June, 2019

212. Can I avail the credit of tax paid in relation to the white washing/repair & maintenance of the factory building?

Yes, subject to the condition that the **expenditure is not capitalized** under the Income Tax Act. The basic reason for the eligibility is that the expenditure is a **revenue expenditure** and the transaction carried out will not result in the creation of an immovable property.

Ref: Explanation to Section 17(5) of GST Act.

213. What is the period of retention of e-invoices?

GST registered company is bound to preserve the invoices (including e-invoices), credit/debit notes and delivery challans relating to stocks, deliveries, inward supply and outward supply for a period of **seventy two months from the due date of furnishing the Annual Return for the relevant year.**

The relevant date for furnishing Annual Return is:

- From 1.10.2022 – 30th November
- Till 30.09.2022 – 30th September

Ref: Section 36 of GST Act & Rule 56(16) of GST Rules

214. Should foreign currency details in relation to export transaction be uploaded in e-invoice?

- **All invoices to be registered on the e-invoice portal should contain the values in INR only.**
- The foreign currency details/exchange value can be entered in the Export Invoice/Commercial Invoice.

Ref: Section 31 of GST Act.

215. Should GST be paid on the commission paid for the service received from an overseas commission agent in relation to import or export of goods?

- The **overseas commission agent** is located outside India and is not bound to register under the GST Act, hence, remains an **unregistered person.**
- The commission paid to the overseas commission agent is therefore **not taxable.**
- The Indian importer/exporter of goods, who is the recipient of services of the commission agent is **not required to pay GST on RCM basis on the commission paid to the Overseas Commission Agent.**

Ref: section 5(3) of the IGST Act and In re Dry Blend Foods Pvt Ltd.

(GST AAR Uttarakhand)

216. Should GST be paid on the commission paid for the service rendered by the intermediary (broker/agent) for export of goods?

- The service of commission agent in identifying foreign buyers for Indian exporters is classified as “intermediary services”.
- The said service is subject to GST @ 18%.
- Brokers/commission agents should obtain GST registration, the threshold limit being Rs. 20 lakhs (compulsory registration even if below Rs. 20 lakhs, if the agent stores and sells goods on behalf of the Principal).
- Service rendered by the commission agent to the exporter will **not be treated as export** of services, since it is an exclusive service between the Indian commission agent and Indian exporter.
- **GST to be discharged on the commission, where the agent is located in India.**
- **GST is not liable to be paid, if the commission agent is located in the foreign country.**
- **The provision of GST law is that the services provided by a commission agent either to an Indian exporter or to a foreign importer, GST is charged based on the place of supply of service (India) i.e the place where the agent is registered.**
- The export transaction between the two principals will be treated as “Main supply” and the facilitation activity of the intermediary/commission agent between the two principals will be treated as “Ancillary supply”.

Ref: Section 13(8)(b) of the IGST Act, 2017/ Dharmendra M. Jani vs The Union of India (Bombay High Court)

217. Should GST be paid on “Advance” received for supply of services (jobwork/processing/trading)?

In case of services, if a supplier demands an advance payment before rendering the contracted service, **GST has to be paid on the advance amount.**

- The advance amount is considered to be inclusive of GST.
- Credit will be available to recipient of services only when the invoice is issued.
- With regard to supply of services, the supplier shall issue the tax

invoice before or after providing the service, but not later than thirty days from the date of providing of service.

- The amount received as advance income is required to be mentioned in Sr. No. 11A of the GSTR-1 Return.
- Receipt voucher to be issued on receipt of advance by the supplier.
- In case, the advance payment has been received and if service was not executed or no tax invoice was issued, the service provider has to refund the advance received and issue a 'refund voucher'.

Ref: Section 31 of GST Act

218. Should GST be paid on "Advance" received for supply of goods?

For Large Tax-paying Units with **annual turnover more than 1.5 crore** during last FY:

- 1.07.2017 to 14.11.2017 – GST payable at the rate applicable to the goods supplied.
- From 15.11.2017 and onwards - No GST payable on advance

Ref: Notification No. 66/2017 – CT dated 15.11.2017

219. Belated payment of GST under RCM on GTA services for transport of cotton for the earlier periods (2017-18 or 2018-19 etc) during current year (2024-25), can credit be availed?

Credit eligible, but the time limit for availment is disputable and the issue has not reached the court for conclusion till date (favourable decisions available pertaining to Service Tax regime).

Relevant details:

- Credit to be availed before filing GST Returns for month of **November following the end of the financial year** (or any extended date) applicable to the self-invoice.
- Self-invoice should be raised on the date of receipt of goods or services or both.
- **Favourable alternative is that if credit is denied or time-barred, the same can be debited in the Profit and Loss account.**
- RCM liability should be declared in the Annual Return/GSTR-9 of the relevant year.
- Interest for belated payment @ 18% is payable.

Ref: Sections 16(4) and 31(3)(f) of GST Act/CBIC's clarificatory Press Release dated 3.07.2019

220. How will the rejected export refund amount be recredited to my account?

Export refund Application would be processed and acted upon by the GST department as follows:

- Provisionally grant 90% of the claim
- Issue deficiency memo
- Reject partially or fully.

If refund Application is rejected either partially or fully:

- The amount **already debited**, to the extent of rejection, shall be **re-credited to the electronic credit ledger**, based on the re-credit Order passed by the proper officer in Form GST PMT-03.
- PMT-03 can be issued only for those refund types for which a debit takes place in the electronic ledger of the tax payer, at the time of filing the refund claim
- PMT-03 will be issued by the proper officer only after the receipt of an **undertaking** from the applicant that he shall not file an appeal against the Order.

To enable the officer to issue PMT-03 to recredit the debited refund amount:

- The applicant has to **deposit the rejected refund amount** by filling the details in Form GST DRC-03.
- The taxpayer is required to make a **written request** (as per the prescribed format) to the jurisdictional proper officer, requesting the re-credit of an amount equivalent to the refund.

Ref: Section 54 & Rule 93 of GST enactment/ GST Circular No. 174/06/2022 dated 6.07. 2022

221. What happens if there are deficiencies in the export refund claim Application?

- Deficiencies, if any, in the refund claim has to be **pointed out by the department within 15 days** (GST RFD-03) through the common portal.
- The refund Application filed after rectification of deficiencies is considered as a **fresh Application**.

- Limitation (2 years from the date on which the ship leaves India - 1.03.2020 to 28.02.2022 to be excluded since exemption granted in view of covid) for the refund Application filed after rectifying the deficiencies would start from the date of said filing.

Ref: Section 54 of GST Act/Rule 90 of GST Rules and GST Circular Nos.59/33/2018 dated 04.09.2018&125/2019 dated 18.11.2019

222. Is there any time limit for sanctioning refund?

Yes.

- Refund has to be sanctioned **within 60 days from the date of receipt of Application** complete in all respects (Deficiency Memo would be issued by the department for incomplete/defective refund Applications).
- If refund is not sanctioned within the said period of 60 days, **interest (not exceeding 6%)** should be paid by the department.
- Where provisional refund to the extent of **90% of the amount claimed** is refundable in respect of **export**, the provisional refund has to be granted **within 7 days** from the date of acknowledgement of the claim of refund.

Ref: sections 54 & 56 of GST Act

223. Can GST Refund be withheld by the department?

Yes, the proper officer can withhold refund of accumulated credit in the following circumstances:

- If the assessee has failed to furnish any Return, till he files such Return (**GSTR-3B**)
- If the registered taxable person is **required to pay** any tax, interest or penalty, which has not been stayed by the Appellate Authority/Tribunal/ Court, till he pays such tax interest or penalty
- The proper officer can also deduct **unpaid** taxes, interest, penalty, late fee, if any, from the refundable amount
- The Commissioner can withhold any refund, if the Order of refund is under appeal and he is of the opinion that grant of such refund will adversely affect the revenue in the said appeal, on account of **malfeasance or fraud committed by the applicant.**

Ref: Section 54(3)/(10)(d)&(11) of GST Act/ Circular No. 17/17/2017-GST dated 15.11.2017

224. What is the applicability of GST when the goods are sent on “Approval Basis”, which is either purchased or returned back (by the prospective buyer), depending upon the satisfaction of the said goods?

Sale on approval basis is not considered as “outright sale” under GST.

Features of Sale on approval basis are as follows:

- The supplier can send the goods by issuing a Delivery Challan instead of a tax invoice, without charging GST.
- On receipt of approval from the buyer for the sale, the supplier issues the tax invoice and charges GST.
- If the goods are returned within six months, GST is not applicable.
- The supplier can extend the six-month period for a further period not exceeding two months if there is sufficient cause to extend it.
- But if the purchaser fails to either approve or return the goods within six months or the extended period, then he is liable to pay the tax.
- Agreement of terms of the sale on approval should be incorporated in the contract for sale, to avail the benefit including the details of the sale, validity period, rejection terms and related expenses.

Ref: Section 31(7) of GST Act/Circular No. 10/10/2017-GST dated 18.10.2017

225. Should credit of tax paid on the invisible loss of inputs during manufacturing process be reversed (status during pre-GST and GST period)?

1. As per SITRA Norms, the invisible loss during the manufacture of Yarn is to the tune of 0.5%.
2. During the VAT (pre-GST) regime, the Assessing Authorities instructed that the ITC availed on raw materials to the extent of the wastage was to be treated as manufacturing / invisible loss, directing proportionate reversal and that in the event of refund having been granted, the excess refunds ought to be deducted while granting subsequent refund.
3. The issue was challenged before the Madras High Court and the Court

has held as follows in the Writ Appeal in favour of the assesseees:

- Manufacturing/invisible loss is inevitable and inherent part of manufacture.
 - Applying the test of indispensability, if the inputs are essential for the emergence of desired end product (though inputs not physically present), it is **not open to disallow the claim of input tax credit** on the ground of manufacturing/invisible loss.
 - If the invisible loss of inputs is the result of a process which is commercially useful for the manufacturing of the end product, then, there cannot be denial of ITC on such loss of inputs.
 - The requirement of quantitative tally between the raw materials used in the process of manufacture and the end product is contrary to technical, practical and commercial expediency involved in the activity of manufacture.
4. The above said favourable principle also applies to the GST scenario, where, **as per the GST Act, the credit shall not be available to an assessee when the inputs are lost, stolen, destroyed, written off or disposed off by way of gift or free samples.** The court Order clearly distinguishes between 'destroyed' and goods 'used' in the manufacture.

Ref: Section 19 (9) of the TNVAT Act/ Section 17(5) of the GST Act/Judgement in the cases of Tirupur Exporters' Association & M/s Eastman Exports Global Clothing (P) Ltd.

226. What is the status of accumulated credit of GST on textile fabric?

- From the inception of GST, fabric (cotton & MMF) was specifically denied the benefit of refund arising out of **inverted duty structure**.
- On representing the difficulties faced by the industry due to non-refund of accumulated ITC on fabric, on account of inverted tax structure, the same was allowed with effect from 01.08.2018 (i.e) **accumulated ITC lying unutilized for the past period up to July 2018 shall lapse.**
- The denial of accumulated credit was challenged before the Gujarat High Court and the decision favouring the assessee is **pending before the Supreme Court of India, by way of Department Appeal.**

Ref:

- Notification nos. 5/2017-CT (R) dated 28.06.2017 & 20/2018-CT (R) dated 26.7.2018/Circular No. 56/30/2018-GST dated 24.08.2018.
- Department Appeal pending before Supreme Court – M/s

227. What is the status of GST on Renewable Energy Certificates (REC)?

- RECs qualify as "**goods**" as they have intrinsic value and are movable & freely transferable.
- **Rate of GST on REC (HSN Code 4907):**
 - With effect from 1.10.2021 - 18%
 - Till 30.09.2021 – 12%
- **Credit of GST paid on REC is available** since the transaction is in the course or furtherance of business.

Ref: GST Circular No. 46/20/2018-GST dated 6.06.2018/ Notification No. 1/2017-CTR- as amended vide Notification No. 8/2021-Central Tax (Rate) dated 30.09.2021

228. Whether Credit can be claimed on Corporate Social Responsibility (CSR) expenditure under the GST regime, considering the mandatory nature of CSR activities to be complied by the Companies, as stipulated under Section 135 of the Companies Act?

- **With effect from 1.10.2023 - Credit is blocked** for goods or services or both received by the Company, which is used for activities relating to fulfilment of obligations under CSR activity. The Notification denying the credit is prospective in nature.
- **Prior to 1.10.2023** – GST provisions do not deny the availability or eligibility of credit on CSR expenses, since the same was **not included in the list of goods or services blocking the credit and CSR compliance was mandatory (in the course or furtherance of business)**.
- Contradictory Orders regarding the eligibility of credit on CSR expenses have been issued by various GST Advance Ruling Authorities.

Ref: Section 17(5)(fa) of GST Act & Notification No. 28/2023-C.T., dated 31.07.2023

229. Does the GST Act prescribe any limit for cash transactions (both purchase and sale)?

GST Act, 2017 contains no provision, restricting cash transactions, however to curb illicit transactions (black money circulation) and boost digital payments, **the government has imposed various restrictions on cash receipts/payments and**

cash withdrawal from time to time through Income Tax Act 1961.

The permitted limits for **cash transactions** are as follows:

1. A **seller** can receive only an amount **upto Rs. 2 lakhs per day including GST** (penalty for violation would be an amount equivalent to the transaction):
 - In aggregate from a person in a day or
 - In respect of a single transaction or
 - In respect of transactions relating to one event or occasion from a person.

The condition/limitation does not apply to:

Cash received through an Account Payee Cheque or an Account Payee Bank draft or use of electronic clearing system (ECS) through a bank account.

2. For businesses, any **expenditure in cash exceeding Rs.10,000** paid to a single person in a single day is **disallowed** as an expenditure.

Ref: Sections 269ST and 40A of Income Tax Act.

230. Can sale consideration/price (of the manufactured commodity) be collected by way of cash? If so, is there any limit prescribed?

GST Act, 2017 contains no provision, restricting cash transactions, however to curb illicit transactions (black money circulation) and boost digital payments, **the government has imposed various restrictions on cash receipts/payments under Income Tax Act 1961.**

The permitted limits for **cash transactions** are as follows:

1. A person/**seller** can receive only an amount **upto Rs. 2 lakhs per day** (penalty for violation would be an amount equivalent to the transaction):
 - In aggregate from a person in a day or
 - In respect of a single transaction or
 - In respect of transactions relating to one event or occasion from a person.

The condition/limitation does not apply to:

Cash received through an Account Payee Cheque or an Account Payee Bank draft or use of electronic clearing system (ECS) through a bank account.

2. For businesses, any **expenditure in cash exceeding Rs.10,000** paid to a single person in a single day is **disallowed** as an expenditure.

Ref: Section 269ST of Income Tax Act.

231. Is there any time limit to execute the export transaction (i.e) shipment, without payment of tax under Bond or LUT, after the issue of invoice for export?

Goods should be exported/shipped to a place outside India **within 3 months from the date of issuing the export invoice.**

Penal provisions in case of default are:

- Payment of GST with interest @ 18% **within 15 days** from the end of three months from the date of issue of invoice.
- If the goods are not exported within the prescribed timeframe and the exporter does not pay the GST with interest, the said amount shall be recovered by the department, in addition to **immediately withdrawing the Bond/LUT.**
- As soon as the payment is made, the withdrawn Bond/LUT is restored, thereby permitting export.

Ref: Section 79/Rule 96A of GST Enactment

232. What is the status of GST refund, if the sale proceeds in respect of export of goods has not been realized?

- **Export proceeds** have to be realized and repatriated to India on the due date or **within nine months from the date of shipment** (extended to 15 months during COVID period), whichever is earlier.
- **Refund of GST for export (with payment of IGST or without payment of tax under Bond or LUT) can be claimed only if the sale proceeds of export have been realised.**
- With effect from 1.10.2023, an exporter is liable to deposit the refund of GST received in relation to exports, in case of non-realisation of sale proceeds along **with interest @ 18%**, within 30 days after the expiry of nine months from the date of export.

Ref: Sections 16, 50/ Rule 96B of GST Enactments / GST Notification

No. 27/2023-CT dated 31.07.2023 & FEMA Regulations.

233. Should I pay GST on “Sample” given free of cost for concluding trade contracts?

Goods manufactured in regular course of business and then transferred as “free samples” to the prospective buyers:

- GST is **not payable** on the transaction
- Credit of GST paid on related inputs, input service and capital goods is to be reversed (**Ineligible ITC**)
- GST is **payable even though price is not charged, if** the transaction is between the **related persons**.

Persons shall be **deemed to be related** if they fall under any of the categories below:

- Officer or director of one business is the officer/ director of another business
- Businesses legally recognised as partners
- An employer and an employee
- Any person who holds at least 25% of shares in another company, either directly or indirectly
- One of them controls the other directly or indirectly
- They are under common control or management
- The entities together control another entity
- The promoters or managerial persons are members of the same family.

Ref: Sections 15/17(5) of GST Act/ Circular No. 92/11/2019-GST dated 7.03.2019.

234. Is the Registration Certificate (RC) obtained from the GST Department subject to amendment?

- Incorporating changes or updating the information provided during the initial GST registration requires amendment to the GST RC.
- The amendments for GST registration are categorized into core fields and non-core fields.
- **Core Fields** include:
 - Legal name of the business
 - Address of the principal place of business/additional place of business
 - Addition, deletion or retirement of partners or directors, Karta,

Managing Committee, Board of Trustees, Chief Executive Officer or equivalent, **responsible for the day-to-day affairs of the business.**

The amendments in the core field require **approval** from the GST officer.

- **Non-Core Fields** include:
 - All the details except those which are covered under core fields.
 - The amendments in Non-core fields **do not require approval** from the GST officer and can be amended online.
- **The fields which cannot be amended are:**
 - Amendment in PAN Card details of the Company.
 - Amendment in the Constitution of business.
 - Amendment in address from one state to another.

Ref: Section 28 and Rule 19 of GST Enactment

235. Should the manufacturer/supplier pay GST on Discount?

1. GST need **not** be charged on discount, if:

Discount is allowed before or at the time of sale and the discount has been **mentioned in the invoice separately.**
2. Discount, **even if not mentioned in the invoice can be reduced from the value**, if following conditions are satisfied:
 - i) Both seller and buyer have entered into an agreement where the discount for the transaction has already been finalized **and**
 - ii) Discount is linked to specific sale invoice.
3. Discounts given **after sale**, which were not anticipated before/at the time of sale (not traceable with relevant invoice), is not allowed to be deducted from sale value/price.
 - i) In case of post-sale discount, extended by way of **financial credit note**, no ITC reversal is required in hands of the recipient. This is because the seller has paid GST on the **full invoice value** at the time of sale and he has not subsequently reduced his output GST.
 - ii) In case of post-sale discount, where **GST credit note** is issued by seller, the seller can reduce his value of outward supply only if the recipient reverses the corresponding ITC.

Ref: Section 15 of the GST Act.

236. How will disposal of scrap be treated in GST?

- Sale of scrap is subject to GST, the rates (5%/12%/18%) being dependent on the nature of the product (plastic, iron, wood etc).
- The credit of GST paid on the scrap is available as credit, based on the principle that waste is generated in the course of business.

Note: The GST Law does not define “Scrap”. In the erstwhile Central Excise regime, the scrap or waste was subjected to the test of “manufacture” or “marketability” for their taxability.

237. What is the treatment given to “written off” capital assets under GST?

- Credit availed to be reversed, pertaining to the remaining life of the machinery (60 months – period of usage (i.e) from the date of purchase to the date of writing off)
- No reversal of credit if goods written off partially.

Ref: Section 17(5)(h) of GST Act

238. Can I claim credit of GST paid for repairs and maintenance of windmill?

- Credit of GST paid for repairs and maintenance of windmill is not blocked under the GST Act.
- Credit is **permitted**, if the power generated is **captively consumed** for manufacture of taxable goods or rendering taxable services (job work).
- Credit is **not permissible** if the power generated using the windmill is **sold** to State Discom or third parties.

Ref: Sections 16 & 17(5) of GST Act.

239. What is the implication of GST when windmill is purchased along with the embedded land?

- The sale of **Used** Wind Mill with accessories is a composite supply of Wind Mill and is liable to tax on the composite value.
- The sale of land on which the wind mill is erected/embedded is **not** liable to GST.

Ref:

- Notification No. 1/2017 CT (R) dated 28.06.2017, as amended by Notification No.08/2021 CT (R) dated 30.09.2021.
- Clause 5 of Schedule III of the GST Act: Sale of land shall be treated neither as supply of goods nor as supply of services.

240. Are all refunds under GST granted only by way of cash/bank transfer, as against transfer by way of scrip under other enactments?

- **Yes**
- GST refunds (export-with or without payment of tax/inverted duty) are through cash transfers to the bank account of the assessee.

Ref: Section 54 of GST Act.

241. As a mechanism to claim the accumulated credit of GST paid on capital goods, can I utilize the capital credit to pay duty for export of the manufactured product and obtain refund of the same?

- Capital credit, as such, cannot be claimed as refund.
- If exports are made **with payment of tax** (IGST), the capital credit can be used for payment of the same and claimed back as refund.

Ref: Sections 16 & 54 of GST Act

242. Whether the capital credit under GST can be claimed, if depreciation (already) availed on capital goods is reversed at a later date?

Yes, subject to the following conditions:

- The revised Income Tax Return reversing the depreciation already claimed has been filed and
- The timeline for claiming the credit under GST is complied with (i.e) before the due date of furnishing the Return for the month of November, following the end of the financial year to which such invoice or debit note pertains or furnishing of the relevant Annual Return, whichever is earlier.

Ref: Sections 16 & 39 of GST Act.

243. When depreciation can be claimed under Income tax why is availing credit under GST preferred by the industry, inspite of huge accumulation?

- The **entire GST** paid (100%) can be availed as credit and utilized to discharge GST, whereas the depreciation on the tax component of the cost of the capital goods under income tax is to the tune of **15%** only for textile machinery.
- **Note: The Association has been repeatedly taking up the issue with the Ministries of Finance/Textiles. The denial has been on the ground that the status that prevailed during the pre-GST period is being adopted.**

Ref: Section 16(3) of the GST Act.

244. Can I avail credit of GST paid on capital goods, if sent to the job-worker?

- **Yes.** Credit will be allowed to the principal manufacturer, if a capital asset has been sent to a job worker for carrying out the job work, subject to the **condition** that the said machinery is received back within a period of **3 years** of being sent out.

Implications of non-compliance within the time frame:

- If the goods are not sent back within 3 years, it shall be treated as sale on the date of moving the machinery and GST would be payable along with interest.

Ref: Section 143 of GST Act

245. Can credit of GST paid on capital goods (plant and machinery) be used for discharging duty on finished goods?

Yes.

The credit can be utilized subject to following **conditions**, which have been prescribed with the objective that the capital goods are used only for the purpose of furtherance of business and used to manufacture taxable goods:

- The capital goods should be **capitalized** in the books of account and not treated as business expenses.
- The tax component of the capital goods is not claimed as **depreciation** under the Income Tax Act, 1961.
- The credit on capital goods should be reduced by 5% per quarter from the date of invoice, assuming the life span of the machine to be 5 years.
- Credit on capital goods cannot be claimed if they are exclusively used for exempt supplies or personal use.

Ref: sections 2(19) & 16 GST Act

246. When exemption has been granted to the service of transmission & distribution of electricity to the State Utility, does the exemption also apply to the O&M services?

- **GST is chargeable on O&M (Operation and Maintenance) charges.**
- Applicable rate of GST is 18%.
- GST **exempt** on Capital Works for supplying electricity to **new service**

connections.

- **GST chargeable** on:
 - ❖ Improvement/Capital Work for extending Additional Load/Reduction in Demand
 - ❖ DCW work in relation to shifting of lines, structures and equipments etc.,

Ref: Tamil Nadu Appellate Authority for Advance Ruling (GST) dated 30.03.2021 & TANGEDCO communication dated 7.10.2021.

247. When State Electricity Utilities are exempted from GST for transmission and distribution services (Wheeling charges/Networking charges), is GST chargeable for the ancillary services?

Yes.

The ancillary services on which GST is chargeable include:

- Application fee for releasing connection of electricity.
- Rental charges against metering equipment.
- Testing fee for meters/transformers, capacitors etc.
- Labour charges collected from customers for shifting of meters or service lines.
- Charges for duplicate bills.

Exempted ancillary services include:

- Belated Payment Surcharge
- Dishonoured cheque service charge

Ref: CBIC Circular No. 34/8/2018-GST dated 1.03.2018/TANGEDCO communication dated 1.03.2024

248. What would be the impact of sale/transfer of windmill division exclusively without linking the textile manufacturing business?

- One or more undertakings of a business unit can be sold for lump sum without values being assigned to individual assets and liabilities - "Slump Sale"
- Sale should be as a going concern and not mere sale of goods/itemized sale.
- No GST on slump sale.
- Input tax credit remaining unutilized in the electronic credit ledger can be transferred to the new unit.
- Input tax credit remaining unutilized in the electronic cash ledger can

be obtained as refund by the existing unit.

Section 18(3) of CGST Act 2017 read with Rule 41 of CGST Rules 2017 / Notification No.12/2017-Central Tax (Rate) dated 28.06.2017

249. When the rate of GST is 12% for renewable energy devices (windmill / solar plant) and 18% for installation services (construction / engineering / installation / technical services), what is the rate to be adopted for the composite contract of supplying the renewable energy device along with the services of installation/setting up?

GST is to be paid in terms of the **70:30** ratio (i.e.,) the goods portion would constitute 70% of the gross value and the service portion would constitute 30% of the gross value, the effective rate being **13.8%** [(12%*70%) + (18%*30%)]

Ref: Notification No. 24/2018- Central Tax (Rate) dt. 31.12.2018

250. What is the rate of GST on Renewable Energy Devices?

- Windmill and its parts – 12% (revised from 5% - w.e.f. 01.10.2021)
- Solar power plant and its parts – 12% (revised from 5% - w.e.f. 01.10.2021)
- Services by way of construction or engineering or installation or other technical services, provided in relation of setting up of renewable energy devices – 18%

Ref: Notification No. 1/2017-Central Tax (Rate) dt. 28.06.2017/Notification No. 11/2017-Central Tax (Rate) dt. 28.06.2017/ Notification No. 8/2021-Central Tax (Rate) dt. 30.09.2021

251. Should I file refund Application for transactions of each month/quarter separately in a chronological order or is cumulative filing permissible under GST?

- Bunching of refund claims across financial years is permitted.
- The departmental denial against filing consolidated refund Application spread over different financial years was removed, based on the Order of the Hon'ble Delhi High Court.

Ref: Circular No. 125/44/2019 – GST dated 18.11.2019/ Circular No.135/05/2020 – GST dated 31.03.2020/ Pitambra Books Pvt. Ltd. Vs Union of India & Ors. (Delhi High Court)

252. What are the discrepancies which are considered minor in the e-way bill and subject to a penalty of Rs. 1,000/- only (as against seizure of

goods & release on payment of tax and penalty)?

- a. Spelling mistake in the name of the consignor or the consignee but the GSTIN is correct.
- b. Error in the pincode but the address of the consignor and the consignee mentioned are correct, subject to the condition that the error in the PIN code should not have the effect of increasing the validity period of the e-way bill.
- c. Error in the address of the consignee to the extent that the locality and other details of the consignee are correct.
- d. Error in one or two digits of the document number mentioned in the e-way bill.
- e. Error in 4 or 6 digit level of HSN where the first 2 digits of HSN are correct and the rate of tax mentioned is correct.
- f. Error in one or two digits/characters of the vehicle number.

Note: Enforcement officers are disregarding the same as only suggestions. Goods should be accompanied with invoice, e-way bill and all other required documents.

Ref: Section 129 of GST Act & CBIC Circular No. 64/38/2018-GST dated 14.09. 2018

253. Whether the e-way bill is required for movement of consignment for Weighment to the weighbridge?

- Not required for movement of goods upto a distance of 20 Km from the premises of the consignor to the weighbridge for Weighment or from the weighbridge back to the place of business of consignor, **within the same State.**
- Ewaybill required irrespective of distance if premises of the consignor and the weighbridge are located in **two different States.**
- Being a non-sale transaction **Delivery Challan** to be compulsorily issued.

Ref: Section 68 of GST Act & Rule 138 of GST Rules

254. What is basic criteria for generating e way bill?

- There is no minimum distance criteria for generation of e-way bill.
- The minimum consignment value for generation of e-way bill for **interstate movement** is Rs. 50,000/-.
- The minimum threshold limit for **intra-state** movement varies from State to State - Rs. 1 lakh for Tamil Nadu & Maharashtra; Rs. 50,000/-

for Andhra Pradesh, Telangana & Karnataka

Ref: Section 68 of GST Act & Rule 138 of GST Rules

Note: To avoid ambiguity and detention of goods by Enforcement Officers attached to GST Department, the trade has been generating e-invoice for all transactions involving movement of goods, irrespective of the threshold limit or value of goods.

255. What is the status of payment of GST on Ocean Freight for export?

- Exempt for the period with effect from 25th January 2018 to 30th September 2022.
- Taxable with effect from 1.10.2022.

Ref: Notification No. 8/2017 IT (R) dated 28.06.2017

Note: Representation made on behalf of the exporters that the removal of exemption of GST on Outbound Ocean Freight would impact the working capital of the exporters is not being considered by the Government.

256. Is GST payable on Ocean Freight for import and export of goods?

GST on the Ocean Freight is payable when the goods are transported from/to Indian port to/from any foreign port.

Rate of GST:

- 5% without ITC
- 18% with ITC

Value for payment of GST on Ocean Freight:

- Deemed to be 10% of CIF value.

Ref: Notification No. 8/2017 IT (R) dated 28.06.2017

257. What is the status of payment of GST on Ocean Freight for Import?

- ❖ Payable under **RCM**
- ❖ In case of import on **CIF basis - Exempted with effect from 1.10.2023**, reasons being:
 - Freight is directly paid by the overseas foreign seller/exporter of goods.
 - The transport service (freight) provider and the foreign seller (recipient of the transport service) who is the arranging the transport (both) are located outside India.

- The Indian importer of goods is not a recipient of the transport service.
- ❖ In the case of import on **FOB basis – No Exemption**, reasons being:
 - Indian Importer has hired the ocean freight service provider.
 - Importer makes the payment directly for the transportation of goods.
 - Importer is the recipient of freight services under GST.

Ref: Notification No. 8/2017 IT (R) dated 28.06.2017/Union of India vs Mohit Minerals Pvt. Ltd (Supreme Court) / Notification No. 02/2018 IGST (R) dt. 25.01.2018 / Notification No 11/2017 – CT (R) / Notification Nos. 11&13/2023- IGST (R) both dated 26.09. 2023.

258. Does the date of invoice, reflecting which a debit note has been raised, apply for availing credit of the GST paid in a financial year or does the debit note have an independent existence?

With effect **from 1.01.2021**, the date of issuance of debit note has been **de-linked** from the date of issuance of the underlying invoice for the purpose of availing input tax credit. Hence, the maximum time limit for availing the input tax credit in respect of debit note (**irrespective of the date of the original invoice**) pertaining to a financial year is **earlier of:**

- 30th November following the end of the relevant financial year (**wef 1.10.2022**), or
- Due date of Annual Return (FORM GSTR-9) i.e. on or before 31st December following the end of the financial year.

Ref: Section 16(4), 34 of GST Act/ GST Rule 80/GST Circular No. 160/16/2021 dated 20.09.2021

259. Can I avail the credit of GST paid on the purchase of windmill, when electrical energy is exempt under GST?

- ❖ **Yes. Subject to following conditions:**
 - The power generated is captively consumed (used for the manufacture of the goods).
 - Windmill is registered in the name of the spinning mill (manufacturing company).
 - The windmill is registered in the GST portal as an “Additional Place of Business”.
- ❖ **No, if**, the generated power is sold to the State DISCOM or Third

Party.

Ref: Section 16 of GST Act

Note of caution: The **Tamil Nadu Appellate Authority for Advance Ruling** vide its Order dated 13.10.2023 has confirmed, in the case of an assessee engaged in the service of providing renting/maintenance of immovable property (**not manufacturing activity**), that credit of GST paid by captive consumer on solar panel is not available. The **reasoning** being that the **electricity supply chain in captive consumption (generation & consumption) gets snapped and purchase of electricity from TANGEDCO at a different location is a different supply and the fact that billing is done by TANGEDCO in a consolidated manner does not alter the position**, particularly when electrical energy is exempt under GST.

260. Is GST applicable on renting of commercial property?

Provision of Law for the period from 1.07.2017 till date

Particulars	Status of landlord	Status of Tenant	GST Applicability
Renting of property for commercial purpose	Registered	Registered / Unregistered	Taxable @18%
Renting of property for commercial purpose	Unregistered*	Registered / Unregistered	Exempt

** If Turnover exceeds Rs. 20 Lakhs, landlord bound to obtain registration and liable to pay GST.*

Ref:

Exemption Notification No. 12/2017- Central Tax (Rate) dated 28.06. 2017.

Tax leviable vide Notification No. 4/2022- Central Tax (Rate) dated 13.07 2022.

261. Is GST applicable on renting of residential property?

Provision of Law for the period 1.07. 2017 till 17.07. 2022

Particulars	Status of landlord	Status of Tenant	GST Applicability
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Renting of property for residential purpose	Registered/ unregistered	Registered/ unregistered	Exempt
Provision of Law from 18.07.2022 till date			
Renting of property for residential purpose	Registered	Registered	Taxable under RCM
Renting of property for residential purpose	Unregistered	Registered	Taxable under RCM
Renting of property for residential purpose	Registered	Unregistered	Exempt

Ref:

- Exemption Notification No. 12/2017- Central Tax (Rate) dated 28.06. 2017.
- Tax leviable vide Notification No. 4/2022- Central Tax (Rate) dated 13.07 2022.
- RCM Notification No. 5/2022- Central Tax (Rate) dated 13.07 2022.

262. Is there any statutory timeline to pay to the supplier for the goods or services along with the GST?

- The **value** of the goods or services **along with the tax** thereon has to be paid to the supplier within a period of **one hundred and eighty days from the date of issue of invoice** by the supplier.
- In case the taxpayer fails to pay the supplier within 180 days for the supply of goods or services, in relation to which the input tax credit has been availed, the **credit availed has to be reversed and the interest due has to be paid.**
- The purchaser/recipient of service can **re-avail the ITC** on subsequently making the payment, without any time restriction (i.e) without following the timeline of 30th November of succeeding year or annual return, whichever is earlier, however, subject to time limit of seventy-two months (six years) prescribed for preservation of accounts of a company.

Ref: Section 16 of GST Act and Rule 37, 42, 43 and 44.

263. What is the last date for availing credit of the GST paid in a financial year?

The maximum time limit for availing the input tax credit in respect of invoice/debit note pertaining to a financial year is **earlier of:**

- 30th November following the end of the relevant financial year (**wef 1.10.2022**), meaning that details of ITC pertaining to the previous financial year should be incorporated while filing **GSTR 3B for any month until 30th November of the following year**, if not claimed till then, thereafter the credit would lapse **or**
- Due date of Annual Return (FORM GSTR-9) (i.e) on or before 31st December following the end of the financial year.

Ref: Sections 16(4), 39 & 44 of GST Act/GST Rule 80/ Notification No. 18/2022-CT, dated 28.09.2022.

264. I supply food to my employees/workers (as mandated in the Factories Act, 1948) at subsidized rate. Is GST leviable on the said supply and can I avail credit of the tax paid?

- Supply of food to the employees is a supply under the GST Act.
- GST is **not payable** if the cost of food is entirely **borne by the employer** or on the portion of cost borne by the employer with regard to the subsidized cost.
- GST is **payable** on the amount **collected from the employee** by the employer in terms of contractual agreement, which is paid to the canteen service provider.
- Input Tax Credit is **not available** on the GST charged by the canteen service provider and GST paid on the nominal amount recovered from the employee.
- The employee should be a **permanent employee on the roll of the company** and the above explanation does not apply to contract workers.

Ref: Section 7 & 17(5)(b) of the GST Act, 2017/Notification No. 11/2017-CT(R) dated 28.06.2017, as amended vide Notification No. 20/2019-CT (R) dated 30.09.2019/Circular No. 172/04/2022-GST dated 6.07.2022

265. Who is eligible to get earned leave/annual leave with wages?

- A worker who has worked for **240 days or more** in a calendar year shall be allowed 1 day of earned leave for every 20 days of work

performed.

- To qualify for 240 days in a calendar year the days of lay off, maternity leave and leave earned during the previous year alone should be included along with actual days present.

Ref: Sec 79 of the Factories Act, 1948

266. Can duty credit scrips received as incentive by exporters under RoDTEP Scheme be utilised for payment of GST?

- Under RoDTEP Scheme, incentive is issued in the form of transferable duty credit or electronic scrips which will be maintained in an electronic ledger.
- These scrips can be utilised only for payment of Basic Customs duty.
- The scrips **cannot be used** for payment of any type of GST (CGST/SGST/IGST) or compensation cess.

Ref: DGFT Notification No. 19/2015-2020 dated 17.08.2021.

267. Am I liable to pay GST and avail credit, on the charges paid for renting of motor vehicles to transport my employees/workers?

- Hiring/renting of motor vehicle in the capacity of a Company from a non-corporate is subject to GST under RCM.
- Credit of GST paid is eligible under RCM, if it is obligatory/contractually agreed to provide the transport facility and the seating capacity of the vehicle is more than 13 persons (including the driver).

Ref: Section 9(3) & 17(5)(b) of GST Act/ Notification No. 13/2017-Central Tax (Rate) dated 28.06.2017/GST Circular No. 177/09/2022-TRU dated 3.08.2022

268. What are the common errors for delayed refund of GST on export of goods and what are the consequent rectification procedures?

Common Errors and Rectification Procedures

Error Code	Meaning	Rectification
SB000	Successfully validated	
SB001	Invalid SB details	Amend GSTR-1 by using Form 9A and fill correct SB details
SB002	EGM not filed	Approach shipping line for filing of

		EGM
SB003	GSTIN mismatch	Amend GSTR-1 by using Form 9A
SB004	Record already received and validated	No action required
SB005	Invalid Invoice Number	Amend GSTR-1 by using Form 9A and fill correct
SB006	Gateway EGM not available	Approach shipping line or gateway port Customs
PFMS Validation Errors	Bank Account details of the exporter not validated in PFMS	Approach EDI section at the gateway port Customs with correct account number, bank name and branch address, and IFSC code of the branch

Source: CBIC

269. What is the value for claiming export refund (export of goods without payment of tax but under bond/LUT) - FOB or CIF?

Lower of:

- Free on Board (FOB) value declared in the Shipping Bill or
- Value declared in tax invoice.

Ref: Explanation to Rule 89(4) of GST Rules & Notification No. 14/2022-Central Tax dated 5.07. 2022. .

270. Can I claim RoDTEP benefit while exporting goods as merchant exporter @ 0.1.% under GST?

Yes, subject to the condition that the goods are directly exported to the foreign buyer.

Ref: DGFT Notification No.19/2015-20 dated 17.08.2021 & Customs Notification No. 76/2021-Customs (NT) dated 23.09.2021

271. What is the status of parallel availment of GST refund and Duty Drawback during the transition period (3 months) from pre-GST to GST in relation to export of goods?

- ❖ During 1.7.2017 till 30.9.2017 (transitional period) pre-GST rates of Duty Drawback continued as such.

- ❖ Exporters were permitted to either:
 - Claim higher rate of duty drawback, subject to condition that no input tax credit of CGST/IGST was claimed, no refund of IGST paid on export goods was claimed and no CENVAT credit was carried forward or
 - Claim lower rate of duty drawback and claim refund/Input Tax Credit under GST laws.

Ref: Section 54(3) of the CGST Act, Notification No. 58/2017-Cus (N.T.) dated 29.06.2017, Notification No. 88/2017 Cus (N.T) dated 21.09.2017, Circular No.23/2017-Customs dated 30.06. 2017, Circular No.22/2017-Customs dated 30.06.2017, Circular No. 37/11/2018-GST in F. No. 349/47/2017-GST, dated 15-3-2018.

272. Am I liable to pay GST under RCM for transactions with Unregistered dealer, other than Notified goods/services under Section 9(3) of GST Act?

Yes, for the period 1.07.2017 to 12.10.2017 only.

The status regarding GST payment under RCM under Section 9(4) of GST Act from the date of implementation of GST is as follows:

- 1.07.2017 to 12.10.2017: Exemption from RCM if total value of goods or services or both (aggregate from all unregistered persons) in a day is upto Rs. 5,000 or less (i.e) partial exemption.
- 13.10.2017 to 31.01.2019: Fully exempted without any limit.
- 1.02.2019 till Date: CGST Act amended - RCM Provisions on goods/services from unregistered persons applicable only on the notified class of goods/services, currently applicable only to real estate sector.

Ref: Section 9(3) & 9(4) of GST Act/Notification No. 08/2017, CT (R) dated 28.06.2017/Notification No.38/2017-CT(R) dated 13.10.2017/ Notification No.10/2018-CT (R) dated 23.03.2018/ Notification No.12/2018-CT (R) dated 29.06.2018/ Notification No.22/2018-CT (Rate) dated 06.08.2018

273. What are the notified goods and services on which GST under RCM is to be paid compulsorily in relation to textile industry?

Goods:

- Raw cotton, if purchased from agriculturist/farmer (with effect from 15.11.2017).

Services:

- Import
- Goods Transport Agency (GTA) in respect of transportation of goods by road
- Services provided by a director of a company
- Security services
- Renting of any motor vehicle (designed to carry passengers) where the cost of fuel is included in the consideration charged from the company
- Renting of immovable property for residential purpose by a person (company or others) registered under GST
- Services supplied by the Central Government, State Government, Union territory or local authority excluding specified services

Ref: Notification No. 13/2017- CT (R) dated 28.06.2017 as amended

274. Am I liable to pay GST on behalf of another person?

Yes under Reverse Charge Mechanism (RCM) (i.e) payment of tax by the purchaser of goods or recipient of service instead of the supplier of goods or service.

There are two types of scenarios in GST Law where RCM is applicable:

1. Compulsory Reverse Charge (i.e) **even if the supplier is registered**, liability is on purchaser or service recipient on **notified goods and services** (Section 9(3) of the GST Act).
2. Reverse Charge if the **supplier is unregistered** on notified goods and services (section 9(4) of the GST Act).

275. Has the status of payment of GST under RCM for transactions with unregistered persons (other than notified goods/services) undergone any change?

Yes.

The amendments to Section 9(4) are as follows from the date of implementation of GST:

- 1.07.2017 to 12.10.2017: No GST under RCM if total value of

goods or services or both (aggregate from all unregistered persons) in a day is upto or less than Rs. 5,000 (i.e) partial exemption granted.

- 13.10.2017 to 31.01.2019: RCM for transactions from unregistered persons fully exempt.
- 1.02.2019 till date: CGST Act amended - RCM for transactions from unregistered persons applicable only for notified class of goods/services (currently applicable to real estate sector).

276. Should I pay GST on the Fees paid to Directorate of Industrial Safety and Health (DISH) for renewal of Factory License?

No

Granting of Registration prescribed under any Law by the Central Government, State Government, Union territory or local authority is exempt (nil rate) from GST.

Note:

- Exemption is being denied by DISH on the ground that “renewal” is different from obtaining “original registration”.
- To avoid legal hassles the industry has been paying the GST and availing the credit thereon.

Ref: Notification No. 12/2017-CT (R) dated 28.06.2017

277. What is the GST rate for sale of old and used vehicles, where pre-GST credit has been availed?

- GST has to be discharged on the whole sale value as against the Margin of Supply.
- The reduced rate prescribed under Notification No. 8/2018 Central Tax (Rate) dated 25.01.2018 shall not apply.
- Full rate of GST as applicable to new vehicles would apply @ 28% in addition to Compensation Cess.

Ref: Clause 2 of Notification No. 8/2018 Central Tax (Rate) dated 25.01.2018

278. Can I avail credit of GST paid on furniture and Air conditioner used in the office premises (as against factory premises)?

Yes.

The conditions being that:

- It is actually used in the office premises.
- The office premise is registered as an “Additional place of business” in the GST portal.
- The usage of the furniture is in the course of or in furtherance of business.

Ref: Section 16 of the GST Act.

279. What is the GST rate for sale of old and used vehicles, where pre-GST credit has not been availed?

The Government has reduced the GST rate on old and used vehicles in cases where the **input tax credit / CENVAT credit has not been availed** in respect of the motor vehicles, **with effect from 25.01.2018** as follows:

1. GST @ 18% (CGST + SGST or IGST) on Old and used petrol, Liquefied petroleum gases (LPG) or compressed natural gas (CNG) driven motor vehicles of engine capacity of 1200 cc or more and of length of 4000 mm or more.
2. GST @ 18% (CGST + SGST or IGST) on Old and used, diesel driven motor vehicles of engine capacity of 1500 cc or more and of length of 4000 mm
3. GST @ 18% (CGST + SGST or IGST) on Old and used motor vehicles of engine capacity exceeding 1500 cc, popularly known as Sports Utility Vehicles (SUVs) including utility vehicles.
 - a. Note: SUV includes a motor vehicle of length exceeding 4000 mm and having ground clearance of 170 mm. and above.
4. GST @12% (CGST + SGST or IGST) on All Old and used Vehicles other than those mentioned from S. No. 1 to No.3

The government has also exempted the Cess applicable on sale of Used vehicles **where input tax credit / Cenvat Credit has not been availed** vide Notification No. 1/2018 Compensation Cess (Rate) dated 25.01.2018.

Ref: Notification No. 8/2018 Central Tax (Rate) dated 25.01.2018

280. Is GST applicable on second sale of car used by the company?

Yes.

The Value on which GST is to be calculated for old or used vehicle shall be Margin of Supply and the same shall be calculated as follows:

- i. In Case Depreciation under Income Tax availed: Difference between sales consideration and written down value shall be the margin of supply and the tax has to be calculated on such margin. If the margin of such supply is negative, GST need not be paid.
- ii. In other cases: The difference between the sale price and purchase price shall be the Margin of Supply and tax needs to be calculated on such a margin, which shall be ignored if the margin of supply is negative.

Ref: Section 15 of GST Act / Rule 32(5) of CGST Rules 2017

281. What is the GST rate for transport of Cotton purchased from a Ginner/Trader?

- 5%
- Kapas/Seed cotton is an agricultural produce.
- Agricultural produce under the GST Exemption Notification is defined as a farm product, on which no further processing is carried out, thereby altering the essential characteristics.
- Ginned cotton (Industrial raw material/commercial product) is not an agricultural produce and hence the notified exemption available for agricultural produce is not applicable.

Ref:

- i. **Notification No.12/2017-Central Tax (Rate) dated 28.06.2017**
- ii. **Notification No.13/2017-Central Tax (Rate) dated 28.06.2017**

282. Can GST (output liability) be paid entirely from the accumulated Input tax credit?

For companies having a **monthly turnover (without including export and products with nil rate of tax) above Rs 50 lakhs:**

With effect from 1.01.2021:

- ❖ No
- ❖ **Atleast 1%** of the output tax (excluding RCM) has to be discharged through **cash – Exceptions** being:

- The company has received export refund of more than Rs. One lakh in the preceding financial year.
- The company has received a refund of more than Rs. One lakh in the preceding financial year under Inverted Duty Structure.
- The company has discharged GST liability in cash by more than 1% during the year cumulatively.
- The company or the Managing Director have paid above Rs. One lakh towards Income Tax during the last two years continuously.

Ref: Rule 86B of the CGST Rules 2017 & Notification No 94/2020 – Central Tax dated 22.12.2020

283. What is the Threshold limit for Generating e-waybill for Intrastate (within Tamil Nadu) movement of goods?

e-way bill is **not required** to be generated for the transport of goods by way of intra-state movement i.e., within the State of Tamil Nadu if:

- ❖ Consignment with value of goods **not exceeding Rupees One lakh.**
- ❖ Irrespective of value of the consignment:
 - If the textile goods transported are hank yarn, handloom fabric and woven fabric.
 - Transport of textile goods exclusively for Job work services relating to Yarn, Fabric and Garments.

The threshold limit based e-waybill exemption is **effective from 2.06.2018.**

Ref: Notification No.09/2018 dated 31st May 2018 issued by the Government of Tamil Nadu

284. What is the Threshold limit for Generating e-waybill for Interstate movement of goods?

For interstate movement, an E-way bill must be generated and carried during the course of transportation of goods, if the value of the consignment **exceeds Rs. 50,000.**

Ref: Section 68 of the CGST Act, Rule 138(7) of the CGST Rules, 2017

285. Should I file a GST Return for sending/receiving my goods to/from a Job worker?

- ❖ Yes

- ❖ Form **GST ITC-04** must be submitted by the principal containing the details of challans in respect of the following:
 - Goods dispatched to a job worker or
 - Received from a job worker or
 - Sent from one job worker to another.
- ❖ ITC-04 is Half-yearly* (quarterly Form until September 2021) and the due dates for filing are:
 - April-September- due on **25th October** and
 - October-March due on **25th April**.

*Half-yearly Return if annual aggregate turnover in the preceding financial year is **above Rs. 5 crores**

*Annual Return if annual aggregate turnover in preceding financial year is **upto Rs. 5 crores**

Ref: Rule 45 of CGST & SGST Rules, 2017 and Notification No. 35/2021 dated 24.09.2021.

286. Whether the personal guarantee provided by the director to banks/ financial institutions (for securing credit facilities for the company) is service provided by them to the company over and above the normal director services? Is it liable for GST under RCM?

- ❖ Directors and companies are related persons.
- ❖ The execution of personal guarantee even when provided without consideration/commission is treated as a supply of service as per the CGST Act.
- ❖ **With effect from 26.10.2023:**
 - No GST is payable if the Director does not receive a commission for the service.
 - If commission paid, GST is to be discharged on 1% of the amount of the guarantee offered or actual consideration (i.e) the commission, whichever is higher.

Ref: Notification No. 52/2023 – Central Tax dated 26.10.2023 & Circular No. 204/16/2023-GST dated 27.10.2023.

287. What is the GST liability for the services rendered by a Director to the company?

- ❖ **Independent Director:** Remuneration (professional fee/sitting fee/commission) paid to independent directors by the company, who are not employees of the company and TDS is deducted under

Section 194J of the Income Tax Act is **taxable in hands of the company, on reverse charge basis (RCM)**.

- ❖ **Director who is an employee of the Company:** If the director's remuneration is **declared as "Salaries"** in the books of accounts of the company and subjected to TDS under Section 192 of the Income Tax Act, it is **not taxable under GST**, being consideration for services by an employee to the employer in the course of or in relation to his employment.

Ref: Notification No. 13/2017-CT (Rate) dated 28.06.2017, Schedule III of CGST Act and GST Circular No. 140/10/2020 – GST dated 10.06.2020